This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

CYCLOPÆDIA

OF

POLITICAL SCIENCE,

POLITICAL ECONOMY,

AND OF THE

POLITICAL HISTORY OF THE UNITED STATES.

BY THE BEST AMERICAN AND EUROPEAN WRITERS.

EDITED BY

JOHN J. LALOR.

VOL. III.

OATH—ZOLLVEREIN.

CHICAGO:
MELBERT B. CARY & COMPANY.
1884.

Entered according to Act of Congress, in the Year 1884, by
MELBERT B. CARY AND COMPANY,
In the Office of the Librarian of Congress, at Washington, D. C.

ALL RIGHTS RESERVED.

Rand, McNally & Co.,
Printers, Binders and Electrotypers,
148 to 154 Monroe St., Chicago.

Among the Writers of the Articles in the Three Volumes, are the following:

EDWARD ATKINSON, Boston, Mass.
BARTHELEMY SAINT-HILAIRE, Member of the Institute of France.
FREDERICK BASTIAT, the famous French Economist.
HENRI BAUDRILLART, Member of the Institute of France.
MAURICE BLOCK, Statistician, Political Economist and Publicist, Editor of the *Dictionnaire Général de la Politique*, Paris.
J. C. BLUNTSCHLI, one of the editors of Bluntschli & Brater's *Staatswörterbuch*.
GEROLAMO BOCCARDO, Editor of the *Dizionario Universale di Economia Politica e di Commercio*, Italy.
JACQUES DE BOISJOSLIN, Paris, France.
ALBERT S. BOLLES, Author of "History of American Finance," Philadelphia, Pa.
GASTON DE BOURGE, Advocate, Paris, France.
R. R. BOWKER, New York.
T. T. BRYCE, New Haven, Conn.
HORATIO BURCHARD, Director of the Mint, Washington, D. C.
EDWARD CARY, New York.
E. CAUCHY, Member of the Institute of France.
EMILE CHEDIEU, Advocate, France.
A. E. CHERBULIEZ, Political Economist, contributor to the *Dictionnaire de l'Economie Politique*.
JOHN W. CLAMPITT, Counselor-at-Law, Chicago.
AMBROISE CLEMENT, the distinguished French Economist.
JAMES F. COLBY, Counselor-at-Law, New Haven, Conn.
ROYER-COLLARD, Professor of the *Faculté de Droit*, Paris.
EUSTACE CONWAY, Counselor-at-Law, New York.
THOS. M. COOLEY, Author of "Constitutional Limitations," etc., etc., Judge of the Supreme Court of Michigan.
CHAR. COQUELIN, one of the Editors of the *Dictionnaire de l'Economie Politique*, France.
C. COWLEY.
COURCELLE-SENEUIL, Paris, France.
E. H. CROSBY, Counselor-at-Law, New York.
J. C. BANCROFT DAVIS, Assistant Secretary of State, Washington, D. C.
DELABARRE-DUPARCQ, Director at the Military School of St. Cyr, France.
CHARLES DUNOYER, France.
JULES DUVAL, Publicist, France.
CL. DUVERNOIS, French Ex-Minister.
DORMAN B. EATON, Chairman of the Civil Service Commission, New York.
MAX. EBERHARDT, Counselor-at-Law, Chicago.
LEON FAUCHER, Member of the Institute of France.
HENRY FAWCETT, M. P., Professor of Political Economy at the University of Cambridge; at present, Postmaster General of Great Britain.
GASPAR FINALI, Ex-Minister, Italy.
JOHN FISKE, Cambridge, Mass.
WORTHINGTON C. FORD, Brooklyn, N. Y.
L. FOUBERT, *Chef de division*, France.
JOSEPH GARNIER, Professor of Political Economy, Member of the Institute of France.
HENRY GEORGE, Author of "Progress and Poverty," New York.
D. C. GILMAN, President of Johns Hopkins University, Baltimore.
E. L. GODKIN, Editor New York *Nation*.
G. BROWN GOODE, Smithsonian Institute, Washington, D. C.
LOUIS GOTTARD, Publicist, France.
GEORGE WALTON GREEN, Counselor-at-Law, New York.
JULES GRENIER, Publicist, France.
W. E. GRIFFIS, Author of "The Mikado's Empire," Schenectady, N. Y.
F. P. G. GUIZOT, France.
ARTHUR T. HADLEY, Instructor in Political Science, Yale College, New Haven, Conn.
J. B. HAMILTON, Surgeon General U. S. Marine Hospital, Washington, D. C.
FAUSTIN HÉLIE, Member of the Institute of France.
XAVIER HEUSCHLING, Minister of the Interior, Brussels, Belgium.
J. E. HORN, Writer on Finance, Member of the Hungarian Parliament.
FRANKLIN B. HOUGH, Washington, D. C.
EDWARD S. ISHAM, Counselor-at-Law, Chicago, Ill.
E. J. JAMES, University of Pennsylvania, Philadelphia, Pa.
JOHN A. JAMESON, Author of "The Constitutional Convention," Chicago, Ill.
PAUL JANET, Member of the Institute of France.
ALEXANDER JOHNSTON, Professor of Jurisprudence, Princeton College, N. J.
JOHN JOHNSTON, Banker, Milwaukee, Wis.
JOHN J. KNOX, Comptroller of the Currency, Washington, D. C.
GUSTAVE KOERNER, Ex-Governor of Illinois.
CHAS. LAVOLLÉE, Ex-Prefect, France.
LOUIS LECLERC, France.
A. LEGOYT, France.

T. E. Cliffe Leslie, the eminent English Political Economist.
Henry D. Lloyd, Financial Editor of the Chicago *Tribune*.
E. Löning, Professor University Dorpat, Russia.
John Lowell, Chestnut Hill, Mass.
Alfred Bishop Mason, Counselor-at-Law, Chicago, Ill.
D. H. Mason, Chicago, Ill.
Charles de Mazade, France.
J. R. M'Culloch, the English Economist.
G. de Molinari, Editor of the *Journal des Débats*, Corresponding Member of the Institute of France.
M. Monjean, France.
E. Montegut, France.
Michel Nicolas, Professor, Montauban, France.
S. N. D. North, Utica, N. Y.
M. Ortolan, Lawyer, France.
A. Ott, France.
E. Paignon, France.
Esquirou de Parieu, Member of the Institute of France.
H. Passy, France.
Jules Pautet, French Vice-Prefect.
M. Poezl, Professor at the University of Munich.
Fred. Pollock, Cambridge University, England.
R. P. Porter, Special Agent (Tenth Census U. S.) for Statistics of Wealth, Debt, Taxation and Railroads, Washington, D. C.
George Haven Putnam, New York.
M. Rabutaux, Publicist, France.
R. W. Raymond, New York.
Ernest Renan, Member of the Institute of France.
Louis Reybaud, Member of the Institute of France.
Leon de Rosny, France.
Wm. Roscher, Professor of Political Economy at the University of Leipzig.
M. Rothe, Professor at Sorö, Denmark.
F. B. Sanborn, Concord, Mass.
Horace Say, France.
J. B. Say, France.
Leon Say, Economist, France.
L. Schwartz, Germany.
Jules Simon, Member of the French Academy.
Edmund Munroe Smith, Professor in Columbia College, New York.
Haydn Smith, Chicago *Times*.
L. Smith, London.
A. R. Spofford, Librarian of Congress, Washington, D. C.
Simon Sterne, Counselor-at-Law, New York.
M. Stoessel, Switzerland.
A. M. Sullivan, M. P., London, England.
Henri Thiers, France.
John P. Townsend, one of the Vice-Presidents of the Bowery Savings Bank, New York.
A. Ubicini, Italy.
Francis A. Walker, Mass. Institute of Technology, Boston, Mass.
J. D. Weeks, Editor of the *Iron Age*, Expert and Special Agent (Tenth Census U. S.) for Wages in Manufacturing Industry, Pittsburg, Pa.
David A. Wells, the eminent American Economist, Norwich, Conn.
Horace White, New York.
Frederick W. Whitridge, Counselor-at-Law, New York.
Talcott Williams, *The Press*, Philadelphia, Pa.
Fred. H. Wines, Springfield, Mass.
H. B. Witton, Inspector of Canals, Hamilton, Ont.
L. Wolowski, Paris, France.
Theo. S. Woolsey, Professor at Yale College.

VERSITY OF CALIF

CYCLOPÆDIA

OF

POLITICAL SCIENCE, POLITICAL ECONOMY,

AND OF THE

POLITICAL HISTORY OF THE UNITED STATES.

OATH.

OATH. Oaths have been in use in all countries of which we have any exact information, and it is probable that there is no nation which has any clear notion of a Supreme Being, or of superior beings, that does not make use of oaths on certain solemn occasions. An oath may be described generally as an appeal or address to a superior being, by which the person making it engages to declare the truth on the occasion on which he takes the oath, or by which he promises to do something hereafter. The person who imposes or receives the oath, imposes or receives it on the supposition that the person making it apprehends some evil consequences to himself from the superior being, if he should violate the oath. The person taking the oath may or may not fear such consequences, but the value of the oath in the eyes of him who receives or imposes it consists in the opinion which he has of its influence over the person who takes it. An oath may be taken voluntarily, or it may be imposed on a person under certain circumstances by a political superior; or it may be the only condition on which the assertion or declaration of a person shall be admitted as evidence of any fact. — The form of taking the oath has varied greatly in different countries. Among the Greeks a person sometimes placed his hand on the altar of the deity by whom he swore; but the forms of oaths were almost as various as the occasions. Oaths were often used in judicial proceedings among the Greeks. The Dicastæ, who were judges and jurymen, gave their verdict upon oath. The Heliastic oath is stated at length in the speech of Demosthenes against Timocrates (c. 36). It does not appear that the oath was always imposed on witnesses in judicial proceedings; and yet it appears that sometimes witnesses gave their evidence on oath: perhaps the oath on the part of witnesses was generally voluntary. (Demosth., *Πρὸς Ἄφοβον Ψευδ*, c. 16; *Κατὰ Κόνωνος*, c. 10; and Meier and Schömann, Att. Process., p. 675.) — In the Roman jurisprudence an oath was required in some cases from the plaintiff, or the defendant, or both. Thus the oath of calumny was required from the plaintiff, which was a solemn declaration that he did not prosecute his suit for any fraudulent or malicious purpose. The offense of false swearing was *perjurium*, perjury; but it was considered a less offense in a party to a suit when the oath was imposed by a *judex* than when it was voluntary. It does not appear that in civil proceedings witnesses were necessarily examined on oath; but witnesses appear to have been examined on oath in the *judicia publica*, which were criminal proceedings. The title in the Digest, "*De Testibus*" (22, tit. 5), makes no mention of the oath, though it speaks of punishment being inflicted on witnesses who bore false testimony. — The law in America and England, as a rule, requires evidence or testimony for judicial purposes to be given on oath. A Jew, a Mohammedan and a Hindoo may be sworn as witnesses, but they must severally take the oath in that form which is sanctioned by the usage of their country or nation, and which they severally consider to be binding. The offense of declaring what is false when a witness is examined upon oath, constitutes perjury. — Declarations made by a person under the apprehension of immediate death are generally admitted as evidence in judicial proceedings, when properly verified; for it is considered that the circumstances in which the person is placed at the time of making the declaration furnish as strong motives for veracity as the obligation of an oath. Quakers also, in all

civil cases, were allowed by the statute 7 & 8 Wm. III., c. 34, to give their evidence on affirmation; and now the affirmation of Quakers and Moravians is admissible in all judicial proceedings, both civil and criminal. — As oaths may be either voluntary or may be imposed by a political superior, so they may be imposed either on extra-judicial or on judicial occasions. Oaths which are imposed on occasion of judicial proceedings are the most frequent, and the occasions are the most important to the interests of society. The principle on which an oath is administered on judicial occasions is this: it is supposed that an additional security is thereby acquired for the veracity of him who takes the oath. Bentham, in his "Rationale of Evidence," on the contrary, affirms that, "whether principle or experience be regarded, the oath will be found, in the hands of justice, an altogether useless instrument; in the hands of injustice, a deplorably serviceable one;" "that it is inefficacious to all good purposes," and "that it is by no means inefficacious to bad ones." — The three great sanctions or securities for veracity in a witness, or, to speak perhaps more correctly, the three great sanctions against mendacity in a witness, are, the punishment legally imposed on a person who is convicted of false swearing, the punishment inflicted by public opinion or the positive morality of society, and the fear of punishment from the Deity, in this world or the next, or in both. The common opinion is, that all the three sanctions operate on a witness, though they operate on different witnesses in very different degrees. A man who does not believe that the Deity will punish false swearing can only be under the influence of the first two sanctions; and if his character is such that it can not be made worse than it is, he may be under the influence of the first sanction only. Bentham affirms that the third sanction only appears to exercise an influence in any case, because it acts in conjunction with "the two real and efficient sanctions," "the political sanction and the moral or popular sanction;" and that if it is stripped of those accompaniments, its impotence will appear immediately. — Bentham's chief argument is as follows. "that the supposition of the efficiency of an oath is absurd in principle. It ascribes to man a power over his Maker. It supposes the Almighty to stand engaged, no matter how, but absolutely engaged, to inflict on every individual by whom the ceremony, after having been performed, has been profaned, a punishment (no matter what) which, but for the ceremony and the profanation, he would not have inflicted. It supposes him thus prepared to inflict, at com mand, and at all times, a punishment, which, being at all times the same, at no time bears any proportion to the offense." Again: "either the ceremony causes punishment to be inflicted by the Deity in cases where otherwise it would not have been inflicted; or it does not. In the former case the same sort of authority is exercised by man over the Deity, as that which, in English law, is exercised over the judge by the legislator, or over the sheriff by the judge. In the latter case the ceremony is a mere form without any useful effect whatever." — The absurdity of this argument hardly needs to be exposed. He who administers the oath, by virtue of the power which he has to administer it, and the political superior who imposes the oath, may either believe or not believe that the Deity will punish false swearing, and it is quite immaterial to the question which of the two opinions they entertain. That which gives the oath a value in the eyes of him who administers it, or of that political superior who imposes it, is the opinion of the person who takes the oath; and if the individual who takes the oath believes that the Deity, in case it is profaned, will inflict a punishment which otherwise he would not inflict, the object of him who enforces the oath is accomplished, and an additional sanction against mendacity is secured. It matters not whether the Deity will punish or not, or whether he who enforces the oath believes that he will punish or not: if he who takes the oath believes that the Deity will punish false swearing, that is sufficient to show that the oath is of itself a sanction. — The fear of legal punishment is admitted by Bentham to be a sanction against mendacity. But the legal punishment may or may not overtake the offender. Legal punishment may follow detection, but the perjury may not be detected, and therefore not punished. Is the oath, or would a declaration without oath be, "a mere form without any useful effect whatever," because the legal punishment may not, and frequently does not, overtake the offender? When a Greek or a Roman swore by his gods, in whose existence he believed, and who, being mere imaginations, could not punish him for his perjury, was not his belief in their existence and their power and willingness to punish perjury a sanction against mendacity? All antiquity at least thought so. — There are occasions on which oaths are treated lightly, on which he who imposes the oath, he who takes it, and the community who are witnesses to it, treat the violation of it as a trivial matter. Such occasions as these furnish Bentham with arguments against the efficacy of oaths on all occasions. Suppose we admit, with Bentham, as we do merely for the sake of the argument, that "on some occasions oaths go with the English clergy for nothing;" and this, notwithstanding the fact, which nobody can doubt, "that among the English clergy believers are more abundant than unbelievers." The kind of oaths "which go for nothing" are not mentioned by Bentham, but they may be conjectured. Now, if all oaths went for nothing with the clergy, or with any other body of men, the dispute would be settled. But this is not the fact. If in any way it has become the positive morality of any body of men that a certain kind of oath should go for nothing, each individual of that body, with respect to that kind of oath, has the opinion of his body. He does not believe

that such oath, if broken, will bring on him divine punishment, and therefore such oath *is* an idle ceremony. But if there is any oath the violation of which he thinks will bring on him divine punishment, his opinion as to that kind of oath is not at all affected by his opinion as to the other kind of oath. Now, oaths taken on judicial occasions are by the mass of mankind considered to be oaths the violation of which will bring some punishment some time, and therefore they have an influence on the great majority of those who take them. Whether society will in time so far improve as to render it safe to dispense with this ceremony in judicial proceedings, can not be affirmed or denied; but a legislator who knows what man now is, will require better reasons for the abolition of judicial oaths than Bentham has given. — How far the requisition of an oath may be injurious in excluding testimony in certain cases, and how far oaths on solemn and important occasions may be made most efficacious, and in what cases it may be advisable to substitute declarations in lieu of oaths, are not matters of consideration here. It is enough here to show that an oath is a sanction or security to some extent, if the person who takes it fears divine punishment in case he should violate it; and that this, and no other, is the ground on which the oath is imposed. — There is some difficulty in stating accurately how far oaths were required from witnesses in Roman procedure under the republic and the earlier emperors. In addition to what has been stated, the reader may refer to Cicero, *Pro Q. Rosc. Comœd.*, c. 15, etc.; and Noodt, *Op. Omn.*, ii., 479, "*De Testibus.*" By a constitution of Constantine, all witnesses were required to give their testimony on oath; and this was again declared by a constitution of Justinian. (Cod. 4, tit. 20, s. 9, 16, 19.) — Many persons conscientiously object to the taking of an oath on religious grounds, and particularly with reference to the prohibition in Matthew v., 33. On the subject of oaths in general the reader may consult Grotius, *De Jure*, B. & P., lib. ii., c. 13; Paley's *Moral Philosophy;* Tyler's *Origin and History of Oaths;* the *Law Magazine*, vol. xii.; and the work of Bentham already referred to.*

BOHN.

* In the United States a witness may be sworn in any manner considered binding on his conscience. Quakers and others having conscientious scruples against the taking of an oath under any circumstance, may affirm instead. In some of the states the witness, whoever he be, may elect between the taking of an oath and judicial affirmation. The penalty for the affirmation of what is false by a witness in a civil or criminal case, is the same as for perjury. — Besides the judicial and professional oath, there is what the French call the "political oath," which in part corresponds to the oath taken, in countries like the United States, to support the constitution. Of this latter oath, C. Lavollée says: "In feudal times, when political society was made up of suzerains, vassals and serfs, the oath of fealty was but the necessary or at least logical consecration of the bonds of submission which united the inferior to his superior. Subsequently, when absolute monarchy, basing itself on divine right, had survived feudalism, the oath of fealty was retained; and it could not but be retained, since the sovereign represented both God, whose delegate he was, and the nation, all of whose rights he absorbed into his own person. The political oath was then as logical as it was under the feudal system. — The external ceremonies and formulas of the oath were in keeping with the principle of submission, or rather of subjection, which bent the subject at the feet of his master. The master had all the rights; the subject had only duties. By the oath the subject solemnly pledged himself to maintain a condition of things which he had not brought about, and which he could not do away with. He fulfilled his chief duty by promising fidelity to the person whom he recognized as his superior and master. Nothing simpler or more rational. — The modern law regulating the forms of government of a people, in the greater number of civilized states, rests on a totally different principle. Divine right has joined feudalism in the ruins of history, and has been replaced by the right of the people. Dynasties no longer force themselves on a people; they have to be accepted; the prince is the delegate, the mandatary of national sovereignty; in such a manner, that by the overthrow of the old order of things, logically speaking, the prince owes the oath of fealty to the people, and not the people to the prince. It is so in certain republics, in which the principle of popular sovereignty has been established from the beginning, and is not perverted by traditional formalities which had their origin in the old right of kings. In several constitutional states the king takes the oath of fealty to the constitution. — Hence in countries which profess the dogma of popular sovereignty, the *political oath* can not be what it was under the old regime. We might even say that not only has it no *raison d'être*, no reason why it should exist, but that there are reasons why it should not exist. An oath, with the forms of solemnity which surround it, represents in the eyes of men the idea of an indissoluble and perpetual engagement. But should the citizen swear to be always faithful to a sovereign whose rights, created by the national will, may be destroyed by that same will? Should he swear always to obey and support a constitution which the nation may modify or abrogate at any moment? We can understand an oath made to a superior and immutable being, to God, or to a sovereign consecrated by divine right; we can understand an oath to the great principles of truth, probity, honor, duty, principles universally accepted and respected, implanted by God in the human conscience, whence they dominate time, circumstances and laws. But it is very difficult to define the character and value of an oath given to a removable sovereign, to precarious institutions, made by the very persons in whom resides the right to change the sovereign and modify the institutions. In such an act we can see only a conditional oath, limited by restrictions and hedged in by reservations; but such an act is not an oath. * * * Not only is the political oath useless, since it never strengthened or saved a constitution or a sovereign, but, moreover, it is sometimes only an instrument of tyranny or violence. * * * The political oath has not, in the eyes of the people of our day, the authority which belongs to so solemn an act. It has not the character of inviolability; it is commented on and discussed. It is not of rare occurrence, that the person who takes it harbors, in his innermost soul, a faith different from that to which he has just sworn; public opinion no longer grows indignant at this, nor is it even surprised at it: sometimes it is an accomplice to the wrong, requiring the official or other person who takes the oath to remember, at the moment he takes it, an oath he had previously taken. This is a deplorable confusion of ideas; for just as there is but one conscience and one morality, there can be but one oath: it matters not what we call it, judicial, professional or political: all oaths impose the same duties and should be kept with the same fidelity * * *. But we must not lose sight of the fact that, according to modern law, the constitution of a country may be indefinitely modified by the national will, so that an oath can be no obstacle in the way of the

OATH OF ALLEGIANCE, The (IN ENGLISH HISTORY). The natural history and antiquity of oaths in general were discussed some time ago by Mr. E. B. Tylor. (Macmillan's Magazine, "Ordeals and Oaths," May, 1876.) Mr. Tylor has, among other interesting points, made it all but

certain that our formula, "So help me God!" is of Scandinavian or pre-Christian origin; a discovery which throws an unexpected light on the much abused dictum that Christianity is parcel of the common law of England, and the proposition, confidently advanced at a later time, that the oath of allegiance taken by members of parliament is in some way (notwithstanding the removal of Jewish disabilities) a bulwark of the Christian religion in England. This statement, however, errs only in generality and in being out of date. It is perfectly true that the oath of allegiance was, down to the Catholic emancipation, one of the chief statutory defenses of the Protestant religion, though in a political rather than a theological sense; and for many years later it contained a promise to maintain and support the Protestant succession to the crown as limited by the act of settlement. The history of the oaths of allegiance and supremacy and of the various transformations they have undergone, is a varied and complex one. — Before we go back to the beginning, it may be as well to look at the end. As late as 1868 the English oath of allegiance was reduced by the promissory oaths act to its present simple, not to say meagre, form, which stands thus: "I, ——, do swear that I will be faithful and bear true allegiance to her majesty Queen Victoria, her heirs and successors, according to law. So help me God." — What the substance of the oath as thus reduced may amount to would not be a very profitable question to discuss at large. It certainly does not promise anything beyond what is at common law the duty of every subject, and it seems to follow that it could not be broken except by some act which was otherwise an offense at common law, for example, treason or sedition, or perhaps also the vaguely defined offense of disparaging the dignity of the crown. And it seems at least a tenable view that the words "according to law" not only express the limit within which the crown is entitled to obedience, but cover the possibility (a possibility, fortunately, of the most remote kind) of the course of succession being legally varied.* Such is the bare residue of the formidable and elaborate fabric of oaths and declarations raised up by parliaments of former generations against the pope and the pretender. We say against the pope and the pretender; for our modern oaths of allegiance are of statutory devising, and date from Henry VIII.'s assertion of the crown's ecclesiastical supremacy as against the see of Rome. The earliest point of history we have to observe is of a distinguishing kind, namely, that the modern oath of allegiance is a thing apart from the older oath of fealty, though formed on its analogy. Side by side with the fealty due from a man to his lord in respect to tenure, there was recognized in England, it would seem as early as the tenth century, an obligation of fealty to the crown as due from every free man without regard to tenure.† — Sometimes we find mixed or transitional forms. Thus, there is preserved among the so-called statutes *temporis incerti* an oath taken by bishops, which, translated, is as follows: "I will be faithful and true, and faith and loyalty will bear to the king and to his heirs kings of England, of life and of member and of earthly honour, against all people who may live and die; and truly will acknowledge, and freely will do, the services which belong to the temporalty of the bishoprick of N., which I claim to hold of you, and which you render to me. So help me God and the Saints."‡ — This bears considerable generic resemblance to the modern oath. But it is not simply an oath of allegiance in the modern sense: it includes an oath of fealty in respect of a specific tenure, namely, for the temporalities of the see holden of the crown. This is made more evident by comparison of the common forms of a free man's homage and fealty: "I become your man from this day forth, for life, for member and for worldly honour, and shall bear you faith for the lands that I claim to hold of you; saving the faith that I owe unto

desires or of the proposals of reform which it is the right of every citizen to express in a legal way. The oath itself would be opposed to the constitution if it held the person taking it within bounds which would prevent him from exercising that right. With the oath as governments have always wished to interpret it, it would be possible to confiscate the national will for all time. Revolution has too frequently undertaken the task of answering that pretense. * * Says M. Odilon Barrot, 'Oaths are taken or refused, but not discussed. The sanction of the oath being entirely in the conscience, the strength of the oath is entirely in the morality of the person who takes it.' In political matters, more than in any other, it is the character of the man which gives authority to the oath. * * Let the politician, functionary or civil magistrate take an oath to the law, the soldier to his flag, and every citizen to what to him is duty: such, in our opinion, is the simple and easy solution of this much debated question. In politics everything is variable, uncertain and precarious. In the midst of the crumbling of thrones and constitutions which our generation has witnessed, we should like to have pointed out to us a form of government or a dynasty certain to grow old with its oaths. But *duty* is, and will always subsist. Let men take an oath of fealty to *it*." The "political oath" here spoken of is very intimately related on one side to the oath of allegiance.—Ed.

* There is, I conceive, nothing in law to prevent the crown, by and with the consent of the estates of the realm, in the ordinary form of an act of parliament, and with the advice of responsible ministers, from repealing or amending the act of settlement. In the event of its appearing likely that there should be a failure of the persons thereby defined as capable of succession, amendment would become necessary; for example, if they should not be or should cease to be Protestants.

† It is remarkable that in the assize of Northampton (1176) the justices are directed to take the oath of fealty even from "rustics": "*Item justitiæ capiant domini regis fidelitates * * ab omnibus, scilicet comitibus, baronibus, militibus et libere tenentibus, et etiam rusticis, qui in regno manere voluerint.*" Does this include men who were not free? In the earliest forms of the oath of fealty to the king, both in England and elsewhere, the promise was to be "*fidelis sicut homo debet esse domino suo.*" Allen ("Royal Prerogative," pp. 68–71) thinks this was a limitation of the subject's obedience, or reservation of his right to throw off allegiance if the king failed in his duties, and this is probable. But the words would likewise operate in the king's interest by adding the stricter personal bond of homage to the more general obligation of fealty.

‡ Bishops *after* consecration swore fealty only; but on their election, and before consecration, they did homage. Glanvill, lib. 9, cap. 1, *ad fin.*

our lord the king * * I shall be to you faithful and true, and shall bear you faith of the tenements I claim to hold of you, and loyally will acknowledge and will do the services I owe you at the times assigned. So help me God and the Saints." — Moreover, the ceremonies of homage and fealty have in no way been abrogated or superseded by any of the statutes imposing political oaths. In England an oath of homage is to this day taken by archbishops and bishops, in a somewhat fuller form than the old one above cited. An oath of fealty is stated in our law books of the thirteenth century to be required from every one attending the sheriff's tourn, and Coke speaks of it in Calvin's case, as if it had been still in use in his time.* There appears no reason why this oath of fealty should not in theory still be due from every subject at common law, though it would be doubtful who had authority to administer it, and what would be the legal consequence, if any, of a refusal to take it. — Shortness of time and space, however, forbid the further discussion of the doctrine or history of allegiance at common law. We must pass on to the additional obligations imposed by a series of statutes, from which the oath of allegiance in its existing form and application is lineally derived. — In the spring of 1534, when the last hopes of a reconciliation with Rome were exhausted, there was passed "An act for the establishment of the king's succession," (25 H. VIII., c. 22), the objects of which were to declare valid the king's marriage with Anne Boleyn, and to limit the succession of the crown to his issue by her. It also enacted that all subjects of full age should make a corporal oath that they would "truly, firmly and constantly, without fraud or guile, observe, fulfill, maintain, defend and keep to their cunning wit and uttermost of their powers, the whole effect and contents of this present act." The oath was not further specified in the act itself, but a form was at once prepared and used, and was expressly authorized by statute in the next session. (26 H. VIII., c. 2.) This, as the earliest specimen of its kind, deserves the honor of being given in full, with the original spelling: "Ye shall swere to beare faith, truth and obedyence alonely to the Kynges Majestye and to his heires of his body of his moost dere and entirely belovyd laufull wyfe Quene Anne, begotten or to be begotten. And further to the heires of oure said Soveraign Lorde accordyng to the lymytacion in the Statute made for suretie of his succession in the crowne of this Realme mencioned and conteyned, and not to any other within this Realme nor foreyn auctorite or Potentate; And in case any othe be made or hathe be made by you to any persone or persones, that then ye do repute the same as vayne and adnychillate; And that to your connynge wytte and utter moste of your power, without gyle, fraude or other undue meane, you shall observe, kepe, mayntene & defende the saide acte of successyon, and all the hole effectes & contentes therof, and all other actes and statutes made yn confirmacion or for execucion of the same or of any thynge therin conteyned; and this ye shall do ayenst all maner of persones of what estate, dignyte, degree or condicion so ever they be; And in no wyse do or attempte, nor to your power suffre to be done or attemptid, directly or indirectly, any thinge or thinges prively or appartlye to the lette, hindrannce, damage or derogacion therof or of any parte of the same by any maner of meanes or for any maner of pretence; So helpe you God, all Sayntes and the Holye Evangelystes." — Within two years the calamitous end of the marriage with Anne Boleyn brought about a new "Act for the establishment of the succession of the imperial crown of this realm," (28 H. VIII., c. 7), which, after repealing the former acts and making minute provision for the descent of the crown, appointed a new oath of allegiance, and declared that refusal to take it should be deemed and adjudged high treason. There is no variation worth noticing in the form of the words, save that Queen Jane is substituted for Queen Anne. In the same session (c. 10) there followed an "Act extinguishing the authority of the bishop of Rome," which introduced a special oath of abjuration. The preamble is a notable specimen of the inflated parliamentary style of the time. It sets forth how "the pretended power and usurped authority of the bishop of Rome, by some called the pope, * * did obfuscate and wrest God's holy word and testament a long season from the spiritual and true meaning thereof to his worldly and carnal affections, as pomp, glory, avarice, ambition and tyranny, covering and shadowing the same with his human and politic devices, traditions and inventions, set forth to promote and stablish his only dominion, both upon the souls and also the bodies and goods of all Christian people"; how the pope not only robbed the king's majesty of his due rights and pre-eminence, "but spoiled this his realm yearly of innumerable treasure"; and how the king and the estates of the realm, "being overwearied and fatigated with the experience of the infinite abominations and mischiefs preceding of his impostures," were forced of necessity to provide new remedies. The oath of abjuration was to be taken by all officers, ecclesiastical and temporal, and contained an undertaking to "utterly renounce, refuse, relinquish or forsake the bishop of Rome and his authority, power and jurisdiction." — In 1544, however, it had been discovered that in these oaths of allegiance and supremacy, though they

* Strictly there is not any oath of homage distinct from the oath of fealty. The oath was always an oath of fealty, and the duty of homage, where it was present, carried with it the duty of swearing fealty to the lord. On the other hand, there might be, and often was, fealty without homage. (Allen, p. 62. Cp. Hargrave's and Butler's Notes on Co. Litt., 68*a*.) Homage was the privilege of the freeholder, being "the most honourable service, and most humble service of reverence, that a franktenant may do to his lord." (Litt., s. 85.) As to the common-law duty, cp. Selden, "Table Talk," *s. v.* "Fathers and Sons," "Every one at twelve years of age is to take the oath of allegiance in court-leets [*sic*] whereby he swears obedience to the king."

seem to a modern reader pretty stringent and comprehensive, "there lacketh full and sufficient words"; and in the act further regulating the succession to the crown (35 H. VIII., c. 1) occasion was taken to provide a new consolidated form to replace the two previously appointed oaths. This is very full and elaborate; some of its language survived down to our own times, as will be seen by the following extract: "I, A B, having now the veil of darkness of the usurped power, authority and jurisdiction of the see and bishop of Rome clearly taken away from mine eyes, do utterly testify and declare in my conscience that neither the see nor the bishop of Rome nor any foreign potentate hath, nor ought to have, any jurisdiction, power or authority within this realm, neither by God's law nor by any other just law or means, * * and that I shall never consent nor agree that the foresaid see or bishop of Rome, or any of their successors, shall practice, exercise or have any manner of authority, jurisdiction or power within this realm or any other the king's realms or dominions, nor any foreign potentate, of what estate, degree or condition soever he be, but that I shall resist the same at all times to the uttermost of my power, and that I shall bear faith, truth and true allegiance to the king's majesty and to his heirs and successors, * * and that I shall accept, repute and take the king's majesty, his heirs and successors, when they or any of them shall enjoy his place, to be the only supreme head in earth under God of the church of England and Ireland, and of all other his highness' dominions * *."—Refusal to take the oath is, as before, to subject the recusant to the penalties of high treason. Apparently this act remained in force till Mary's accession, in 1553. One of the first proceedings of her reign was to abolish all statutory treasons not within the statute of Edward III., by which the offense of high treason was and still is defined. (1 Mar., st. 1, c. 1.) Thus, the penalty for not taking the oath of allegiance and supremacy was abrogated, and the oath of course became a dead letter, though not dealt with in express terms. Nor was it revived in the same form when the reformation again got the upper hand with the accession of Elizabeth. The first act of parliament of her reign*—which, in repealing the reactionary legislation of Philip and Mary, names "Queen Mary, your highness' sister," with a significant absence of honorable additions—created a new and much more concise oath of supremacy and allegiance, to be made by all ecclesiastical officers and ministers, and all temporal officers of the crown, and also by all persons taking orders or university degrees. It is short enough to be cited in full: "I, A B, do utterly testify and declare in my conscience that the queen's highness is the only supreme governor of this realm and of all other her highness' dominions and countries, as well in all spiritual or ecclesiastical things or causes as temporal, and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm, and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the queen's highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, pre-eminences, privileges and authorities granted or belonging to the queen's highness, her heirs and successors, or united or annexed to the imperial crown of this realm. So help me God and by [*sic*] the contents of this Book."—The oath was not imposed on all subjects, and the only penalty for refusing it was forfeiture of the office in respect of which it ought to be taken. So far this presents a very favorable contrast to the violent legislation of Henry VIII. Under the act of Elizabeth the sanction is the mildest one compatible with the law being effectual; indeed, it is not properly a penalty, but a condition. The law no longer says to all sorts of men, "You must take this oath or be punished as a traitor," but only to men receiving office or promotion, "You must take this oath to qualify yourself for holding the place." But troubles were not long in gathering, and they bore their natural fruit in a return to disused severities. A new and more stringent anti-papal act was passed in 1563 (5 Eliz., c. 1), and it seems that even sharper measures had been first proposed. The obligation to take the oath of supremacy was extended to all persons taking orders and degrees, schoolmasters, barristers, attorneys, and officers of all courts. A first refusal to take the oath was to entail the penalties of *premunire;* a second, those of high treason. Temporal peers were specially exempted, "forasmuch as the queen's majesty is otherwise sufficiently assured of the faith and loyalty of the temporal lords of her highness' court of parliament." So matters stood till, early in the reign of James I., yet a new outbreak of indignation and panic was produced by the gunpowder plot. The Protestant majority was convinced by "that more than barbarous and horrible attempt to have blownen up with gunpowder the king, queen, prince, lords and commons, in the house of parliament assembled, tending to the utter subversion of the whole state," that popish recusants and occasionally conforming papists should be more sharply looked after. Hence the "Act for the better discovering and repressing of popish recusants" (3 Jas. I., c. 4), which established, among other precautions, a wordy oath of allegiance, supremacy and abjuration, which might be tendered by justices of assize or of the peace to any commoner above the age of eighteen; persons refusing it were to incur the penalties of *premunire*. This oath contains an explicit denial of the pope's authority to de-

* 1 Eliz., c. 1. In the argument in Miller *vs.* Salomons, in the Exchequer (7 Ex., at p. 478), it was erroneously stated to be the first statute on the subject.

pose the king or discharge subjects of their allegiance, a promise to bear allegiance to the crown notwithstanding any papal sentence of excommunication or deprivation, and a disclaimer of all equivocation or mental evasion or reservation. About the middle of it occurs for the first time the "damnable doctrine and position" clause, as we may call it, which was long afterward continued in the interests of the Protestant succession against James II. and the pretender. The words are these: "And I do further swear that I do from my heart abhor, detest and abjure, as impious and heretical, this damnable doctrine and position, that princes which be excommunicated or deprived by the pope may be deposed or murdered by their subjects or any other whosoever." Here also we find the words, afterward discussed in relation to the admission of Jews to parliament, "upon the true faith of a Christian." They can not have been particularly intended to exclude Jews from office, as Jews were at that time excluded from the realm altogether. It has been plausibly conjectured that their real intention was to clinch the proviso against mental reservation or equivocation "by conclusively fixing a sense to that oath which by no evasion or mental reservation should be got rid of without (even in the opinion of the Jesuit doctors themselves) incurring the penalty of mortal sin." For in a certain treatise on Equivocation, of which a copy corrected in Garnet's handwriting was found in the chamber of Francis Tresham, one of the conspirators named in the act, and was much used on the trial, this point of mental reservation is fully discussed; and it is laid down that equivocation and reservation may be used without danger to the soul even if they are expressly disclaimed in the form of the oath itself. But there is this exception, that "no person is allowed to equivocate or mentally reserve, without danger, if he does so, of incurring mortal sin, where his doing so brings apparently his true faith toward God into doubt or dispute." It was probably conceived by the advisers of the crown that the words, "upon the true faith of a Christian," brought the statutory form of oath within this exception. (Judgment of Baron Alderson in Miller *vs.* Salomons, 7 Ex. 536, 537.) A few years later, in the session of 1610, a sort of confirming act was passed (7 James I., c. 6), which made minute provision as to the places where, and the officers by whom, the oath should be administered to various classes of persons. — Shortly after the restoration an oath declaring it unlawful upon any pretense whatever to take arms against the king, was imposed on all soldiers and persons holding military offices (14 Car. II., c. 3, ss. 17, 18); and the act of uniformity (14 Car. II., c. 4, s. 6) contained a declaration to the like effect, and also against the solemn league and covenant. A similar provision in the corporation act was overlooked at the revolution, and escaped repeal till the reign of George I. In 1672 a revival of the anti-Catholic agitation followed upon Charles II.'s attempts to dispense with the existing statutes, nominally in favor of Romanists and Dissenters equally, by a declaration of liberty of conscience. The result was, that a declaration against transubstantiation was added to the oaths of allegiance and supremacy, by a new penal statute entitled "An act for preventing dangers which may happen from popish recusants," (25 Car. II., c. 2). After the revolution of 1688, however, a new start was taken. By the combined effect of two of the earliest acts of the convention parliament (1 Will. & Mar., c. 1 and c. 8), all the previous forms of the oaths of allegiance and supremacy, expressly including the declaration as to taking arms against the king, were abrogated, and a concise form substituted, which stood as follows: "I, A B, do sincerely promise and swear that I will be faithful and bear true allegiance to their majesties King William and Queen Mary. So help me God, etc.* I, A B, do swear that I do from my heart abhor, detest and abjure, as impious and heretical, that damnable doctrine and position that princes excommunicated or deposed by the pope or any authority of the see of Rome may be deposed or murthered by their subjects or any other whatsoever. And I do declare that no foreign prince, person, prelate, states or potentate hath or ought to have any jurisdiction, power, superiority, preeminence or authority, ecclesiastical or spiritual, within this realm. So help me God, etc." — In 1701 came the death of James II. at St. Germains, and the ostentatious recognition of the pretender as king of England by Louis XIV. Fuller and more stringent precautions were again thought needful, and in the very last days of William III.'s life an act was passed (13 & 14 Wm. III., c. 6), imposing on specified classes of persons, including peers, members of the house of commons, and all holding office under the crown, an oath of special and particular abjuration of the pretender's title. The declaration of 1672 against transubstantiation (which had been spared from the general abrogation of other existing tests at the beginning of the reign) was at the same time expressly continued. As the form settled by this act remained substantially unchanged down to our own time, it is here set out: "I, A B, do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the world, that our sovereign lord King William is lawful and rightful king of this realm and of all other his majesty's dominions and countries thereunto belonging. And I do solemnly and sincerely declare that I do believe in my conscience that the person pretended to be the prince of Wales during the life of the late King James and since his decease pretending to be and taking upon himself the stile and title of king of England by the name of James the Third, hath not any right or title whatsoever to the crown of this realm or any other the dominions thereto

* The "etc." means, I suppose, "and the contents of this Book."

belonging. And I do renounce, refuse and abjure any allegiance or obedience to him. And I do swear that I will bear faith and true allegiance to his majesty King William, and him will defend to the utmost of my power against all traitorous conspiracies and attempts whatsoever which shall be made against his person, crown or dignity. And I will do my best endeavours to disclose and make known to his majesty and his successors all treasons and traitorous conspiracies which I shall know to be against him or any of them. And I do faithfully promise to the utmost of my power to support, maintain and defend the limitation and succession of the crown against him the said James and all other persons whatsoever as the same is and stands limited (by an act instituted an act declaring the rights and liberties of the subject and settling the succession of the crown) to his majesty during his majesty's life, and, after his majesty's decease, to the Princess Ann of Denmark and the heirs of her body being Protestants, and for default of issue of the said princess and of his majesty respectively, to the Princess Sophia, electoress and duchess dowager of Hanover, and the heirs of her body being Protestants. And all these things I do plainly and sincerely acknowledge and swear according to these express words by me spoken, and according to the plain and common sense understanding of the same words, without any equivocation, mental evasion or secret reservation whatsoever. And I do make this recognition, acknowledgment, abjuration, renunciation and promise, heartily, willingly and truly, upon the true faith of a Christian. So help me God." — This oath was in addition to the oaths of allegiance and supremacy prescribed by the acts already mentioned of the first session of William and Mary's reign, not by way of substitution for them. It will be observed that the words "upon the true faith of a Christian" now reappear. In Queen Anne's reign the only alterations made were, first to put Anne's name for William's, and then to leave a blank to be filled in with the name of the sovereign for the time being.* The accession of George I., in 1714, gave occasion for a full re-enactment of the oaths of allegiance, supremacy and abjuration, in what would now be called a consolidating act. (1 Geo. I., st. 2, c. 13.) All persons holding civil or military office, members of foundations at the universities, schoolmasters, "preachers and teachers of separate congregations," and legal practitioners, were required to take the oaths; besides which, they might be tendered by two justices of the peace to any one suspected of disaffection. Members of both houses of parliament are, as before, specially forbidden to vote without taking the oaths. The form was settled by inserting the name of George in the blank left by the last statute of Anne, but no provision was made in terms for substituting from time to time the name of the reigning sovereign. In 1766, upon the pretender's death, the oath of abjuration was made appropriate to the new state of things by inserting the words "not any of the descendants of the person who pretended to be the prince of Wales," etc. — In this form the oaths remained for nearly a century, affected only by a certain number of special exemptions. The most important of these was made by the Catholic emancipation of 1829. The act which effected this (10 Geo. IV., c. 7) allowed Roman Catholics to sit in parliament, taking, instead of the oaths of allegiance, supremacy and abjuration, a single modified oath containing the substance of them expressed in a milder form. The Catholic member was required, instead of detesting and abhorring the "damnable doctrine and position," to "renounce, reject and abjure the opinion" that excommunicated princes might be deposed or murdered; and to disclaim the belief that the pope of Rome or any other foreign prince had or ought to have any *temporal* or *civil* jurisdiction, etc., within this realm. The words "upon the true faith of a Christian" were for some reason omitted, and the oath concluded thus: "And I do solemnly, in the presence of God, profess, testify and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words of this oath, without any evasion, equivocation or mental reservation whatsoever." This act contains, for the first time, a standing direction to substitute in the form of the oath, as may be required, the name of the sovereign for the time being. — All this time the penalties of the statute of 1714 against a member of parliament who voted without having taking the oaths (or, in the case of a Catholic, the special oath provided by the Catholic relief act), continued in force, and very alarming they were. In addition to the pecuniary forfeiture of £500, they included disability to sue in any court, to take a legacy, to hold any office, and to vote at parliamentary elections. Disability to be an executor, which is also in the list, would at this day be regarded by many persons as rather a benefit than otherwise. — The next step was in consequence of the persistent endeavors made through several years to procure the removal of Jewish disabilities. It would be too long to trace the history of this movement through its various stages; and the episode of Mr. Salomons' gallant attempt to take the position by a *coup de main* has now lost its interest for most people except lawyers who have a taste for ingenious argument on the construction and effect of statutes.† In 1857 Mr. Salomons, being duly elected for Greenwich, took the oath on the Old Testament, omitting the words "upon the true

* 1 Anne, c. 16. 4 & 5 Anne, c. 20; and as to Scotland, 6 Anne, c. 66 (Statutes of the Realm, c. 14, in other editions).

† One of the minor points taken by Mr. Salomons' counsel was that, as the act of George III. did not authorize the insertion from time to time of the reigning sovereigns' names, it expired at the end of the reign, or at all events when there ceased to be a king named George.

faith of a Christian"; he was sued for the statutory penalty, as having sat without taking the oath; and it was decided (with one dissenting voice, but a weighty one)* that these words were a material part of the oath, and could not be dispensed with otherwise than by legislation. At last, in 1858, a very odd and peculiarly English compromise was arrived at after the house of lords had rejected bills sent up from the commons. By one act (21 & 22 Vict., c. 48) a simplified form of oath, but still containing the words "upon the true faith of a Christian," was substituted for the oaths of allegiance, supremacy and abjuration in all cases where they were required to be taken. The application of this enactment to clerical subscriptions was afterward more especially regulated by the clerical subscription act, 1865 (28 & 29 Vict., c. 122).† Then, by a separate act (21 & 22 Vict., c. 49), either house of parliament was empowered to permit by resolution "a person professing the Jewish religion, otherwise entitled to sit and vote in such house," to take the oath, with the omission of the words, "and I make this declaration upon the true faith of a Christian." It was also provided, that in all other cases where the oath of allegiance was required to be taken by a Jew, these words might be omitted. Such an exemption had once already been given by parliament in the eighteenth century, but, after the fashion of legislation in those days, only on a special occasion and for a limited purpose; and more recently to enable Jews to hold municipal offices. The act of 1858, being general in its terms, is a full statutory recognition of the civil equality of Jews with other British subjects, which, though long allowed in practice, had never yet been expressly declared. —At length, in 1866, we come out into the daylight of modern systematic legislation. The parliamentary oaths act of that year (29 Vict., c. 19) swept away the former legislation relating to the oaths of members of parliament, and prescribed the following shortened form: "I, A B, do swear that I will be faithful and bear true allegiance to her majesty Queen Victoria; and I do faithfully promise to maintain and support the succession to the crown, as the same stands limited and settled by virtue of the act passed in the reign of King William the Third, instituted 'An act for the further limitation ‡ of the crown, and better securing the rights and liberties of the subject,' and of the subsequent acts of union with Scotland and Ireland. So help me God." —For not taking the oaths only the pecuniary penalty of £500 was retained out of the terrible list enacted by earlier statutes. This act was excellent as far as it went, but it applied only to members of parliament. It is the fate of English legislation to be carried on as best it can, piecemeal, and at odd times. Measures which excite opposition pass through a struggle in which they are lucky if they escape without maim or grave disfigurement. As to those which do not excite opposition, it is for that very reason of no apparent political importance to push them on, and, as it is worth nobody's while to be much interested in them, they have to take their chance. In this case an act of the following year (the office and oath act, 1867, 30 & 31 Vict., c. 75) authorized the new parliamentary form of oath to be taken in all cases where the oath of allegiance was required as a qualification for office. Finally, the promissory oaths act of 1868 (31 & 32 Vict., c. 72) cut down the oath of allegiance in all cases to the form already given at the beginning of this paper, and substituted a declaration for an oath in the great majority of cases where an oath was formerly required. Still the work of simplification was not formally complete. A repealing act was passed in 1871 (34 & 35 Vict., c. 48), which struck off the statute book a long list of enactments imposing oaths for various purposes on various persons, and others partially amending or repealing them, from the middle of the fourteenth century downward. And so the story ends for the present; England no longer stands in fear of pope or pretender, and the modern oath of allegiance, devised for the protection of the realm against foemen and conspirators, and swollen with strange imprecations and scoldings, is brought back to the more plain and seemly fashion of the ancient oath of fealty. Yet our English ancestors were not capricious in the elaborate safeguards which they built up again and again round a ceremony originally of the simplest. Every clause and almost every word in the statutory oaths of allegiance, supremacy and abjuration was directed against a distinct and specific political danger. It is unhappily true that examples of repressive legislation against mere speculative opinions, though less common in England than elsewhere, are by no means wanting. But the political test oaths do not belong to this class. They were framed to discover and bring to punishment, or to disable and exclude from privileges, not the holders of theological opinions as such, but persons holding opinions, of which, rightly or wrongly, disloyal and seditious behavior was supposed to be the necessary or highly probable result. The attempt lately made, and for the present made with success, to use the parliamentary oath as a religious test, and thereby exclude a person obnoxious to a majority of the house of commons, partly for theological but much more for political and social reasons, has nothing to justify it in English history, or in the traditions of English politics. It is an unhappy example of the ignorance and confusion of mind concerning the institutions of their own country which are still too common among

* Sir Samuel Martin's, then a baron of the exchequer, and now the only survivor, as it happens, of the judges before whom the case was argued.

† The oaths of allegiance, etc., were enforced on the clergy by Charles II.'s act of uniformity and various other statutes. The taking of them was part of the ordination service until separated from it by this act.

‡ It may be worth while to explain to lay readers that this does not mean limiting the powers of the crown, but defining the course of the succession.

English legislators. (See ALLEGIANCE, and the note to the preceding article.)

FREDERICK POLLOCK.

OCCUPATION. I. Of the different meanings of this word, that which has the longest exercised the ingenuity of publicists relates to the manner of acquiring lands which up to the time of acquisition had no owner. The occupation of such lands, that is, the taking of effective possession of them, is one of the means of obtaining the right of property in them. The individual who discovers an uninhabited island, which constitutes no part of an established state, may appropriate it, cultivate it and dispose of it, and the more labor he expends upon it the less contestable is his title thereto. If the island forms part of a state, he can not acquire the ownership of it, unless the laws recognize the rights of the first occupant, or he can acquire these rights only on the conditions provided by the laws of the country. Thus, in the United States, the land which belongs to no one in particular forms part of the domain of the Union; it is not, strictly speaking, without an owner; and hence the first occupant has only a limited right, the right of pre-emption of such land. But to proceed with the hypothesis of a desert island. A European, let us suppose, discovers such an island in the Pacific ocean, and takes effective possession of it. It does not suffice for this purpose to erect a post, and nail a board to it, with a notice of the taking of possession, and do nothing further; the *occupation* and exploitation of the land are absolutely necessary. Our European is assuredly the proprietor of this island by private title, or from the standpoint of the civil law, but is he also its political lord? He can only be so in one case; if he has previously freed himself from the bonds which attach him to his own country. As long as he remains a Frenchman, a German or an Englishman, his *status* follows him, his country retains its rights over him, he nationalizes or naturalizes the objects which become his property, for, in many respects, property, at least movable property, is an accessory of the man. The power of a citizen, however, to cause an accession of land in favor of his country is not unlimited, for the power of his country is not unlimited. Just as his personal status follows him wherever he goes, while his *real* status (immovable property) necessarily remains subject to the territorial laws of his country; so his right of extending the boundaries of the nation to which he belongs may be contested. In other words, the right of an individual to take possession of land in the name of his government may be questioned. The law on this point is not well settled, for the reason that the facts in cases of this kind have not greatly varied. An individual might live on an island, lost in the ocean, and enjoy sovereignty, because no one cares to disturb him. He might also feel the need of protection, and ask it of his native country; but the latter is the judge of what he may with propriety do. It can grant or refuse its protection. It will never grant that an individual can bind it without a commission to do so, and it is free not to ratify the taking of possession; but if it wishes to accord its protection, if it consents to cover with its flag the domain which has come to it by accession, it must do so by a formal or express act; it is for the government to take possession. The official occupation of land without an owner, by the agents of a government, constitutes a mode of acquisition fully recognized by international law. This mode of acquisition has been used and abused, but in proportion as the earth becomes peopled, there is less occasion to have recourse to it. — II. Up to this point there has only been in question the occupation of a territory without an owner, but there is also such a thing as the occupation of an inhabited country. A victorious army, which invades a country, occupies it in part or in whole, and sometimes during a long period. We shall not stop to discuss an occupation which lasts days or weeks, and the near end of which may be foreseen. The invader should be humane, should demand only those things which he needs for his support, and should destroy nothing, except to defend himself or as an act of war. He should not destroy simply for the sake of destruction. If the occupation is a lengthy one, matters become complicated, and a great number of questions arise. In such case evidently the power which occupies a country has become its master; it exercises there the rights of sovereignty, levies taxes, makes the necessary laws, and, if need be, administers justice; but it possesses only sovereignty *de facto*, and not sovereignty *de jure*. Thus, the inhabitants do not lose their nationality, the civil relations between the citizens of the country occupied remain intact, and the laws continue in force, save those which the conqueror has expressly repealed, modified or suspended. A crime committed during the occupation is punishable by the tribunals of the country, even after the conclusion of peace. An alien, even if he belongs to the nationality of the conqueror, but *is not a part of the army*, remains subject to the laws of the invaded country, and he may, if the statutes of limitation do not prevent it, be arrested after the declaration of peace, for the crimes he may have committed at a time when the courts perhaps were not in a condition strictly to enforce the law. — Unless the commander of the invading army decides to the contrary, the administrative authorities may remain at their posts, and maintain their governmental order. The courts may continue to administer justice, and it is even their duty to do so as long as there are no serious moral or material obstacles in the way. They administer justice in the name of their sovereign. In the Franco-German war a very peculiar difficulty arose. During the war, the revolution of the 4th of September having changed the form of the French government, and the Germans not having yet recognized the republic, they thought that they could not permit justice to be administered in their presence, in the name of the repub-

lic, without seeming to recognize it; they therefore requested that the court of Nancy and several other courts should sit in the name of the "occupying governments," which these courts rightly refused to do. The Germans were doubly mistaken: first, in asking that justice should be administered in their name; and secondly, in supposing that the administration of justice in the name of the republic implied on their part a recognition of its government. They were supposed, or might have been supposed, to ignore the proceedings of the courts, as long as the magistrates had nothing to do with the war, and their judgments and decrees affected only private interests. — III. We have again the occupation of a country by way of pledge, as for instance, for the payment of a war indemnity. In cases of this kind the details of the mode of occupation are generally regulated by treaty. However, as a state of peace has here succeeded that of war, all public services are resumed and directed by the national government, and the commander of the army of occupation has no power but such as is necessary for the security of his troops. He can not levy taxes, nor demand any contributions except those stipulated for in the treaty; but if the local authorities are unable to preserve his safety, he has the right to protect himself. The inhabitants of the occupied country should have the patriotism to avoid giving him any serious ground of complaint. A calm dignity is always more noble than daring but ill-judged annoyance. Occupation may also be a mode of coercion, of compelling the fulfillment of a contract. For example, if one of the German countries did not submit to some one of the provisions of the federal constitution, the emperor might send troops of occupation into such country, which would act as a sort of bailiff at the expense of the country occupied. But the state of peace would not necessarily be interrupted, and the civil authorities would continue to discharge their functions as usual. These two kinds of occupation may be considered as legal measures, but history has also recorded, and much too frequently, occupations more or less well (we should say illy) justified by policy. These occupations being made outside of the provisions of international law, publicists can scarcely think of laying down rules for them. MAURICE BLOCK.

OCEANICA. Under this head, although contrary to the custom of geographers, we propose to treat of both Oceanica and Australia. — I. OCEANICA. By the name Oceanica are designated all the islands scattered in the Pacific ocean, from the coasts of Asia and the Indian ocean to the coasts of America. The most northerly of the islands belonging to Oceanica is the rock of Crespa, latitude 32° 46′ north; the most southerly are the islands of Bishop and his Clerk, latitude 55° 15′ south; the most westerly point is the island of Boh, longitude 129° 12′ east; while the rock of Sala y Gomez, longitude 254° 40′ east of Greenwich, forms the eastern boundary. The islands are divided into high and low. The former are, in almost every case, of volcanic origin and mountainous; they are the largest and most important in all the groups, and have a fertile soil; the low islands, on the contrary, are mostly but ring-like rocks of coral rag, encircling a body of water. The waves of the ocean often carry seeds from great distances to these barren coral reefs and deposit them there. These seeds develop into graminous plants or trees; aquatic birds visit the yet destitute strip of land, and shortly afterward there appear insects and amphibia, carried thither by the waves on living trees. — The area of Oceanica, by far the greater part of which is situated between the tropics, may, according to an approximate estimate, the only one possible, be 1,156,000 square kilometres. All the islands and groups of islands of Oceanica may be divided into three great principal divisions, based upon differences in the physical conformation, and in the institutions and manners as well as in the languages of the natives. Melanesia (or West Polynesia) comprises the islands, extending from west to east, thence southeast, which encircle the Australian continent like a wreath. To these islands belong the extensive island of New Guinea with the neighboring groups, the Luisiad archipelago, the archipelago of New Britain and the Admiralty islands, the Salomon islands, the Queen Charlotte islands, the New Hebrides, New Caledonia and the Loyalty islands. The islands of Melanesia are inhabited by the Papuas, a dark skinned people, who are also called Negritos or Australian negroes, on account of there being some similarity between them and the natives of Africa. To Polynesia belong the following islands and groups of islands: New Zealand, the Fiji islands, Tonga, Samoa, the Hervey islands, the Society group of islands, the Australian islands, the Tuamotu, the Marquesas, and the Sandwich or Hawaiian islands. In New Zealand the European population prevails at present. The Fiji islands are accounted as belonging to Polynesia, because the inhabitants of these islands, although Melanesians as far as their language and physical conformation are concerned, possess the same degree of civilization as the Polynesians. The islands of Polynesia are inhabited by a light brown, well formed race of men, accessible to civilization, good seamen, and somewhat resembling the Malays. By the term Micronesia is designated the group of islands situated in the northwestern part of the Pacific ocean, and extending north and west near the coasts of Japan and the Philippine islands; this group of islands is inhabited by that part of the Polynesian race which differs from the Polynesians proper in peculiarities of character, mode of living, and chiefly by the difference in languages. These (mostly low) islands are divided into three groups: the Ladrones, the Bonin islands north of them, and the Caroline islands, the Marshall and the Gilbert islands. — Throughout nearly the whole of Melanesia oppressive heat prevails, which, combined

with the humidity of the densely wooded islands, is as prostrating as it is injurious to health; the climate of the other islands is warm, but not disagreeable, because of the sea breezes, and is as agreeable as it is healthy. While on the low islands vegetation can not be called rich and luxuriant, on the high islands it is of a tropical abundance. The mountains are for the most part wooded to the top; the trees are high, and serviceable for building. Among the food plants the following are to be found on all the larger islands: the cocoanut tree, the banana tree, different kinds of taro or arum, the bread-fruit tree, the pandang, yam-root, and the sweet potato; besides these, there are the sugar cane, the pineapple, the coffee tree, the lemon and orange trees; in short, nearly all the useful plants of warmer climates. While New Guinea vies with the Moluccas in the abundance and peculiar character of its plants and the magnificence and grandeur of its forests, its vegetation, without losing its luxuriance, shows a decline in so far as the number of varieties is concerned; thus, Tahiti seems to have but 500 different plants, Tuamotu only about fifty, Waihu (Easter island) some twenty only. It is equally striking that not only the vegetation on all of these islands is of a character similar, for the most part, to that of the vegetation of India, but also that it retains this character even in the most easterly islands, which, although nearest to America, possess none of the American types of plants. The same law applies, on the whole, to the distribution of animals; however, there is a general lack of land mammalia on these islands in so far as that lack has not been done away with in more recent times, by the importation of domestic animals. It is true, there are larger quadrupeds in New Guinea, but only kangaroos and nocturnal animals. Besides these, the Europeans, who first visited these islands, found of land mammalia only the hog, the dog and the rat, and even these not on all the islands. Birds are more numerous. Fowl, pigeons, parrots, different kinds of singing birds, snipes, herons, wild ducks and numerous sea fowl were found on almost all these islands. Besides these, there are the bird of paradise in New Guinea and the cassowary, distributed as far as New Britain. Sea animals, fish and turtles are exceedingly numerous in the waters surrounding these islands; the dugong (*Halicore cetacea*) is found between the tropics. Whales are still caught in the southern and northern parts of the ocean, and the widely distributed sperm whale (*Physeter macrocephalus*) has given rise to active fisheries. Shells and corals present a greater variety of brilliant colors and forms than almost anywhere else in the world. Snakes, mostly of a harmless character, are found only on the western islands, probably not farther than on the Tonga group; there is, however, one harmless species of snake which is said to be found on the Marquesas; the crocodile is not found except in the extremest western part of this territory. Sharks are frequent everywhere, and there are also poisonous fish. But few species of insects are found; most frequently they are met with in the western islands. — Comparative philology has shown that the native population of Oceanica came from Indo-China and from the Indian archipelago. On all the larger islands of the Indian archipelago there is a dark colored race of men, called Papuas, and another of lighter color, the Malay race, which originally inhabited the southeastern parts of Asia, and which in the distant past removed their habitations to the Indian archipelago; these two races are also to be found in Oceanica. The dark colored Papuas are the natives of Melanesia, while the lighter brown Malayo-Japanese element prevails in Polynesia; the now nearly extinct Micronesians are more similar to the Tagalian element. — As a rule the inhabitants of the high islands are stronger, taller, handsomer, of lighter color, and better developed; on the low and more barren islands they are shorter, less strong, uglier, and of a darker color. The color of the skin of the Polynesians varies from light to dark brown, with a hue of yellow or olive-green; their hair is mostly of thick growth, black and smooth; their eyes are black; their mouths are well formed; their foreheads well developed; the nose is either short and straight, or long and of aquiline shape; the form of the face is oval. The Micronesians are of lighter color, their figure is more graceful and agile, their expression brighter, their noses more prominent and bent, and not so flat. The difference in their languages is still more pronounced. While the language of the Melanesians is distinguished by more numerous and harsher consonants, and is clearly distinct from the Malay and Polynesian languages, the phonetic system of the Polynesian languages evinces great poverty, a certain weakness and want of force; the Micronesian languages, however, as far as their form is concerned, are the most closely connected with the simpler Malay family of languages, having also an intimate relationship with the Polynesian languages. While the several languages of the Polynesian family are almost only dialectically distinguished from each other, there are great differences in the languages spoken on the Micronesian groups. As far as mental capacity is concerned, the Melanesians are inferior to the Polynesians; love of war and warlikeness, distrust and suspicion, are the principal features of their character; cannibalism, too, is practiced by most of the Melanesian tribes. The Polynesians, on the contrary, although as a rule they also practice cannibalism in as far as they have not been converted to Christianity, occupy a higher intellectual position than others living in a state of nature; they are eminently skillful in copying, or at least in assuming, the outward appearance of European manners. The Micronesians also are well endowed intellectually, very receptive, and possess a certain physical cleverness; they are hospitable, friendly, good natured, peaceful and honest, but sometimes very revengeful and blood-thirsty. — The religious ideas of the

Melanesians are vague and confused. Thus, on some of the islands they believe in a power which has created and governs all things. Others worship the sun, while the Tanneese and the New Caledonians seem to have no religion whatever. Besides this, every individual has his own guardian spirit. The Polynesians believe in a number of high gods, by whom the universe has been created, and who, although with some diversity, are worshiped throughout all Oceanica. Besides these high gods the Polynesians worship an immense host of inferior deities, of elementary genii, fairies and giants. There is, besides, a third class of deities, consisting of apotheoses of human beings. The *Tabu*, too, forms part of the religious ideas of the Polynesians. In Micronesia religion is based on the belief in an invisible supreme being, and, in addition thereto, sometimes on the belief in invisible intermediary beings. — In regard to social relations Melanesia is also very backward. The population of each island is divided into many tribes, which, as a rule, are enemies of one another. The tribes have each a chief, for the most part, however, without authority; and they are classed by villages into numerous small subdivisions, with a common ruler on important occasions. In Polynesia, however, there are two estates to be distinguished: the nobles, who are related to the gods, and the common people, who are of this earth only and without soul. Between these two estates, that of the landed proprietors, in many instances, has assumed the intermediate position of a third estate; thus in some places, for instance in Tahiti, the high nobility merely consists of the king, the king's family, and their nearest relatives. They also have generally a kind of feudal system, in which one king or superior chief rules over several subordinate chiefs, who derive their landed property from him, and who in turn owe him service in case of war. A similar feudal system is in existence in Micronesia, but there the estates are divided into the nobility, the semi-nobility and the common people. Even as far as industry and skill are concerned, the Melanesians rank below the Polynesians. They pursue fishing and to a limited extent agriculture. Some of the groups of islands have no connection whatever with Europe. Only in the New Hebrides and the Loyalty islands did the sandalwood commodity give rise to an active traffic, since European vessels transported the wood from these islands to Asia. For centuries, however, an active trade has been carried on between the inhabitants of the western and northwestern coasts of New Guinea and those of the Moluccas. New Caledonia, it is true, has been brought into connection with Europe in consequence of its occupation by the French; but that intercourse is inconsiderable. In Polynesia agriculture is highly developed. In building houses and boats, as well as in manufacturing bast-cloth (which is frequently very beautiful), weapons and tools, the Polynesians display great skill. The trade in sandalwood, pearls, cocoa oil, and the catching of trepangs and whales, ever since the end of the eighteenth century, attracted many European ships to these waters and gave rise to an active intercourse with the inhabitants of these islands. — In Micronesia, too, agriculture thrives, as far as the condition of the soil is favorable. With their skillfully constructed boats the natives make extensive voyages for trading purposes; they export the products which they manufacture in large quantities, as, for instance, boats, pandang mats, ropes and twine of cocoanut fibre, weapons of cocoawood, implements made of the wood of the bread-fruit tree, cloth, baskets, sails, and, above all, hammocks, which are very much in demand. Ever since the white element established itself on the islands a marked decrease of the native population has been noticeable. On the Hawaiian group and in Melanesia the population has decreased to about one-fifth since the days of Cook. In Micronesia, too, the contact with white men, chiefly in consequence of destructive diseases, such as small-pox and syphilis, having been brought into the country, has had the same effect. — II. AUSTRALIA. In former times and in a wider sense, under the name of Australia was comprised the extensive group of islands in the Pacific ocean scattered between the coasts of Asia and the Indian ocean, and the coast of America. In a narrower sense the name Australia is used today to designate the insular continent, the Australian continent (formerly called New Holland), while the other islands and groups of islands belonging thereto are known by the collective name Oceanica. The Australian continent, in the southeastern part of the Indian archipelago, is situated entirely on the eastern hemisphere. — The population of Australia consists of natives and of Europeans recently settled there. The farther the Europeans penetrate from the coasts into the interior and cultivate its soil, the more are the natives confined to the deserts and the nearer they approach extinction. In the settled portions of Australia they gradually disappear before European civilization, as do also in part the native flora and fauna. At the time of the first arrival of Europeans, there may have been about 50,000 Australians wandering about in the now colonized portions of New South Wales, Victoria and South Australia. In the year 1851 the number of natives was estimated at 1,750 in New South Wales, at 2,500 in Victoria and at 3,780 in South Australia; in 1872 there were still 3,369 natives in South Australia; in Victoria, there were but 1,330 native Australian aborigines left, while the number of aborigines in New South Wales had dwindled down to 984. The total number of natives for the whole continent can not be given with certainty. The latest estimates showed that their number does not amount to more than 60,000. The native population of Tasmania is now entirely extinct. Including Tasmania and New Zealand, which are officially considered part of the Australian colonies, there are at present seven Australian colonies, irrespective of the Northern

territory under the administration of South Australia and peopled by but few white men. The area and population of each of the colonies is shown in the following table:

COLONIES.	English Sq. Miles.	Inhabitants (exclusive of natives).
New South Wales	308,560	*560,275
Victoria	88,451	*790,492
South Australia	380,602	*198,257
Queensland	668,259	*146,690
West Australia	975,894	*25,781
Northern Territory	523,581	†201
Total	2,945,227	1,721,696

To this there are to be added:

Tasmania	26,215	*104,217
New Zealand	106,259	*310,437
Grand total	3,077,701	2,136,350

* End of 1873. † End of 1871.

Thus Australia had, in 1873, an area of 2,945,227 English square miles, and 1,721,696 inhabitants, exclusive of the natives (only 0.57 inhabitants to the square mile). The larger cities are, in Victoria: Melbourne, with 193,698 inhabitants; Ballarat, with with 24,260; Sandhurst, with 27,642; Geelong, with 22,618; in New South Wales: Sydney, with 134,756 inhabitants; in South Australia: Adelaide, with 27,208 inhabitants; and in Queensland: Brisbane, with a population of 19,413. How rapidly the population of these colonies increased by immigration is apparent from the fact, that in 1821 the population of New South Wales was only 29,783; that of Victoria, in 1836, only 224; that of South Australia, in 1838, only 6,000; that of Queensland, in 1848, only 2,257; and that of West Australia, only 11,743. — The principal occupation of the colonists is the raising of cattle and the cultivation of the soil. The chief branch of stock raising at present is the raising of sheep, which, within a short time, will secure to England the entire foreign demand for wool. In the interior of the colonies the lands are divided into farms; in the frontier districts, however, the colonists live on so-called stations, which are isolated encampments of shepherds. Besides this, the produce of gold, copper and hard coal is of great importance; the fisheries, especially whaling, are worthy of mention. Australia exports chiefly gold, wool, tallow and copper, and imports English manufactures of every description, although, especially lately, the industry of the colonies has largely developed. — Each colony has its own governor, assisted by an executive ministry and a legislative body. One-third of the representatives in the parliaments are chosen by the government, and two-thirds are elected by the inhabitants; parliament has a right to enact laws, in so far as they are not at variance with the laws of England, and it is authorized to dispose of the receipts of the colony, in so far as they are not derived from crown lands. All bills passed by parliament must be ratified by the governor on behalf of the English government. All lands belong to the government by law, and are sold to the highest bidder at public auction. Besides this, unsold crown lands are leased for an insignificant consideration for the raising of cattle. The English government has of late kept no troops in the colonies; the latter, therefore, organized volunteer corps, of a total strength of something over 10,000 men. For the protection of the coasts a fleet of iron-clads is being built at the expense of the colonies. At present the fleet is represented by the steam advice boat "Victoria" and the monitor "Cerberus." The wooden steam frigate "Nelson," in the harbor of Melbourne, is used as a training ship for young seamen for the merchant and naval marine. — The discovery of gold in 1851 gave a most powerful impulse to the immense growth of the Australian colonies. Victoria's production of gold reached 11,900,000 pounds sterling in 1856; in 1866, it is true, it decreased to 5,900,000 pounds, but in 1868 it rose again to 6,600,000 pounds. From 1866 to 1873, inclusive, the production of gold in the colony of Victoria alone amounted to 11,024,231 ozs. (@ £4, an aggregate of £44,096,924). Besides gold, wool is a staple product of Australia. In 1810 the first consignment of wool, of about half a bale (140 lbs.) arrived in Europe; in the year 1820, 100,000 lbs. were sent to Europe; in 1867, 113,000,000 lbs.; in 1868, 135,000,000 lbs. (of this quantity 68,000,000 pounds came from Victoria, 30,000,000 from Queensland, and 29,000,000 from New Zealand). In the year 1871 the four Australian colonies (excluding West Australia) exported wool to the amount of £11,974,000. — Cattle breeding is also very important. The Australian colonies have at least 6,000,000 head of cattle; and since 1867 considerable quantities of preserved meats are exported to England and Bremen. About 1,025,000 kilogrammes, for instance, were exported in August, 1872. Lastly, South Australia exports considerable quantities of wheat and copper. In 1872 the last named colony exported about 25,000,000 kilogrammes of copper ore. — At the end of 1873 the length of railroads in the Australian colonies was 2,042 kilometres. Of these, New South Wales had 652 kilometres, Victoria 708, Queensland 351, South Australia 305, and West Australia 26 kilometres. Since Oct. 21, 1872, Australia is connected with Europe by cable. The colony of South Australia established a line of telegraph from Port Augusta, on the gulf of Spencer, through the heart of the continent to Port Darwin, on the coast of northern Australia, while the English government laid a cable from Java to Port Darwin. The distance between Adelaide and Falmouth is 20,000 kilometres; of this distance the submarine cables represent a length of 14,700 kilometres. A dispatch of ten words from

Adelaide to London now costs 189 marks, and it takes, in the average, fourteen hours for a dispatch to make its way from Adelaide to London. The principal towns in the colonies are connected with each other by telegraph. The colonies of New South Wales, Victoria, South Australia and Queensland alone had over 24,000 kilometres of telegraph lines at the end of 1872. Since January, 1874, Australia has three different postal connections with Europe: the older line, via Point de Galle and Suez, in the hands of the colonies of Victoria, South Australia, West Australia and Tasmania; the second, via San Francisco and New York, in the hands of the colonies of New South Wales and New Zealand; the third, via Torres Strait, Singapore and Suez, in the hands of the colony of Queensland. — At the end of 1872 the receipts and expenditures of the several colonies were as follows:

COLONIES.	Total Receipts.	Total Expenditures.	Debts.
New South Wales ..	£4,161,415	£3,638,623	£ 9,681,130
Victoria	3,261,883	3,428,289	11,994,800
South Australia.....	862,885	856,865	2,284,200
Queensland	996,323	865,743	4,547,850
West Australia	105,301	98,248	35,000
Total	£9,387,807	£8,887,861	£28,542,980

The loans were made principally for the purpose of building railroads, harbors, etc. — The following summary tables show the area of the various colonies, and their population from 1876 to 1881 inclusive:

AREA AND POPULATION.

COLONIES.	Area Sq. Miles.	Years.	Population on Dec. 31.
New South Wales.....	309,175	1876	629,776
		1877	662,212
		1878	693,743
		1879	734,882
		1881	781,265
New Zealand	104,408	1876	399,075
		1877	417,622
		1878	432,519
		1879	463,729
		1881	534,082
Queensland.....	668,224	1876	187,100
		1877	203,084
		1878	210,510
		1879	217,851
		1881	226,968
South Australia.....	903,690	1876	225,077
		1877	236,864
		1878	248,795
		1879	259,287
		1881	286,394
Tasmania.....	26,215	1876	105,484
		1877	107,104
		1878	109,947
		1879	112,469
		1881	118,923
Victoria	87,884	1876	840,300
		1877	860,787
		1878	879,442
		1879	899,338
		1881	882,232
Western Australia.....	1,057,250	1876	27,321
		1877	27,838
		1878	28,166
		1879	28,668
		1881	32,359

FINANCES.

COLONIES.	Years.	Revenue.	Expenditure.	Debt on Dec. 31.
		£		£
New South Wales.	1877	5,748,245	4,627,979	11,724,419
	1878	4,983,864	5,672,154	11,688,119
	1879	4,475,059	4,570,720	14,937,419
	1880	4,904,216	4,854,706	14,903,919
	1881	7,377,786	5,890,579	16,924,019
New Zealand.....	1877	3,916,023	3,822,426	20,691,111
	1878	4,167,889	4,365,275	22,608,311
	1879	4,524,841	4,510,726	23,958,311
	1880	3,283,306	4,019,850	28,583,231
	1881	3,757,493	3,675,797	29,659,111
Queensland	1877	1,436,582	1,382,806	7,685,350
	1878	1,559,111	1,543,820	8,935,350
	1879	1,461,824	1,678,631	10,192,086
	1880	1,612,314	1,673,095	12,102,150
	1881	2,023,668	1,757,654	13,245,150
South Australia ...	1877	1,441,401	1,443,653	4,737,200
	1878	1,592,634	1,620,310	5,329,600
	1879	1,662,120	1,768,167	6,605,750
	1880	2,010,681	1,979,426	9,831,100
	1881	2,171,988	2,054,285	11,196,800
Tasmania	1877	361,771	352,564	1,589,705
	1878	381,909	375,601	1,747,400
	1879	375,367	405,838	1,787,800
	1880	448,845	427,712	1,943,700
	1881	505,872	468,613	2,003,000
Victoria.....	1877	4,723,877	4,358,096	17,018,913
	1878	4,504,413	4,634,349	17,022,065
	1879	4,525,998	4,855,676	20,050,753
	1880	4,621,282	4,875,029	22,060,749
	1881	5,186,011	5,108,642	22,426,502
Western Australia.	1877	165,413	182,959	161,000
	1878	163,344	198,243	184,556
	1879	196,315	145,312	361,000
	1880	180,849	204,337	361,000
	1881	254,313	197,386	510,000

B.*

* GOVERNMENT OF THE COLONIES. — *New South Wales.* The constitution of New South Wales, the oldest of the Australasian colonies, is embodied in the act 18 and 19 Vict., cap. 54, proclaimed in 1855, which established a "responsible government." The constitution vests the legislative power in a parliament of two houses, the first called the legislative council, and the second the legislative assembly. The legislative council consists of not less than twenty-one members, nominated by the crown, and the assembly of 108 members, elected by seventy-two constituencies. To be eligible, a man must be of age, a natural-born subject of the queen, or, if an alien, he must have been naturalized for five years, and resident for two years before election. There is no property qualification for electors, and the votes are taken by secret ballot. The executive power is in the hands of a governor nominated by the crown. The governor, by the terms of his commission, is commander-in-chief of all troops in the colony. In the exercise of his authority he is assisted by a cabinet of eight ministers. The cabinet is responsible for its acts to the legislative assembly. — *New Zealand.* The present form of government for New Zealand was established by statute 15 and 16 Vict., cap. 72, passed in 1852. By this act the colony was divided into six provinces, afterward increased to nine, namely: Auckland, Taranaki, Wellington, Nelson, Canterbury, Otago, Hawke's Bay, Westland and Marlborough, each governed by a superintendent and provincial council, elected by the inhabitants according to a franchise which practically amounts to household suffrage. By a subsequent act of the colonial legislature, 39 Vict., No. xxi., which was passed in 1875, the provincial system of government was abolished. By the terms of this act and of other amending statutes the legislative power is vested in the governor and a "general assembly," consisting of two chambers, the first called the legislative council, and the second the house of representatives. The legislative council consists of forty-five members, nominated by the crown for life, and the house of representatives of ninety-five members, elected by the people for three years. The members of the house of representatives include four aborigines, or Maories, elected by the natives. Every owner of a freehold worth £50, or tenant householder, in the country at £5, in the towns at £10 a year rent, is qualified both to vote for, and to be a member of, the house of representatives. The

OCHLOCRACY. The rule of the multitude. Polybius was the first to use the term. The good governments, according to him, are royalty, aristocracy and democracy; the bad ones monarchy, oligarchy and ochlocracy. Barthélemy St. Hilaire does not consider this definition to be very exact. It is not correct so far as royalty is concerned, which is only one of the forms of monarchy; but the denomination ochlocracy is perfectly correct, much more correct than the word demagogy, which only indicates a means of popular government, and not that government

executive authority is vested in a governor appointed by the crown. The governor is, by virtue of his office, commander-in-chief of the troops. The general administration rests with a responsible ministry, consisting of about seven members. Besides the ministers, there is one native member of the executive council, but not in charge of any department. The control of native affairs, and the entire responsibility of dealing with questions of native government, were transferred in 1863 from the imperial to the colonial government. In 1864 the seat of the general government was removed from Auckland to Wellington, on account of the central position of the latter city. — *Queensland.* The form of government of the colony of Queensland was established Dec. 10, 1859, on its separation from New South Wales. The power of making laws and imposing taxes is vested in a parliament of two houses, the legislative council and the legislative assembly. The former consists of thirty members, nominated by the crown for life. The legislative assembly comprises fifty-five deputies, returned from as many electoral districts, for five years, by the ballot vote of all tax payers. Persons having property, either leasehold or freehold, or a license to depasture lands from the government in any electoral district in which they do not reside, have the right of a vote in any district in which such property may be situated, as well as in the district in which they reside. The executive power is vested in a governor appointed by the crown. The governor is commander-in-chief of the troops, and also bears the title of vice-admiral. In the exercise of the executive authority he is assisted by an executive council of six ministers. The ministers are jointly and individually responsible for their acts. — *South Australia.* The constitution of South Australia bears date Oct. 27, 1856. It vests the legislative power in a parliament elected by the people. The parliament consists of a legislative council and a house of assembly. The former (according to a law which came into force in 1881) is composed of twenty-four members. Every three years the eight members whose names are first on the roll retire, and their places are supplied by two new members elected from each of the four districts into which the colony is divided for this purpose. The executive has no power to dissolve this body. It is elected by the whole colony voting as one district. The qualifications of an elector to the legislative council are, that he must be twenty-one years of age, a natural-born or naturalized subject of the queen, and have been on the electoral roll six months, besides having a freehold of £50 value, or a leasehold of £20 annual value, or occupying a dwelling house of £25 annual value. The qualification for a member of council is merely that he must be thirty years of age, a natural-born or naturalized subject, and a resident in the province for three years. The president of the council is elected by the members. The house of assembly consists of forty-six members, elected for three years. The qualifications for an elector are that of having been on the electoral roll for six months, and of having arrived at twenty-one years of age; and the qualifications for members are the same. There were 57,627 registered electors in 1882. Judges and ministers of religion are ineligible for election as members. The elections of members of both houses take place by ballot. The executive power is vested in a governor appointed by the crown and an executive council, consisting of the responsible ministers, and specially appointed members. The governor is at the same time commander-in-chief of the troops. The ministry, of which he is the president, is divided into six departments. The ministers are jointly and individually responsible to the legislature for all their official acts. — *Tasmania.* The constitution of Tasmania was established by act 18 Vict., No. 17, supplemented by act 34 Vict., No. 42, passed in 1871. By these acts a legislative council and a house of assembly are constituted, called the parliament of Tasmania. The legislative council is composed of sixteen members, elected by all natural-born or naturalized subjects of the crown who possess either a freehold worth £30 a year, or a leasehold of £200, or have a commission in the army or navy, or a degree of some university, or are in holy orders. The house of assembly consists of thirty-two members, elected by householders of £7 per annum, or freeholders of property £50 in value, and all subjects holding a commission, or possessing a degree. The legislative authority rests in both houses, while the executive is vested in a governor appointed by the crown. The governor is, by virtue of his office, commander-in-chief of the troops in the colony. He is aided in the exercise of the executive authority by a cabinet of responsible ministers, consisting of five members. The ministers must have a seat in one of the two houses. — *Victoria.* The constitution of Victoria was established by an act, passed by the legislature of the colony in 1854, to which the assent of the crown was given, in pursuance of the power granted by the act of the imperial parliament of 18 & 19 Vict., cap. 55. The legislative authority is vested in a parliament of two chambers; the legislative council, composed of forty-two members, and the legislative assembly, composed of eighty-six members. A property qualification is required both for members and electors of the legislative council. According to a bill passed in 1881 members must be in the possession of an estate of the annual value of £500, and electors must be in the possession or occupancy of property of the ratable value of £10 per annum if derived from freehold, or of £25 if derived from leasehold or the occupation of rented property. No electoral property qualification is required for graduates of British universities, matriculated students of the Melbourne university, ministers of religion of all denominations, certificated schoolmasters, lawyers, medical practitioners, and officers of the army and navy. One-third of the legislative council must retire every three years, so that a total change is effected in nine years. The first election of new members took place November, 1882. The members of the legislative assembly are elected by universal suffrage, for the term of three years. Clergymen of any religious denomination, and persons convicted of felony, are excluded from both the legislative council and the assembly. The number of electors on the roll of the legislative council was increased by the action of the bill of 1881 from 83,103 to about 110,000; the number of electors for the legislative assembly was 176,022, according to the latest returns. The executive authority is vested in a governor appointed by the crown. The governor is commander-in-chief of all the colonial troops. In the exercise of his duties as the executive he is assisted by a cabinet of nine ministers. At least four out of the nine ministers must be members of either the legislative council or the assembly. — *Western Australia.* The administration of Western Australia is vested in a governor, who exercises the executive functions. There is besides a legislative council, composed of seven appointed and fourteen elected members, the latter returned by the votes of all male inhabitants, of full age, assessed in a rental of at least £10. The qualification for elected members is the possession of landed property of £1,000. The governor is assisted in his functions by an executive council. — POPULATION, RESOURCES, ETC., OF THE COLONIES. — *New South Wales.* The excess of immigration over emigration averaged 10,000 annually in the seven years 1874–80. There is a high birth rate in the colony. The excess of births over deaths amounted to 116,931 in the year 1880. The population of Sydney, the capital of New South Wales, numbered 220,427 at the census of April 3, 1881, the total comprising 99,670 inhabitants within the city, and 120,757 in the suburbs. The increase of population in the decennial period 1871–81 was 89,272, or 66½ per cent. The trade of New South Wales more than quadrupled in the fifteen years 1850–64. The total value of the imports in 1850 amounted to £2,078,338, and in 1864 had risen to £10,135,708. The exports in 1850 were valued at £2,399,580, and in 1864

itself. Aristotle calls democracy what Polybius calls ochlocracy. "Aristotle," says Barthélemy St. Hilaire, "always uses the word *demos* to designate the most numerous part of the political body. Whenever the word people is found in Aristotle, it must be understood to mean, not the totality or majority of the nation, which would include the slaves, but only the lowest class of the political body, that which prevailed at Athens, but which, in the greater part of the Greek republics, played only a secondary rôle." It seems to us that *demos*, in the political language of the

at £9,037,832. From 1864 to 1870 there was a decline in both imports and exports, but a new rise took place in 1871, continuing with interruptions till 1881. The value of the total imports in 1881 was £17,409,326; the value of the total exports, including bullion, was £16,049,503. Rather more than one-third of the total imports of New South Wales come from Great Britain, and about one-third of the exports are shipped to it. The staple article of export from New South Wales to the United Kingdom is wool. Of this article there were exported in the year 1881, 87,739,914 lbs., of a value of £5,304,576. Next to wool, the most important articles of export are tin, copper, tallow and preserved meat. In March, 1882, New South Wales had 33,062,854 sheep; 2,180,896 horned cattle; 346,931 horses; and 213,916 pigs. The total area of land under cultivation embraced 645,068 acres, of which about one-half was under wheat and maize. New South Wales is believed to be richer in coal than the other territories of Australasia. In 1881 there were mined 1,775,294 tons of coal, valued at £803,248. The gold mines of New South Wales cover a vast area, extending over three districts, called the Western Fields, the Southern Fields, and the Northern Fields. The gold produce of the colony was estimated as follows, in each of the seven years 1875–81:

YEARS.	Quantity.	Value.
	Oz.	£
1875	552,592	2,097,740
1876	410,330	1,589,854
1877	124,113	498,452
1878	182,120	763,480
1879	109,650	399,187
1880	118,600	441,543
1881	145,522	550,111

New South Wales likewise possesses valuable copper and tin mines, the former producing 27,587 tons of copper in 1881. New South Wales has three lines of railway, the Southern, the Northern and the Western. In 1881 there were 985¼ miles of railway open for traffic and 11¼ miles of tramways, and 487 miles under construction. The whole of the lines were built by the government. Of electric telegraphs there were in the colony 14,278 miles of line in 1881, constructed at a cost of £492,211. The paid messages transmitted in 1881 numbered 1,597,741. There were 318 telegraph stations at the end of 1881. The postoffice of the colony transmitted 26,755,600 letters, 16,527,900 newspapers, and 851,200 packets, in the year 1881.—*New Zealand.* The census of April 3, 1881, gave the total population of 534,032, including 44,099 Maories (24,370 males and 19,729 females); of the rest, 269,605 were males and 220,328 females. This includes 5,004 Chinese, of whom only nine were females. In 1880 there were 19,341 births, 5,437 deaths and 3,181 marriages in the colony. At the census of 1881 there were four towns with upward of 10,000 inhabitants in New Zealand. The total number of immigrants and of emigrants, and the surplus of immigrants over emigrants, was as follows:

YEAR.	Immigrants.	Emigrants.	Surplus of Immigrants.
1871	10,083	5,297	4,786
1872	10,725	5,752	4,973
1873	12,572	4,761	8,811
1874	43,965	5,859	38,106
1875	31,737	6,467	25,270
1876	18,414	6,459	11,955
1877	12,987	6,611	6,376
1878	16,268	5,766	10,497
1879	23,597	5,234	18,723
1880	15,154	7 923	7,231
1881	9,688	8,033	1,655

The commerce of New Zealand increased nearly twenty-fold in the twenty years from 1859 to 1878; but while the imports, which at one time amounted to more than eight millions, fell again, the exports increased slightly in recent years. The value of the total imports of New Zealand in 1881 was £7,457,045; of the exports, £6,060,866. The value of the imports from Great Britain in 1881 was £3,718,308; that of the exports to Great Britain, £5,125,859. The staple article of export from New Zealand to the United Kingdom is wool. In 1881 there were exported to Great Britain 59,368,832 lbs. of wool, of an aggregate value of £3,477,996. Next to wool the most important articles of export were corn, flour, gum and preserved meat. The live stock of the colony consisted, in April, 1881, of 161,736 horses, 698,637 cattle, 12,965,085 sheep, 200,088 pigs, and 1,563,216 head of poultry. The greatest increase of live stock in recent years was in sheep. Their number increased from 1,523,324 in 1858, to 7,761,388 in 1861, to 4,937,273 in 1864, to 8,418,579 in 1867, to 9,700,629 in 1871, and to 11,704,853 in 1874. Large gold fields were discovered in the spring of 1857. The gold exports amounted to 355,322 ounces, valued at £1,407,770 in 1857; in 1881 only 250,683 ounces, valued at £996,867. In 1882 there were 1,333 miles of railway open for traffic. The total expenditures on construction of all the lines to March 31, 1881, had amounted to £9,599,355, and in 1882 to £9,869,669. On March 31, 1882, the colony had 3,824 miles of telegraph lines, and 9,653 miles of wire. The number of telegrams dispatched was 1,438,772, of which total over a million were private messages. The total receipts from telegrams amounted to £78,116. The total number of telegraph offices in the colony was 234. The postoffice in the year 1881 received 25,557,981 letters, of which number two-thirds came from places within and one-third from places without the colony. The total number of newspapers received in 1881 was 12,248,043, of which number over two-thirds came from places within and less than one-third from places without the colony. The total revenue of the postoffice amounted to £154,142 in 1881.—*Queensland.* Queensland is divided into twenty municipalities, the largest of which, as regards population, is Brisbane. It contains the city of Brisbane, the capital of the colony, and the seat of government, with a population of 31,109 on April 3, 1881. The number of immigrants in 1881 was 16,223; that of the emigrants, 9,209. The total value of imports in 1881 was £3,601,906, and of exports, £3,289,253. Wool, preserved meat and tallow are the chief articles of export. In December, 1882, there were 28,026 acres under sugar cane, out of a total of 128,875 acres under cultivation. The live stock at the end of 1881 numbered 194,217 horses, 3,618,513 cattle, 8,292,883 sheep and 56,438 pigs. There are several coal mines in the colony, the produce of which amounted to 65,612 tons in 1881. Gold fields were discovered in 1867, the produce of which amounted to 373,266 ounces, valued at £1,306,431 in the year 1877; in 1881 it was only 259,782 ounces, valued at £925,012. At the end of 1881 there were 800 miles of railway open for traffic in the colony, and 200 miles more in course of construction; while in 1882 a trans-Australian line from Brisbane to Port Darwin had been begun. The postoffice of the colony in the year 1881 carried 5,178,547 letters, 4,530,263 newspapers, and 409,575 packets. At the end of 1881 there were in the colony 6,279 miles of telegraph lines, and 8,585 miles of wire, with 170 stations. The number of messages sent was 597,333 in the year 1881.—*South Australia.* On April 3, 1881, the population of South Australia numbered 279,865 (149,530 males and 130,335 females). Of these 75,812 were members of the church of England, 42,628 Roman Catholics, and 42,103 Wesleyan Methodists. During 1881 there were registered 10,708 births, 4,012 deaths and 2,308 marriages. The population of Adelaide, the capital of the colony, was, in 1881, 38,479, exclusive of the suburbs. The number of acres under cultivation doubled in the ten years 1866–76. There were 2,613,908 acres under cultivation in

Greeks, does not signify the lowest class of the people, nor even the mass of the inhabitants, including the slaves: *demos* (*populus* and not *plebs*) meant what is known in France as the *commune*, or, what amounted to the same among the Greeks, the nation. — Ochlocracy is the rule of the poorest and least enlightened part of the nation, which is ordinarily the most numerous. But, although superior in numbers, as it can not represent the general will, it is at bottom only a government of the minority. The despotism of the greater number, like the despotism of a single individual, is established rather by usurpation than by consent. Who would freely conclude such contract? It is needless to say that these two forms of government are as often turned to individual advantage by officials (demagogues and viziers) as they are exercised by those whose power they proclaim. — Ochlocracy is almost never provided for in constitutions. Was it an ochlocracy which the government established at Rome, when the *lex hortensia* gave the force of law to the plebiscita? Who does not see that the patricians had always the right to sit in the comitia by tribes? According to all appearances, it is true, their voice could be neutralized by the force of numbers; but it is so in every pure democracy. In Florence, in 1282, the lords were declared inadmissible to public offices, unless they *disnobled* themselves by causing their names to be inscribed on the registers of some trades-guild. Lastly, we have the law against the nobility during the reign of terror in the French revolution. At Athens ochlocracy was established under the favor of the law. Men of merit were then excluded, on account of their wealth or their birth, from all part in public affairs; the philosophers were persecuted, the allied cities oppressed or destroyed. But this Athenian ochlocracy had a great love of liberty, great political good sense, a taste for the arts, and sometimes even moderation. Athens and Florence are almost the only two examples of the direct power of the majority legally established. Most frequently this despotism of the multitude follows in the wake of a revolution which overthrows the power of kings or of nobles; it establishes itself arbitrarily, without rule, and without any regard for the general interest or the interest of all whose will it does not represent, or for individual interests, the most sacred of which are the

1882, 1,768,781 thereof under wheat. The live stock of the colony comprised 159,678 horses, 314,918 horned cattle and 6,810,856 sheep. The total value of South Australian imports in 1882 was £5,890,000, and of exports, £5,280,000. The three staple articles of export are wool, wheat and flour, and copper ore. The total exports of wool in 1881 amounted to £1,911,927; the exports of wheat and flour, to £1,336,761; and the exports of copper, to £263,370. Mining operations are pursued on a very extensive scale in the colony. The mineral wealth as yet discovered consists chiefly in copper, besides which there exist iron ores of great richness. The colony had 945 miles of railway open for traffic in July, 1882, and 174 miles of lines in course of construction. There are two principal lines of railway, namely, the Port line, extending from Adelaide to Port Adelaide, and the North line, connecting Adelaide with the chief copper mines. The colony had 4,946 miles of telegraph in operation at the end of 1881, with 7,227 miles of wire. Included in the total is an overland line, opened in 1872, constructed at the expense of the South Australian government, running from Adelaide to Port Darwin, a distance of 2,000 miles. In 1882 there were 488 postoffices in the colony; and during 1880 there passed through them 10,340,772 letters and packets, and 5,790,768 newspapers. — *Tasmania.* The area of this colony is estimated at 26,215 square miles, or 16,778,000 acres, of which 15,571,500 acres form the area of Tasmania proper, the rest constituting that of a number of small islands. The total number of acres granted, or sold, up to the end of the year 1882, was 4,265,944; of these, 1,888,053 acres are held on depasturing leases, 374,374 acres being under cultivation. 53.41 per cent. of the population belong to the church of England; 22.24 per cent. to the church of Rome. At the census of 1881 the number of persons returned as being unable to read and write, was 31,080; as being able to read, only 9,589. The number of immigrants in 1881 was 12,579; that of emigrants, 11,163. The total value of the imports in 1881 was £1,438,524; that of the exports, £1,555,576. The commerce of Tasmania is almost entirely with the United Kingdom and the neighboring colonies of Victoria and New South Wales. Wool is the staple article of export. There were in the colony 27,805 horses, 130,526 head of cattle, 1,847,479 sheep and lambs, and 49,660 pigs, on March 31, 1882. The soil of the colony is rich in iron ore and tin, and there are large beds of coal. Gold has also been found. The exports of tin amounted in value to £375,775, and yield of gold to £216,901 in 1881. At the end of 1881 there were 178 miles of railway open for traffic. At the commencement of 1882 the number of miles of telegraph line in operation was 928, and the number of stations, 85. In 1881, 147,660 telegraphic messages were sent. The submarine cable, established in 1869, and connecting the colony with the continent of Australia, carried 14,871 messages in 1880. The postoffice carried, in the year 1881, 1,994,148 letters, 187,555 packets, and 2,049,949 newspapers. — *Victoria.* The population of this colony, which in 1836 was but 224, had increased in 1881 to 862,346. During the last decade there has been a large decrease both in Chinese and aborigines. About one-half of the total population of Victoria live in towns. The number of immigrants in 1881 was 59,066, and that of emigrants, 51,744. The birth rate in Victoria was 30.75 per 1,000 in 1880. The two staple articles of export from the colony are wool and gold. The total exports of wool amounted to 98,467,369 lbs., valued at £5,450,029, in 1881. In the ten years from 1852 to 1861 the exports of gold amounted to upward of two millions of ounces in weight per annum, but subsequently there was a gradual decline, till the year 1867, when the exports fell to under a million and a half ounces. In 1881 the produce of gold amounted to 858,850 ounces, valued at £3,674,104. There were 1,997,943 acres of land under cultivation in the colony at the end of March, 1882. In recent years there was a slowly increasing cultivation of the vine, the number of acres planted amounting to 4,919. In the year ended March 31, 1881, there were in the colony 275,516 horses, 1,286,267 head of cattle, 10,360,285 sheep, and 241,936 pigs. There were 1,214 miles of railway completed at the end of 1881, and 450 miles in progress. There were 3,349 miles of telegraph lines, comprising 6,626 miles of wire, open at the end of 1881. The number of telegraphic dispatches in the year 1881 was 1,281,749. At the end of 1881 there were 298 telegraph stations. The postoffice of the colony forwarded 26,308,347 letters, 4,213,625 packets, and 11,440,732 newspapers, in the year 1881. There were 1,158 postoffices on Dec. 31, 1881. — *Western Australia.* The agricultural prosperity of the colony has been greatly on the rise in recent years; still, there were only 60,821 acres of land under cultivation at the end of 1881, out of a total of 626,000,000 acres. The live stock consisted, in 1881, of 31,755 horses, 60,009 cattle, and 1,267,912 sheep. The total value of imports in 1881 was £404,831, and of exports, £502,769. Wool and lead are the principal articles of export. Copper and coal are also found. There were eighty-eight miles of railway open for traffic at the end of 1882. In 1881 there were 1,585 miles of telegraph line within the colony, with twenty-seven stations. In 1881 there passed through the postoffice 949,624 letters, 693,283 newspapers, and 79,313 packets.—F. M.

rights of man, and which the author of the *Contrat Social* justly regards as independent of the general will. "In fact," says he, (book ii., chap. 4), "so soon as there is question of an individual right, upon a point which has not been regulated by general and anterior agreement, that right becomes a bone of contention. It is a case in which the individuals interested are one of the parties and the public the other, but in which I can neither see the law which is to be followed, nor the judge who is to declare it. It would be ridiculous, then, to leave the question to an express decision of the general will, which can only be the conclusion of one of the parties, and which for the other, consequently, is only a strange individual will, inclined to injustice and subject to error." If such be the character of the omnipotence of the state over the individual, such must be the omnipotence of one part of the nation over the other, and if "the life and liberty of a private person are naturally independent of the *public person*" (book ii., chap. 5), there is a much stronger reason why the life and liberty of a private person should be independent of a collection of private persons, like an oligarchy or an ochlocracy. — The history of the Paris commune, in 1871, presents a good example of what an oligarchy is. Whatever was the latitude allowed its leaders, they were obliged to satisfy the general will of their soldiers: a power impersonal, diffuse, arbitrarily transferable, and which at a given moment resides entirely in the hands of a national guard as well as of a delegate (minister). The reason of this is, I think, that this kind of government, having the habit of legislating on all things in an absolute manner by exhausting at one stroke all legal sanctions, makes everything an affair of state. Besides, such a government is essentially military, both on account of the incapacity of the people to conceive any other political organization than an army, and because of the violent circumstances which give it birth, and which drive it to extremes. JACQUES DE BOISJOSLIN.

O'CONOR, Charles, was born in New York city Jan. 22, 1804, and was admitted to the bar in 1824. He very soon became a recognized leader in his profession, to which he gave himself devotedly. He has never entered political life, but his national reputation as a constitutional lawyer made him against his will the candidate of those democrats who refused to support Greeley in 1872. (See DEMOCRATIC-REPUBLICAN PARTY, VI.)

A. J

OFFICE-HOLDERS, Danger of an Aristocracy of. There is probably no objection to permanent tenure in office, or to tenure during good behavior, which has a stronger hold on that portion of the public which has no direct interest in the spoils system — that is, which does not seek office as the reward of political services — than the objection that it would convert the officers into a sort of aristocracy, whose manners toward those with whom they had to transact business would be haughty and overbearing. I can hardly describe this objection better than in the words of a western friend of the movement, in a private letter written nearly two years ago. He said: "The people mean by this [an aristocracy of office-holders], that a continuance in office of the same set of men creates in the mind of the office-holder the idea that he owns the office, and instead of being a public servant, he becomes a master, haughty toward those whom he ought to serve. Is it not quite a general experience with office-holders of long standing, that they are apt to become somewhat overbearing? I am inclined to think that they view it in that light, and my experience is based upon conversation with men of ordinary position in society, who make our majorities for us, who must be educated to whatever of good there is in the reform idea, and must be consulted as to its adoption, if the reform ever becomes permanently ingrafted upon our government and administration." — If Americans had had any such experience as this of the effect of permanence in office on the manners of office-holders, I admit freely that it would be very difficult for civil-service reformers to make head against it. In politics no *a priori* argument can stand for a moment with the mass of mankind against actual observation. There would be no use, for instance, in our saying that the effect of appointment through competitive examination upon the character of office-holders would be so improving that they would be sure to be polite and considerate in their intercourse with the people, if the people had found that permanent officers, selected by any method whatever, were haughty, overbearing, and acted as if the offices were their private property. Nothing is more difficult to eradicate than the remembrance of insulting treatment at the hands of an aristocracy of any kind. If the American people had suffered in mind even, though not in body or estate, from such a class at any time since the revolution, and that class happened to be a permanent office-holding class, we should, in short, be forced to admit, that great as might be the abuses of the present system, it was certainly the one best adapted to the conditions of American society, and that we must make the best of it, just as we make the best of the drawbacks on universal suffrage. — Curiously enough, however, no trace of any such experience appears in the history of the American civil service. Down to 1820, office-holders practically held during good behavior. It was considered at first doubtful whether the president had the discretionary power of removal at all. It was settled in 1789 that he had it, but its exercise was long viewed with great disfavor. It was, said Webster, speaking in 1835, "regarded as a suspected and odious power. Public opinion would not always tolerate it, and still less frequently did it approve it. Something of character, something of the respect of the intelligent and patriotic part of the community, was lost by

every instance of its unnecessary exercise." And it was very sparingly exercised. During Washington's administration only nine persons were removed from office; during John Adams', ten; during Jefferson's, thirty-nine; during Madison's, five; during John Quincy Adams', only two. In 1820 the first change in this tenure was made by the passage of an act which fixed at four years the term of all those called accounting officers, that is, officers who had the handling of considerable sums of public money. Now, if this act was due, in part even, to the popular perception of the growth among the office-holders of pride of station and of a sense of proprietorship in the office, it would undoubtedly have found expression in the discussions which preceded or attended its passage. But there is no trace of any such motive in the reports or chronicles of the day. Nothing of the kind appears to have been alleged by the promoters of the measure. In fact, it does not appear to have occurred to any one as an argument likely to help its passage. The bill was due to the fact that there had been many defalcations and irregularities among this class of officers, owing to want of proper supervision, and to the belief that if the tenure were limited to four years, and they were thus compelled to account periodically by mere operation of law, they would be more careful and strict in the discharge of their duties in the meantime. — In 1830 a resolution was introduced in the senate, calling on the president for the reason of his removing certain officers; and in the debate which followed, Mr. Benton, of Missouri, stated very clearly and succinctly the motives which animated those who brought about the legislation of 1820. He said: "The legislator in 1820 naturally asked himself what term and tenure of office would attain the desired public security? To hold for life would be too irresponsible. To fix his tenure during good behavior would not remedy the evils of the old law. There must be a process at law to convict him of the cause before the removing power could be exerted. To make him removable at the will of the president alone, as in the case of 1789, would make the president too absolute; and hence the provision for a term of years, provided he so long behaved faithfully, removable at the pleasure of the appointing power during his term, if he gave cause." — Now, what were these "evils of the old law," to which he refers? He thus describes them, and his description was not gainsaid by anybody: "By the old law there was no summary power except the disputed one of taking care that the laws be faithfully executed, to arrest the career of official delinquency; and the process was doubtful and dilatory by which the cause of removal was to be established, whether by impeachment, indictment, or by civil suit. The evil of the old law was, that while the government was plodding through some tedious process of law, amidst its delays and proverbial uncertainties, the defaulter could embezzle our funds and ruin our affairs so far as they lay within his control, and escape to Texas, etc., before the process had ascertained whether there was lawful cause for removal or not." — In short, the act of 1820 was intended to provide a safeguard against peculation. The safeguard, it is true, was a clumsy one, but nobody appears to have thought of it as a safeguard also against the growth of bureaucratic pride and insolence. Webster spoke on the same subject five years later, in a debate on a bill repealing the act of 1820. He was opposed to this act, but he confessed that some good had resulted from it. "I agree," he said, "that it has in some instances secured promptitude, diligence and a sense of responsibility. These were the benefits which those who passed the law expected from it, and these benefits have in some measure been realized." He goes on to say, however, that the benefits wrought by the change have been accompanied by a far more than equivalent amount of evil—an opinion which, if he were alive to-day, he would probably express in a still stronger and more unqualified form. But neither he nor any of his contemporaries appear to have thought of the act as an act for the abolition of an official aristocracy, nor for reminding office-holders that they were the servants, not the masters, of the people. It made them prompter and more diligent than they had been in writing up their books, and in collecting and arranging their vouchers, and in having their balances properly adjusted at the expiration of their term; but nowhere is there any indication that it was intended to reach the evil which we now hear spoken of as the very probable result of a tenure during good behavior, and as the greatest objection to a recurrence in our time to the old system. Webster defended the repealing bill, on the ground that the act of 1820 had given the president too much power, by creating vacancies for him to fill which he would not have ventured to create for himself, and which the constitution, in his (Webster's) view, did not intend that he should have the power of creating, and the creation of which demoralized the service. He advocated the retention of the old tenure during good behavior, leaving the offenses committed by officers to be punished by some legal process, instead of having the tenure of office settled on the theory that every officer would commit offenses if left undisturbed in his place more than four years. In fact, he advocated it on precisely the grounds on which the friends of civil-service reform now advocate it. "I think," said he, "it will make the men more dependent on their own good conduct, and less dependent on the will of others. I believe it will cause them to regard their country more, their duty more, and the favor of individuals less. I think it will contribute to official respectability, to freedom of opinion, to independence of character; and I think it will tend in no small degree to prevent the mixture of selfish and personal motives with the exercise of political duties." But it evidently did not occur to him that it was nec-

essary to show that it would not create a haughty bureaucracy. — The spoils system, as we now know it, was introduced by Jackson. The removals, which only amounted to two altogether under John Quincy Adams, suddenly rose in Jackson's first year to nine hundred and ninety. This sudden change in the way of looking at places in the federal service of course provoked a great deal of discussion and denunciation. Jackson's use of his power was fiercely assailed and fiercely defended during his two terms, both in and out of congress. But we may search the debates and the newspapers between 1830 and 1840 in vain for an assertion that the revolution had been called for, or was justified by the effect of security on the manners of office-holders, or by the growth of a feeling among office-holders that their tenure of their places made them a class apart from and superior to the rest of the community. There was, instead, a great deal of assertion in Jackson's defense that, if tenure during good behavior had lasted, this feeling would have sprung up, just as there is now much prediction that, if this tenure were to be restored, the feeling would spring up. But no one alleged that it had sprung up, and had constituted a reason for beginning the practice of frequent removals, to which the absurd name of "rotation" was afterward given. In other words, no attempt was made to justify Jackson's introduction of the *régime* under which we are now living by pointing out that particular effect of the old *régime* on the office-holding mind, which is now alleged as the chief obstacle to its restoration. In short, the American people really knows nothing from its own experience, however much it may know in other ways, of the tendency of permanent tenure to create and perpetuate a caste. — The belief that this tendency exists, must, therefore, be a deduction from the experience of foreign nations, or from general principles of human nature. It must rest, in other words, on the assumption that what happens in England or on the European continent is sure to happen here, and that it is his security of tenure which gives the foreign official that sense of his own superiority for the display of which he has long been famous. Nothing is older in story than the "insolence of office." We can go back to no time, in the annals of the old world, when the man "dressed in a little brief authority" was not an object of popular odium. See, it is said, what the manners of the German and Russian, and even the French and English, officials are: such will the manners of our officials be should we ever permit them to hold their places, as these foreigners do, during good behavior, and fail to remind them by frequent or periodical dismissals without cause (which is really what is meant by short fixed terms) of how little consequence they are to the community which they serve. The answer to this is, that the argument rests on the assumption that greater security of tenure constitutes the only difference between the condition of the American and that of the European office-holder, whereas there are numerous other differences. Nothing has so much to do with a man's manners as the manners of the society in which he lives. No one can wholly, or even in great part, withdraw himself from this influence without partial or complete isolation, such as that in which soldiers live in barracks or camp, or monks in their monastery. In order to make any body of men really peculiar, either mentally or physically, we have to take possession of their whole lives, and impose great restrictions on their intercourse with the community at large, and effect a considerable, if not complete, severance between their interests and the general interest. No modern state, however, subjects its civil functionaries to any such treatment. They all, out of office hours, live as they please. They marry and are given in marriage, and spend their salaries in precisely the same manner as other salaried people. Their society is the society of persons of like tastes and like manners. They are, in short, an integral part of the community, getting their livelihood by a kind of labor in which a large body of their fellow-citizens are engaged. A clerk in the postoffice or custom house or treasury, is occupied in very much the same way as a clerk in a banking house or store. If, therefore, the manners of the government officials be marked by any peculiarity not visible in those of employés of private firms, it must be due to something else than the kind of work they do, and the manner in which they spend their salaries. It is due, in fact, to the place held by the governing class in the social and political organization. — If this governing class be a social aristocracy, the office-holders, as the machine through which power is exercised, will naturally, and, indeed, almost inevitably, contract the habit of looking on themselves as a part of it. In a society made up of distinctly marked grades, the government officials almost inevitably form a grade, and copy everybody else in looking down on the grades below them. The English or German official gives himself airs and thinks himself an aristocrat because, as a matter of fact, his official superiors are aristocrats, and the government is administered in all the higher branches by an aristocracy. It is difficult, if not impossible, for a servant of the crown to avoid arrogating to himself a share of the crown's dignity. In any country in which politics is largely managed by an aristocracy, the aristocratic view of life is sure to permeate the civil as well as the military service, be the terms long or short. In such a country, a great deal of the pleasure of life is derived from the reflection that one has "inferiors." The nobleman takes comfort in his superiority to the commoner; the gentleman, in his superiority to the man in trade; the barrister, in his superiority to the attorney; the merchant, in his superiority to the shopkeeper. It would be impossible for any system of appointment or any tenure of office to cut off the government officers, any more than any other class, from this source of happiness. The social position the

place gives them is one of the rewards of their services, and they would be more than human if they did not reveal their appreciation of it. The state official really shows his sense of his own importance no more than, if so much as, any other man who has an assured income and considers his position "gentlemanly." The manners of the government clerk in England very much resemble those of the successful barrister's clerk, or the clerk in the great banking house; they are neither better nor worse. — If the English and German officials were all appointed and held office under the spoils system, and had their "heads cut off" every time there was a change in the ministry, or a new man got the king's ear, there is every reason for believing that they would be much more insolent or overbearing than they are now, as they would share in the excitement of the political strife, and in the pride of victory, and in the contempt for the vanquished, which form so marked a feature in official life here. They would, too, fall rapidly into the habit, which is so strong among our office-holders, of treating non-official criticism of their manner of performing their duties as simply a weapon in the hands of those who want their places, and not as a help toward the improvement of the public service. — In the United States, on the other hand, not only are the traditions of the government democratic, but the social organization is democratic. What is of still more importance for our present purpose, the popular view of the social value of different callings is thoroughly democratic. There is little or no conventional dignity attached to any profession or occupation. As there is hardly anything honest which a man may not do for hire without damage to his social position, so there is hardly anything he can do for hire which will raise the value of his social position. In every country in the world the office-holder, like everybody else, bases his own opinion of himself and his office on the opinion of them entertained by the public. He thinks highly of them because his neighbors do. The Prussian or English civil or military officer bristles with the pride of station, largely because the public considers his station something to be proud of. So, also, in America, the office-holder does not bristle with pride of station, because nobody thinks his station anything to be proud of. He is not kept humble by the insecurity of his tenure, but by the absence of popular reverence for his place. The custom house or postoffice clerk as a matter of fact knows very well that the world thinks no more of his place than it thinks of the place of a bank clerk or commercial traveler. One of the very odd things in the popular dread of an office-holding aristocracy is, that it arises out of the belief that an aristocracy can build itself up on self-esteem, simply. But no aristocracy has ever been formed in any such way. It grows upon popular admission of its superiority, and not simply on its own estimate of itself. The attempts which have been occasionally made to create an aristocracy in new countries, or in countries in which the respect for station has died out, have always failed miserably for this reason. — Moreover, association with the government and the exercise of a portion of its authority do less, and must always do less, for an office-holder in this than in other countries, because there is here absolutely no mystery about government. Its origin is not veiled from the popular gaze by antiquity, or tradition, or immemorial custom. Nowhere else in the world does sovereignty present itself in such naked, unadorned simplicity to those who have to live under it. Nowhere else is so little importance attached to permanence either in government office or any other office. In America it brings a man no particular credit to remain long in the same position doing the same thing. In fact, with the bulk of the population it brings him some discredit, as indicating a deficiency of the great national attribute of energy. Outside the farming class, the American who passes his life in the position in which he began it, without any extension or change of his business, or without in some manner improving his condition by a display of enterprise or activity, is distinctly held to have failed, or, rather, not to have succeeded. There is probably no country in the world in which the popular imagination is so little touched by a contented and tranquil life in a modest station, or by prolonged fidelity in the discharge of humble duties. Public opinion, indeed, almost exacts of every man the display of a restless and ambitious activity. The popular hero is not the contemplative scholar, or the cautious dealer who relies on small but sure profits for a provision for his old age. It is the bold speculator, who takes great risks, and is in constant pursuit of fresh markets to conquer, and new demands to supply. It is not "the poor boy" who stays poor and happy, around whom the popular fancy plays admiringly, but the poor boy who becomes a great manufacturer, or the president of a bank or railroad company, or the master of large herds, or the owner of rich mines. The very familiar personage of European counting houses and banks, the gray-headed clerk or book-keeper, is almost unknown here. In fact, employers would think but little of the young book-keeper or clerk who made no effort to improve his condition, and did not look forward to a change of pursuits before he reached middle life. It may be said, indeed, without exaggeration, that the security of tenure which contributes so much to the value of a position in Europe, counts for but little in popular estimate of it in America. Places which "lead to nothing" are not made any more attractive among us by the circumstance that they are easy to keep if one wishes. Indeed, such places are rather avoided by young men whose self-esteem is high, when they are entering on life, and those who accept them are apt to be set down as having, in a certain sense, withdrawn from the race. — In Europe, on the other hand, security or fixity of tenure,

owing to the very much smaller number of chances offered there than here by social and commercial conditions to the enterprising and energetic man, adds very greatly to the value of an office of any kind, and not only to its value, but to its dignity. The person who has it, even if the salary be very small, is considered by the public to have drawn one of the prizes of life, and excites envy, rather than commiseration, even among the young. The prodigious eagerness for government office in France is due, in a very large degree, to the fact that government offices are permanent—a quality which more than makes up for the extreme smallness of the salaries. In England commerce competes formidably in the labor market with the crown, and the spirit of the people is much more adventurous; but the certainty of a small income has even there attractions for the young which are unknown in this country. This certainty always has a powerful influence in exalting the social position of the man who has managed to lay hold of it, in places in which recovery from failure or miscarriage is difficult, and in which mistakes in the choice of a calling are not easily rectified. The whole spirit of American society is, however, hostile to the idea that permanence is a thing which a young man will do well to seek. This feeling will, beyond question, operate in one way, if we ever come back to tenure in office during good behavior, to lower rather than raise the office-holding class, as a class, in the popular estimation. Far from converting it into an aristocracy, it will probably put a certain stamp of business inferiority on it in the eyes of "the live men," the pushing, active, busy, adventurous multitude, who, after all, make the standards of social value which are in commonest use. — At present, office holding as a business really gets a kind of credit from its extreme precariousness and uncertainty. It is felt that anybody who gets into it must be in some sense "practical." He may have failed in trade, or in some profession, or have, through some moral defect, lost all chance with private employers, but then he must have, if he has got a government office, made himself useful to "an influence" through some kind of "work." Successful electioneering, for instance, may not require a high order of talent, or very much character, but anybody who achieves it must have push and energy and some knowledge of men, and these are, of course, no mean qualifications for success in life. Any one who possesses them, though he may make a wretched custom house or postoffice clerk, will be sure of a certain amount of consideration from the busy world, which would not be accorded to the modest, easily contented man who, in choosing his calling, seeks only mental peace. In truth, to sum up, there is no country in which it would be so hard for an aristocracy of any kind to be built up as this, and probably no class seeking to make itself an aristocracy would, in the United States, have a smaller chance of success than a body composed of unambitious, quiet-minded, unadventurous government officers, doing routine work on small salaries, and with but little chance or desire of ever passing from the employed into the employing class. One might nearly as well try to make an aristocracy out of the college professors or public school teachers. — There is no society which at present makes so little provision for this class as ours. We do nothing to turn them to account. They are a class eminently fitted for government service, or any service of which tenure during good behavior is one of the conditions, and in which fidelity rather than initiative is a leading requirement. At present they furnish a very large share of the business failures, and contribute powerfully to produce our panics by being forced into the commercial arena without the kind of judgment or nerve which the commercial struggle calls for. If we tried to economize labor, and put the right men in the right places in our national administrative machine, we should undoubtedly offer this class, which has just the kind of talent and character we need for government work, the thing which most attracts them, by offering them positions which no commercial crisis could put in peril, and which they could hold as long as they did their work well. — Even if it were established, however, that the selection by competitive examination and tenure during good behavior would make the office-holder feel himself the master of the people, and express his sense of his superiority in his behavior, the question whether the present system establishes a satisfactory relation between the people and the civil servants of the government would still have to be answered. It may be that the thing we propose would be no improvement on the thing that is, but the fact that the existing system has the very defect which it is contended that the new system would have, and which is offered as a fatal objection to the introduction of the new system, is one which the friends of "rotation" can not expect us to pass over unnoticed. — It may be laid down as one of the maxims of the administrative art, that no public officer can ever take the right view of his office, or of his relation to the people whom he serves, who feels that he has owed his appointment to any qualification but his fitness, or holds it by any tenure but that of faithful performance. No code of rules can take the place of this feeling. No shortening of the term can take its place. The act of 1820 was simply a very rude, clumsy plan of getting rid of the duty of careful supervision and good discipline. Turning out all the officers every four years, in order to make sure that they keep their accounts well, instead of turning out as soon as possible those who do not keep their accounts well, and retaining as long as possible those who do keep their accounts well, reminds one of the old woman who whipped all her children every night on a general presumption of blameworthiness. A suggestion of such a scheme of precaution in a bank would excite merriment. A man's best service is given to those

on whose good opinion he is dependent for the retention of his place. Under the spoils system, places are filled without any reference to the good opinion of the public; in fact, very often in defiance of the public. They are given as rewards to men of whom the public knows nothing, for services of which the public has never heard, and which have generally been rendered to individuals. An officer who owes his appointment to a party manager for aid given him in politics, can not but feel that his main concern in discharging the duties of his place must be the continued favor of the person to whom he owes it, and not the favor of the public which has had nothing to do with it. It is, consequently, impossible to expect such an officer to feel that the public is his master, or to show in his manner that he is in any way dependent on its good opinion. He feels that the boss or senator who got him his place is his master, and that his mode of discharging his duty must be such as to merit his approbation. He does not fancy that he himself owns the office, but he fancies that another man does, and as long as he considers it the property of any one man, it makes little difference to the public which man. — The only way in which the proprietorship of the public can ever be brought home to officeholders is through a system which, whatever its *modus operandi*, makes capacity the one reason for appointment, and efficiency the one safeguard against dismissal. No such system now exists here. Those who say that the plan of the civil-service reformers would not produce it may be right, but it is not open to them to make in support of their opposition a charge which is notoriously true of the system they are upholding. Whether the proposed change, therefore, be the best one or not, some change, it must be admitted, is imperatively necessary. In fighting against any change, we are trying to avoid that adaptation of our administrative system to the vast social and commercial changes of the past half century, from which no civilized people can now escape, and which all the leading nations of Europe have effected or are effecting. Any one who takes the trouble to examine the reforms which have been carried out since 1815, in France, or England, or Germany, which in all these countries have amounted to a social transformation, will be surprised to find how much of them consists simply in improvements in administration, or, rather, how fruitless the best legislative changes would have been without improved administrative machinery for their execution. We can not very much longer postpone the work which other nations have accomplished, and neither can we avoid it by plans—like Mr. Pendleton's constitutional amendment—for getting rid of responsibility by making more executive offices elective. This, like the act of 1820, is simply a makeshift. Nobody pretends that elected postmasters would be any better than, or as good as, properly appointed postmasters All that can be said for them is, that they would save the president a good deal of trouble under the present spoils system. But the remedy for one absurdity is not to be found in another absurdity. When a thing is being done by a wrong method, we do not mend matters by trying another wrong method. The true cure for the defects in the present system of transacting public business is, the adoption of the methods which are found successful in private business. These are well known. They are as old as civilization. They are gradually taking possession of government business all over the world. Our turn will come next, and, in spite of "politics," will probably come soon.*

E. L. GODKIN.

OHIO, a state of the American Union, formed from the northwest territory. (See ORDINANCE OF 1787; TERRITORIES.) Its territory north to latitude 41° was a part of the Virginia cession; the remainder was a part of the Connecticut cessions, in which Connecticut retained the ownership but not the jurisdiction of the tract along Lake Erie, since known as the Connecticut reserve. The name of the state was given from that of the river which is its southern boundary, a more euphonic corruption of the Indian name Youghiogheny. — By the act of May 7, 1800, that part of the northwest territory now included in Ohio was set off under a distinct territorial government, and the remainder was organized as the territory of Indiana. (See INDIANA.) By the act of April 30, 1802, the people of Ohio were "authorized to form for themselves a constitution and state government," and a convention at Chillicothe, Nov. 1–29, 1802, formed the first constitution, which went into force without submission to popular vote. The act of Feb. 19, 1803, did not purport to admit the state, but declared that Ohio, by the formation of its constitution in pursuance of the act of April 30, 1802, "has become one of the United States of America," and provided for the extension of federal laws to the new state. It is therefore a little doubtful whether Ohio as a state dates from Nov. 29, 1802, or from Feb. 19, 1803: the latter is the date, if the precedents in the case of the admitting acts of all other new states are to govern this case; the former, if we are to be governed by the express language of the act of Feb. 19, 1803. — BOUNDARIES. The boundaries assigned by the enabling act and the state constitution were as follows: east, the Pennsylvania line; south, the Ohio river; west, a due north line from the mouth of the Great Miami river; and north, an east and west line drawn through the southerly extreme of Lake Michigan to Lake Erie, and thence through the lake to the Pennsylvania line. It was, however, doubtful at the time whether this northern boundary would meet Lake Erie east of the "Miami river of the lake" [Maumee]; if it should prove to do so, both the enabling act and the

* This article was originally printed in pamphlet form as one of the publications of the civil-service reform association, with whose kind permission, together with the permission of the author, it appears here.—ED.

state constitution reserved the power to so amend it as to make the Maumee the terminus of the east and west line. Before Michigan was admitted as a state, it was ascertained that a direct eastward line, as originally proposed, would enter Lake Erie so far east as to give to Michigan about half of Ohio's lake coast, and a valuable strip of land in the north, including the city of Toledo. Michigan pressed her claim, and the dispute rose to such a height as to be given the popular title of the "Toledo war." It was settled by the act of June 15, 1836, to admit Michigan as a state: its first section provided that the northern boundary of Ohio should not be a direct east and west line, but should trend to the north far enough to strike the most northerly cape of Maumee bay, thus giving Ohio the territory in dispute. Michigan at first rejected but afterward accepted admission on these terms. — CONSTITUTIONS. The first constitution, mentioned above, made manhood suffrage universal, on one year's residence; provided for a house of representatives to number not less than twenty-four nor more than seventy-two members, to serve one year, and for a senate not more than one-half nor less than one-third the number of the house, to be chosen by districts and to serve two years; made two-thirds of each house a quorum to do business; gave the governor a term of two years; and prohibited slavery. The governor was to be chosen by popular vote, but was to have no veto power, nor any other power than to grant reprieves and pardons, convene extra sessions of the legislature, command the state forces, commission appointees, and temporarily fill vacancies occurring when the legislature was not in session. The secret of this restriction upon the governor's powers, which was continued in the constitution of 1851, may probably be found in the frequent disagreements which had taken place between Governor St. Clair and the territorial legislatures. — A new constitution was framed by a convention at Columbus, May 6 – July 9, 1850, and Cincinnati, Dec. 2, 1850 – March 10, 1851, and was ratified, June 17, by a popular vote of 126,668 to 109,699. Its main alterations were that the sessions of the legislature were now to be biennial; a complicated apportionment system, apparently modeled on that of Massachusetts, was introduced; state officers, except the governor, were to be chosen by the legislature; the legislature was forbidden to loan the state's credit to corporations or to create corporations by special laws; and the judiciary was made elective. — A new constitution was framed by a convention at Columbus, May 14 – Aug. 8, 1873, and Cincinnati, Dec. 2, 1873 – May 14, 1874; but it was rejected by very heavy popular majorities, Aug. 18. A subsequent attempt to revise the judiciary system was also a failure. — Chillicothe was the state capital until 1810, and Zanesville until 1812. In February, 1812, the legislature accepted the offers of a land company to lay out a capital, and erect a state house and penitentiary. The new city was called Columbus, and the state government was removed thither in December, 1816. The constitution of 1851 formally designated it as the capital. — GOVERNORS. Edward Tiffin, 1802–8; Samuel Huntington, 1808–10; R. J. Meigs, 1810–14; Thos. Worthington, 1814–18; Ethan A. Brown, 1818–22; Jeremiah Morrow, 1822–6; Allen Trimble, 1826–30; Duncan McArthur, 1830–32; Robert Lucas, 1832–6; Joseph Vance, 1836–8; Wilson Shannon, 1838–40; Thomas Corwin, 1840–42; Wilson Shannon, 1842–4; Mordecai Bartley, 1844–6; William Bebb, 1846–50; Reuben Hood, 1850–54; William Medill, 1854–6; Salmon P. Chase, 1856–60; William Denison, 1860–62; David Tod, 1862–4; John Brough, 1864–6; J. D. Cox, 1866–8; R. B. Hayes, 1868–72; Edward F. Noyes, 1872–4; William Allen, 1874–6; R. B. Hayes, 1876–8; R. M. Bishop, 1878–80; Charles Foster, 1880–84. — POLITICAL HISTORY. Ohio was admitted to the Union at a time (1802–3) when there was practically but one party in the country, outside of New England; it was therefore of necessity a republican (or democratic) state from the beginning. It was such of choice also; the great democratic features of policy at the time, the acquisition of Louisiana, the war of 1812, and the opposition to a national bank, were all very popular in Ohio, and for thirty years there was little or no opposition to the democratic party in the state's elections. In local politics the most noteworthy features were due to the great mass of power which the constitution had concentrated in the legislature. That body, provoked by certain decisions of the state judges on the validity of state laws, passed its so-called "sweeping resolution," Jan. 7, 1810, declaring that, as the state had been organized in 1802, and as the judicial term of office was "seven years," the seats of all state judges were now vacant, no matter when their incumbents had been appointed. The judges held to their offices, and the "sweeping resolution" failed, except in causing a momentary confusion. Again, in 1818, the legislature attacked the state branch of the United States bank (see BANK CONTROVERSIES, III.), but the attempt was defeated by the United States supreme court, and was finally abandoned under cover of several angry resolutions. — Schemes of internal improvement, chiefly in the form of roads and canals, early found favor in Ohio, so that, when the new distribution of national parties took place in 1824–30, a strong vote was developed for Adams and Clay, and the policy of internal improvements and a protective tariff which they represented. In 1824 Clay obtained the electoral vote of the state by a slight plurality over Adams and Jackson; in 1828 and 1832 Jackson obtained a majority of only ¼ of 1 per cent. of the popular vote. In 1829 a Clay governor was elected, and the state government was nominally whig until 1838. The electoral vote of the state was given to Harrison in 1836. — In 1837–8 began a general course of democratic success in the state, which lasted until 1855, with but two important breaks, the presi-

dential elections of 1840 and 1844. In both of these the state's electoral votes were given to the whig candidates, Harrison and Clay respectively, and the whig candidates for governor were carried in by the current. In 1845 the whig legislature sent Corwin to the senate, in which the state was represented by democrats from 1837 until 1855, with the exceptions of Corwin and Chase. — At its meeting in December, 1848, the lower house of the legislature was unable to organize for some time. The vote of Cincinnati had long made the five Hamilton county members democratic; the last whig legislature had therefore divided the county into two districts, thus securing two whig members. The democrats ignored the act as unconstitutional, and elected five members, as usual. The election clerk gave the two disputed democratic members certificates. In December the democrats swore in forty-two members, including Pugh and Pierce, of Hamilton county; and the whigs thirty-two, including Spencer and Runyon, contestants. Neither side would act with the other, and two inchoate houses were organized; but neither had the two-thirds majority necessary for a quorum. The dead-lock was broken by an agreement that the seventy uncontested members should organize the house, and Pugh and Pierce were seated, Jan. 26, 1849, by a vote of 32 to 31. Chase's election as United States senator in 1849 seems to have been at least partially influenced by this dispute. A strong anti-slavery element had always existed in the state democratic party, represented by such leaders as Thomas Morris and Benjamin Tappan. In this legislature the whigs and free-soil whigs together exactly equaled the numbers of the democrats, and the balance of power was held by two independent free-soilers. These agreed to vote with the democrats on nominations for state officers if the latter would repeal the "black laws" of the state against negroes (see SLAVERY, II.), and elect S. P. Chase, a free-soil democrat, to the senate. The bargain was carried out, Feb. 22, 1849, and Chase was elected. — In 1846 and 1848 the whig candidate for governor, Bebb, was elected by a narrow majority in both cases (116,900 to 114,570, and 147,738 to 146,461); but in 1848 the electoral votes were democratic by a plurality. In 1850 Wood, a democrat, was elected governor by a vote of 133,093 to 121,105 whig, and 13,802 free-soil; and in 1853 the vote for Medill, democrat, was 147,663 to 85,820 whig, and 50,346 free-soil. In 1854 the whig and free-soil vote was united under the name of the republican party. Its first state convention was held at Columbus, July 13, 1854; and its nominee for governor, Chase, was elected in 1855 by a vote of 146,641 to 131,091 for Medill, and 24,310 for Trimble (American). The legislature was heavily republican in both branches, and the congressional delegation of twenty-one members was unanimously republican. In 1856 the electoral vote of the state was given to Fremont; it has since been given to the republican candidates invariably, the only very close popular vote being in 1876, when Hayes received 330,698, Tilden 323,182, and 4,769 were scattering.— From 1856 until 1860 the republicans held general control of the state, though in 1857 a democratic legislature was chosen, and Gov. Chase was only re-elected by 1,481 majority over Henry B. Payne. During all this period the old national road through the middle of the state (see CUMBERLAND ROAD) was a sort of Mason and Dixon's line between the democratic southern and the republican northern halves of the state. The outbreak of the rebellion brought the state into a greater national prominence than it had hitherto had. The high intellectual and physical standard of the population enabled it to contribute more than its share of military and civil leaders. McDowell, McClellan, Rosecrans, Grant, Buell, O. M. Mitchell, W. T. Sherman, Gillmore, Sheridan, McPherson, McCook, Custer, Stanton, Wade, Chase, John Sherman, Hayes, and Garfield, were all born or resident in the state in 1861. The enthusiasm for the war, and the close union of the war democrats and republicans made the state majority heavy and steady: war appropriations in 1861 were made by unanimous votes of both parties; and the republicans nominated former democrats for governor, Tod in 1861, Brough in 1863, and Cox in 1865. In 1863 the arrest of Vallandigham (see HABEAS CORPUS) obtained for him the democratic nomination for governor; but after an excited canvass he was defeated by a popular vote of 247,194 to 185,274, and a soldiers' vote of 41,467 to 2,288; total majority, 101,099. The state remained republican until 1873, except that in 1867, when Hayes defeated Thurman for the governorship, by the narrow majority of 2,983, the legislature was democratic in both branches by majorities of one and seven respectively. The new legislature rescinded the ratification of the 14th amendment, Jan. 15, 1868, and rejected the 15th amendment, April 1, 1869. (See CONSTITUTION, III.) — In 1873 the democrats nominated for governor William Allen, who had not been in political life since his retirement from the senate in 1849, and he defeated Governor Noyes by a vote of 214,654 to 213,837, and 20,387 scattering. The legislature was also democratic, but the other state officers elected were republicans. In 1875 the republicans brought back ex-Governor Hayes as a candidate, and he defeated Allen by a plurality of 5,644, the legislature again becoming republican. This success obtained for Governor Hayes the republican nomination for the presidency in the following year. The state has since remained republican, except that in 1877, on a light vote, the democrats elected the governor and a majority of both branches of the legislature. The new legislature proceeded to change the congressional districts of the state, which had been laid out after the census of 1870, and to reorganize the state institutions, so as to obtain a party control of them; but its work in both respects was undone by the following legislature, which was republican. — During

the period 1868–75 the political contests of Ohio were of national importance from the attitude of the parties. In the democratic party the "Ohio idea," that United States bonds not specifically payable in coin should be paid in "greenbacks," and that national bank notes should be superseded by government issues of paper money, had obtained control, under the leadership at first of Pendleton, and then of Ewing; and the republican party had been gradually forced to take a "hard money" attitude. The Allen-Noyes and Hayes-Allen canvasses had taken this direction; and both the success of Hayes and the defeat of Allen in 1875 had a strong influence on the party platforms of the next year, which ended the question. Since that time the regulation of the liquor traffic has become a leading question. (See PROHIBITION.) The republicans at first adopted and passed the so-called "Pond law," for the taxation of liquor selling; but this was decided unconstitutional by the state supreme court, May 30, 1882. The republicans then passed the "Scott law," which was upheld by the state court in June, 1883. It forbids liquor selling or opening saloons on Sundays, and levies a tax of $200 yearly on general liquor sellers, and $100 on sellers of malt liquors, the whole tax to go into the county and municipal treasuries. — From 1860 until 1883 the republicans had a majority of the state's congressmen, except in 1875–7 and 1879–81. In the congress of 1883–5 there are thirteen democratic representatives and eight republicans; and the legislature is (1884) democratic by sixty to fifteen in the house, and twenty-two to eleven in the senate. — Among the state's political leaders have been S. P. Chase, J. A. Garfield, W. H. Harrison, R. B. Hayes, John McLean, George H. Pendleton, John Sherman, E. M. Stanton, A. G. Thurman, and Benj. F. Wade (see those names), and the following: William Allen, democratic congressman 1833–5, United States senator 1837–49, and governor 1874–6; James M. Ashley, republican congressman 1859–69; John A. Bingham, republican congressman 1855–63 and 1865–73, and minister to Japan since 1873; David K. Cartter, democratic congressman 1849–53, minister to Bolivia 1861–2, and since 1863 chief justice of the District of Columbia; S. F. Cary, republican congressman 1867–9, democratic candidate for lieutenant governor in 1875, and greenback candidate for vice-president in 1876; Thomas Corwin, whig congressman 1831–40, governor 1840–42, United States senator 1845–50, secretary of the treasury under Fillmore 1850–53, republican congressman 1859–61, and minister to Mexico 1861–4; Jacob D. Cox, major general of volunteers, governor 1866–8, secretary of the interior under Grant 1869–70, and republican congressman 1877–9; Samuel S. Cox, democratic congressman 1857–65, and democratic congressman from New York 1869–85; Columbus Delano, whig congressman 1845–7, republican congressman 1865–9, and secretary of the interior 1870–75; Thomas Ewing, whig United States senator 1831–7 and 1850–51, secretary of the treasury under Harrison 1841, and of the interior under Taylor 1849–50; Thomas Ewing (son of the preceding), democratic congressman 1877–9; Joshua R. Giddings, anti-slavery whig and free-soil congressman 1838–59, and consul general of Canada 1861–4; Walter Q. Gresham, postmaster general in 1883; Wm. S. Groesbeck, democratic congressman 1857–9; Joseph W. Keifer, republican congressman 1877–85, and speaker 1881–3; William Lawrence, republican congressman 1865–71 and 1873–7; Stanley Matthews, republican United States senator 1877–9, and justice of the United States supreme court since 1881; John A. McMahon, democratic congressman 1875–83; Return J. Meigs, democratic United States senator 1809–10, governor 1810–14, and postmaster general 1814–23 (see ADMINISTRATIONS); Thomas Morris, state chief justice 1830–33, and democratic United States senator 1833–9; George E. Pugh, Douglas democratic United States senator 1855–61; Milton Sayler, democratic congressman 1873–83; Robert C. Schenck, whig congressman 1843–51, minister to Brazil 1851–3, major general of volunteers 1861–3, republican congressman 1863–71, and minister to Great Britain 1871–6; Wilson Shannon, democratic governor 1838–40 and 1842–4, minister to Mexico 1844–5, congressman 1853–5, and governor of Kansas 1855–6; Samuel Shellabarger, republican congressman 1861–3, 1865–9 and 1871–3; Noah H. Swayne, justice of the United States supreme court 1861–81; Edward Tiffin, first governor of the state, and United States senator 1807–9; Amos Townsend, republican congressman 1877–83; and Clement L. Vallandigham, democratic congressman 1858–63. — See authorities under ORDINANCE OF 1787 for the territorial history; 2 Poore's *Federal and State Constitutions;* Chase's *Statutes of Ohio;* Schuckers' *Life of S. P. Chase;* Moris' *Life of Thomas Morris;* Taylor's *History of Ohio;* Atwater's *History of Ohio;* Mitchener's *Annals of Ohio;* Way's *Toledo War;* Carpenter's *History of Ohio;* Studer's *History of Columbus, O.;* Reid's *Ohio in the War* (the election of 1863 is at 1:153); *Report of Secretary of State,* 1873 (for governors); 2 *Stat. at Large,* 58, 173, 201 (for acts of May 7, 1800, April 30, 1802, and Feb. 19, 1803). ALEXANDER JOHNSTON.

OLIGARCHY. The rule of a few. Aristotle, after enumerating the governments which he calls governments in the general interest, monarchy, aristocracy and the republic, treats of governments in the interest of individuals, tyranny, oligarchy and democracy (see OCHLOCRACY), which seem to him the corruption of the first three. "Hobbes," says Barthélemy St. Hilaire, "has justly remarked (Imperium, vii., 3), that 'these three second denominations are all hated and despised, but that they do not designate governments of different principles; this is precisely what Aristotle understood when he employed the word corruption.'"—"Oligarchy," says Aristotle, "is the political predominance of the rich, and democ-

racy, the political predominance of the poor to the exclusion of the rich." To the objection: but what if the rich be the more numerous and govern, or if the poor be the less numerous and govern? he replies, that the rule of the minority in democracies and that of the majority in oligarchies are wholly accidental, because the rich everywhere constitute the minority, and the poor everywhere the majority. "The two parties," continues impartial Aristotle, "claim exclusively each for itself the right to make the law, and, indeed, this right belongs to both of them up to a certain point, but this right is not absolute in the one or the other. On the one hand, superior in a single point, in wealth, for instance, they think themselves superior in all; on the other hand, equal in one point, in liberty, for instance, they think themselves absolutely equal; the main object is forgotten on both sides. If political association was a commercial association for the purpose of gain, the share of the associated in the state would be in direct proportion to their investment, and the partisans of oligarchy would be in the right; but the object of political association is not only the existence of the associated, but their happiness, the well-being of families and of the different classes of the people. Those who bring the most (by their talents) to the general fund of the association, have a greater share in the state than those who, equal or superior in point of liberty or birth, have, notwithstanding, less political virtue; a greater share than those who, superior in wealth, are inferior in merit." To whom, then, should sovereignty belong? To the multitude, to the wealthy, to the good, to a single individual of superior talents, to a tyrant? "Neither to these nor to others," says Aristotle, "but to the law." And if one of the elements of the political body must be preferred, Aristotle would incline in favor of the multitude, for the reason that, if each individually errs in judgment, in the aggregate all judge well. (Book iii.) But the government which seems to him to best assure the reign of the law is the republic (*Πολιτεία*) which borrows its principles from oligarchy and democracy. If he had been asked how the alliance of these two governments, which he calls corrupt, could give birth to the best of all governments, he would doubtless have answered that they were only bad because they were exclusive, and that political wisdom should be the reconciliation of these two elements. — Aristotle enumerates four kinds of oligarchy. (Book vi.) In the first, the magistracy and the legislative power are accessible to citizens paying a rather large amount of taxes. In the second, the amount of taxes is considerable, and the body of the magistrates is self-recruiting. In the third, public offices are hereditary. In the fourth, besides this hereditary character of public offices, the sovereignty of the magistrates takes the place of the reign of the law. The first of these oligarchies is very near akin to aristocracy or democracy; the last is "a *dynasty* or government of force, the most detestable of all." Oligarchies may maintain themselves by ministering to the material well-being of the people and to their artistic wants, a capital consideration in the time of Aristotle. (Book vii.) But as avarice is the vice peculiar to oligarchies, (this is also Plato's opinion), their government, together with tyranny, is the least stable of all. The rivalry of the powerful, their misconduct, their acts of violence, the creation of another oligarchy in the bosom of the first, the ambition of some who begin to flatter the people, the influence of mercenary troops, all these are so many causes of ruin. Lastly, that which injures them most is, "that they deceive the lower classes." (Book vi., 8.) They should, above all, refrain from taking such oaths, he says, as they take to-day in some states: "I will always be the enemy of the people, and I will do them all the harm I can." (Book vii., 7.) — We have quoted these passages from Aristotle, because they throw light upon the social state of antiquity, and because they serve to show the difference between ancient and modern politics. Thus, the moderns are nearer the etymology of the word than Aristotle himself, when they call oligarchy the government of a small number, without alluding to the wealthy, to the people, to good men, or to virtue. In many states a minority, all powerful through terror, constitutes an oligarchy in an assembly democratically elected. The oligarchy of the council of ten, at Venice, was a concentration of the aristocracy; but that of the ephors at Sparta and that of the tribunes at Rome served as a counterpoise to the authority of the senate. An oligarchy may succeed abruptly to a monarchic or popular government. Modern revolutions have put in power, under the form of oligarchy, dictators elected by the people, or by a fraction of the people, and governing in its name or their own, but always opposed to aristocracies. — The oligarchic government of the ancients was rarely met with except in small states, in free cities, a most favorable theatre for such a concentration of collective power. This is also the case in modern times, not only in what have been called "free cities," but in other states. Oligarchy is wont to be established in a great nation, when, on account of an insurrection or a war, it is for the time being reduced to the condition of the ancient city. JACQUES DE BOISJOSLIN.

OLMSTEAD CASE. (See PENNSYLVANIA.)

OMNIBUS BILL. (See PARLIAMENTARY LAW.)

OPINION, Public. (See PUBLIC OPINION.)

OPPOSITION. The word *opposition*, in politics, has two distinct meanings. Properly, it is the resistance which dissenting parties offer to the acts of the government, because their interests or opinions are at variance with such acts. It is also used to designate the parties from which this

resistance proceeds. These parties may vary *ad infinitum* in point of numbers, intelligence and power; but they always constitute the opposition. An individual citizen also may resist the government, but even if he were an insurgent satrap he would be only an opponent, not the opposition. — Opposition may exist elsewhere than in the political field. Religious opinions and even religions may engage in a struggle with each other. The dissenting parties resist and sometimes overthrow the established authority. The struggles of Christianity against Polytheism, of Protestantism against Catholicism, and of the philosophic spirit against the principle of authority, are so many examples of opposition awakened in the moral world, and which have reacted most powerfully upon politics. True, religious and philosophical oppositions differ from those purely political by the very nature of the metaphysical problems from which they spring: the destiny of man, the relations between God and the world, the government of things here below by providence. The religious struggle is carried on ardently, passionately, but with little noise; the new belief employs no arms except those of persuasion. Ideas are elaborated in the seclusion of the study, and are propagated slowly, progressively, in men's consciences. Political opposition has quite another field. It inflames the crowd in the cause of interests less sacred, doubtless, but not unimportant, and produces more immediate agitation. It is the only form for which custom has reserved the name of *opposition*, and the only one with which we have to do here. — The existence of a party of opposition always supposes a certain degree of liberty and of the right of investigation. A despotic government admits of no opposition, and no argument. It can only be resisted by force, and it has no alternative but to conquer or to perish, like the Roman emperors whom triumphant revolt dragged down the steps of the Aventine Hill leading to the Tiber. — Where there exists an infallible authority, or what pretends to be such, opposition has no *raison d'être* and is not tolerated. Just as religions allow no contradiction of their dogmas, theocracies and governments by divine right, which attribute to themselves a part of their infallibility, exclude all opposition. It is therefore only in free governments, in which man's activity has free play, in which his faculties are developed without hindrance, and in which his reason has sovereign command, that opposition can find a place, not by toleration, but as a right. Opposition is born of a diversity of opinions, which can be reduced to unity by no art or science, however great the effort. It answers to the divergence of interests, the rivalry and struggles of which are at the bottom of all questions, and form the warp and woof of history. Parties are formed, struggle, and contend with one another for influence and the control of the government. Doubtless a great many petty rivalries, a great many questions of persons and egotistical ambitions, enter into their disputes. But we must contemplate these struggles from a higher plane and as a whole; great principles are engaged in them and govern them. The eternal problem of human affairs is forever reappearing in them under one of its myriad forms; in the fierce battles which he wages, it is to ideas that man devotes himself; and his honor is to die for them. Let us take as an example the glorious, little, agitated and turbulent republics of Greece. A question of principle, of sovereignty, divided them, such as: "Shall the aristocracy or the democracy rule? Sparta or Athens?" And the struggle was carried on not only in states and cities; in every city the two parties were arrayed against each other, the one in power, the other constituting the opposition. What vicissitudes in the life of these parties so changeable, so quickly organized and so quickly dissolved; one day in possession of favor and success, of popularity and of the votes of the multitude, the next forsaken, annihilated; in turn and almost without interval, conquerors and conquered! — In modern society the right of discussion, and consequently of opposition, is the very soul of representative government. This right applies not only to the making of the laws and the voting of taxes, in which the people take part through their representatives, but to all the parts of legislation, and to all public services. Opposition may even go beyond this, and attack the government and its principle. The ideal of representative government does not allow this sort of radical opposition. It is necessary that there should be, beyond all reach of discussion, a stable, fixed point, and a principle which can not be contested. In the moral world, as in the physical, motion supposes an immovable point. The constitution, whose object is the conservation of the state as a political body, may indeed, be criticised, but it can not allow itself to be denied or its principle to be overthrown. All opposition, therefore, is outside the law from the moment that it denies the political pact and seeks not the control of the government but its destruction. Hence, even in the very countries in which political commotions are most frequent, and in which power is oftenest shaken by revolution, we see that each government tries to put its principle at least beyond the reach of the storm, and puts the constitution under the safeguard of an oath. The reason is, that, wherever the constitution is called in question, normal political life has ceased to exist, and revolution has taken its place. — England is a country which affords the world the grand spectacle of a government whose principle is accepted by all. This principle is the fixed, immovable point to which we referred above, the light-house whose foundation is beaten by the billows, but whose summit towers serenely above the storm. In such a country the opposition bears only on the direction of public affairs, on questions of influence and of persons. We need not inquire by what vicissitudes England had to pass to reach this condition of calm and of

union. — What combination of circumstances is necessary, in order that hostile parties may become extinguished or abdicate? How long may their opposition last? It is plain that in the infinite variety of human affairs, no fixed rules can be laid down here. — The old Greek theogony represents discord and friendship in the midst of the elements, co-operating in the work of the gods. The one divides the forces of nature, the other restores them to unity, and the two together produce the general harmony of the universe. Opposition, like discord, doubtless has its part to play in the harmony of the life of nations. "Every force in nature is despotic, as is all will in man. A single plant would soon cover the earth, by reproduction, if the other plants allowed it free course." (Rivarol.) Opposition is an obstacle in the way of invading forces, and keeps them within their just limits. It obliges power to keep an attentive watch over its own acts, and, if we may take a witticism for an axiom, we would be obliged to admit even that it is the safeguard of power; since we can lean only upon that which offers resistance. — In a regular representative government the opposition is always the minority. As soon as it becomes the more numerous and powerful, it assumes control of affairs, and finds the other party arrayed against it as the opposition. The opposition may be weak, or it may be strong; it may be homogeneous, or be composed of discordant and contradictory elements, united only for the needs of the struggle; in this case it constitutes a coalition. Oppositions usually have a marvelous aptitude for self-discipline; every opposition has a tendency to provide itself with leaders and to become systematic; that is, not to confine itself to criticism of isolated acts of the government, but to condemn them and combat them *en masse*. — In divided countries in which the governing power is not universally accepted, it is rarely the opposition which precipitates revolutions; it prepares the way for them. Most frequently at the last moment it recoils before its own work. It confines itself to paving the road, to preparing the arena into which political parties are about to enter, and in which the forces of insurrection or of the government are to decide the fate of the state. We are not, however, without examples of oppositions which, victorious and sustained by the people, have succeeded in forcing a constitution upon the government, and in accomplishing a peaceful revolution. — The opposition has more than one advantage over the government party. In the first place, the part it has to play is less difficult: criticism is easy, while art is difficult. The opposition which criticises is not, like the government party, responsible for its acts; its work is collective, and therefore impersonal. Moreover, as the public think that it is more honorable to attack power than to flatter it, and do not see that under many circumstances it requires more courage to defend it than to combat it, the opposition easily obtains the favor of popularity. This popularity sometimes deludes the minds of even well intentioned men, who allow themselves to believe that the opposition is necessarily in advance of the government, that it is a means and a condition of progress. This is sometimes the case, but not always. The opposition may be more enlightened and liberal than the party in power; but it may be less so. Reason and truth are no more the exclusive attributes of the governed than of the governing. Hence it can not be said absolutely that the opposition holds in its hands the future of civilization and the destinies of the world. Nevertheless, experience shows that governments, save in exceptional cases which are always rare, in which the head of the state is a man of genius, incline more frequently to immobility than to progress, and generally oppose the force of inertia to the most necessary reforms. The impulse must then come from without, and the motive power is the opposition. — The work of oppositions thus partakes both of good and evil. But they number in their history pages of incomparable brilliancy. Posterity should not forget that in the ranks of the opposition there have been found united, courage and virtue; that they have called forth the noblest bursts of patriotism and the sublimest accents of eloquence; that great characters have been formed in them; that generous hearts have fought with them, and with them devoted themselves to humanity. What matters it after this that all the causes favored by oppositions have not triumphed? Doubtless, by the side of oppositions inspired by great principles, we find others petty, mean and retrogressive. Some have marked their passage by fertile ideas; others have by degrees become weakened and finally dropped into silence and forgetfulness. In the work of man error is ephemeral. Truth survives. We must credit opposition, the daughter of free investigation, with its truths, and pardon its errors. (Compare PARTIES, POLITICAL.) EMILE CHÉDIEU.

ORDER OF THE DAY. (See PARLIAMENTARY LAW.)

ORDERS IN COUNCIL. (See EMBARGO, in U. S. History.)

ORDERS, Religious. (See CONGREGATIONS.)

ORDINANCE OF 1787 (IN U. S. HISTORY). The organic law under which took place the organization of the territory west of Pennsylvania, east of the Mississippi, and north of the Ohio. — The acquisition of the "northwest territory" by the United States is elsewhere given. (See TERRITORIES.) After the completion of the Virginia cession, Jefferson, as chairman of a committee of three on the subject, reported to the congress of the confederation a plan for the temporary government of the western territory. As the conflicting claims of the partisans of Jefferson, Rufus King and Nathan Dane are apt to confuse the reader, it seems best to give the peculiar features of Jeffer-

son's report, which was adopted April 23, 1784. 1. It covered the whole western territory, ceded or to be ceded, south as well as north of the Ohio. 2. Seventeen states, each two degrees in length from north to south, were to be gradually formed from it; one between Pennsylvania and a north and south line through the mouth of the Great Kanawha; eight in a north and south tier, bounded on the west by a north and south line through the great falls of the Ohio; and the remaining eight in a corresponding tier bounded west by the Mississippi. Even the names were to have been provided for the prospective states of the northwest, including such singular designations as Chersonesus, Sylvania, Assenisipia, Metropotamia, Polypotamia and Pelisipia, together with the less remarkable titles of Saratoga, Washington, Michigania and Illinoia. 3. "After the year 1800 there shall be neither slavery nor involuntary servitude in any of the said states other than in the punishment of crimes, whereof the party shall have been duly convicted." This prohibition, therefore, was to have been prospective, not immediate, and to have applied to *all* new states from the gulf of Mexico to British America. This proviso was voted on, April 19. New Hampshire, Massachusetts, Rhode Island, Connecticut, New York and Pennsylvania voted for it; Maryland, Virginia and South Carolina, against it; North Carolina was divided; and New Jersey, Delaware and Georgia were unrepresented. Not having seven states in favor, the proviso was lost. Delaware and Georgia were entirely unrepresented; New Jersey had one delegate present, who voted for the proviso, but a state was not "represented" except by at least two delegates. The language of the proviso, however, became a model for every subsequent restriction upon slavery. (See COMPROMISES, IV.; WILMOT PROVISO; CONSTITUTION, Amendment XIII.) 4. The states were forever to be a part of the United States, to be subject to the government of the United States, and to the articles of confederation, and to have republican governments. 5. The whole was to be a charter of compact and fundamental constitutions between the new states and the thirteen original states, unalterable but by joint consent of congress and the state in which an alteration should be proposed to be made. With the adoption of the report, except the anti-slavery section, Jefferson's connection with the work ceased. He entered the diplomatic service in the following month, and remained abroad until October, 1789. — March 16, 1785, Rufus King, of Massachusetts, afterward of New York, offered a resolution that slavery in the whole western territory be immediately prohibited. The language is Jefferson's, excluding the words "after the year 1800," and changing "duly convicted" into "personally guilty." By a vote of eight states to three this was committed, and a favorable report was made, April 14 (probably); but it was never acted upon. — In September, 1786, congress again began to consider the government of the territory, and a committee, of which Nathan Dane, of Massachusetts, was chairman, framed the "ordinance of 1787," which was finally adopted, July 13, 1787. The fairest view is that Jefferson's report was the framework on which the ordinance was built: the general scheme was that of the former, but the provisions were amplified, and the following changes and new provisions were made: 1. The prohibition of slavery followed Jefferson's, excluding the words "after the year 1800," thus making it immediate, and adding a fugitive slave clause. (See SLAVERY, V.) This article, says Dane, in a letter of July 16, 1787, to King, "I had no idea the states would agree to, and therefore omitted it in the draft; but, finding the house favorably disposed on this subject, after we had completed the other parts, I moved the article, which was agreed to without opposition." 2. On the other hand, as this was an ordinance for the government only of the territory northwest of the Ohio, its prohibition of slavery was territorially only about half as large as Jefferson's; and this may help to explain the different fates of the two. A further explanation of the passage of Dane's ordinance, even with a prohibition of slavery, has recently been brought to light by Mr. W. F. Poole (see "North American Review," among the authorities): in 1787 Dr. Manasseh Cutler, agent of the Ohio land company in Massachusetts, was ready to purchase 5,000,000 acres of land in Ohio if it should be organized as a free territory, and his judicious presentation of this fact to congress had a powerful influence upon the result. 3. Article III., and the conclusion of article IV., guaranteeing the freedom of navigation of the Mississippi and St. Lawrence, were new, and seem to have been due to Timothy Pickering, of Massachusetts. — The ordinance proper began by securing to the inhabitants of the territory the equal division of real and personal property of intestates to the next of kin in equal degree; and the power to devise and convey property of every kind. Congress was to appoint the governor, the secretary, the three judges, and the militia generals; and the governor was to make other appointments until the organization of a general assembly. The governor and judges were to adopt such state laws as they saw fit, unless disapproved by congress, until there should be 5,000 "free male inhabitants of full age" in the district: a curious slip, considering the prohibition of any other than "free" inhabitants. On attaining this population the territory was to have a general assembly of its own, consisting of the governor, a house of representatives of one to every 500 free male inhabitants, and a legislative council of five to be selected by congress from ten nominations by the lower house, and to serve for five years. The assembly was to choose a delegate to sit, but not to vote, in congress; and was to pass laws for the government of the territory, not repugnant to the principles of the following "articles of compact between the original states and the people and states in the said territory," which were to "forever

remain unalterable, unless by common consent." I. No peaceable and orderly person was ever to be molested on account of his mode of worship or religious sentiments. II. The people were always to enjoy the benefits of the writ of habeas corpus, trial by jury, proportionate representation in the legislature, bail (except for capital offenses, in cases of evident proof and strong presumption), moderate fines and punishments, and the preservation of liberty, property and private contracts. III. Schools and the means of education were forever to be encouraged; and good faith was to be observed toward the Indians. IV. The territory, and the states formed therein, were forever to be a part of "this confederacy of the United States," subject to the articles of confederation, and to the authority of congress under them. They were never to interfere with the disposal of the soil by the United States, or to tax the lands belonging to the United States; and the navigation of the Mississippi and St. Lawrence was to be free to every citizen of the United States, "without any tax, impost or duty therefor." V. Not less than three nor more than five states were to be formed in the territory. The boundaries of three of these, the "western, middle and eastern" states, [subsequently Illinois, Indiana, and Ohio, respectively], were roughly marked out, very nearly as they stand at present; and congress was empowered to form two states [Michigan and Wisconsin] north of an east and west line through the southern end of Lake Michigan. Whenever any of these divisions should contain 60,000 inhabitants it was to be at liberty to form a state government, republican in form and in conformity with these articles; and was then to be admitted to the Union "on an equal footing with the original states, in all respects whatsoever." VI. "There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid." This proviso was the first instance of a fugitive slave law; it was afterward added to the constitution. (See COMPROMISES, III.; FUGITIVE SLAVE LAWS; SLAVERY, V.) — The general scheme of the ordinance, with the exception of the prohibition of slavery, was the model upon which the territories of the United States were thereafter organized. (See TERRITORIES.) Upon the inauguration of the new government under the constitution an act was passed, Aug. 7, 1789, recognizing and confirming the ordinance, but modifying it slightly so as to conform it to the new powers of the president and senate. When the territory south of the Ohio came to be organized, the organization was controlled by the stipulation of the ceding states that slavery should not be prohibited; and in the case of other territories the language often differed widely from that of the ordinance of 1787; but in all cases the underlying principles have been identical, so that the ordinance might be called the *magna charta* of the territories. The difference in statemanship between the British and the American methods of dealing with problems closely similar is elsewhere noted. (See REVOLUTION, I.; TERRITORIES, I.) — In the organization of the five states which have been formed under the ordinance, the privileges secured by it to the inhabitants of the territory have been imbedded in the state constitutions, usually in the preliminary bill of rights. In Indiana, in 1802, a convention, presided over by Wm. H. Harrison, sent a memorial to congress, asking a temporary suspension of the sixth article; but a select committee, John Randolph being chairman, reported that such action would be highly dangerous and inexpedient. In 1805–7 successive resolutions of Gov. Harrison and the territorial legislature to the same end were followed in each year by favorable reports from the committees to which they were referred; but congress took no action. In the summer of 1807 the effort was again renewed; but the new committee reported, Nov. 13, 1807, that a suspension of the article was not expedient. By this time opposition to the suspension was growing stronger in the territory itself, so that the attempt was not renewed. But the legislature, the same year, passed laws allowing owners of slaves to bring them into the territory, register them, and hold them to service, those under fifteen years to be held until thirty-five for males and thirty-two for females, and those over fifteen for a term of years to be contracted for by the owner and the negro. In the latter case, if the negro refused to contract, he was to be removed whence he came; and in both cases the children of registered servants were to be held to service until the ages of thirty for males and twenty-eight for females. Illinois, being then a part of Indiana territory, lived under these laws until her admission as a state, in 1818, when she enacted in her constitution that "existing contracts" should be valid. In this way slavery remained practically in force all over Illinois, and the pro-slavery party controlled the state. In 1822 an anti-slavery man was elected governor, by divisions in the pro-slavery ranks, and in his inaugural he reminded the pro-slavery legislature of the illegal existence of slavery in Illinois. That body retorted by an act to call a convention to frame a new constitution. The act had to be approved by popular vote, and, after a contest lasting through 1823–4, was defeated by a vote of 6,822 to 4,950. In both states provisions forbidding future contracts for service, made out of the state, or for more than one year, gradually removed this disguised slavery. — The preambles to the constitutions of Ohio, Indiana and Illinois all recite that the prospective state "has the right of admission to the Union" in accordance with the constitution, the ordinance of 1787, and the enabling act. In the case of Michigan congress long

neglected to pass an enabling act; the people of the territory, therefore, resting on the fifth article of the ordinance, and claiming that the only condition precedent to admission (the increase of the population to 60,000) had been fulfilled, formed a constitution, and were admitted without an enabling act. (See MICHIGAN.) It should also be noticed that the extreme northwestern part of the territory, south and west of the head of Lake Superior, was not finally included in any of the five states named, but is now a part of Minnesota. — The second of the articles of confederation declares that each state retains "every power, jurisdiction and right which is not by this confederation expressly delegated to the United States in congress assembled." The power to acquire, the jurisdiction to govern, and the right to retain, territory outside of the limits of the states, are nowhere in the articles, even by implication, given to the United States. Whence, then, did congress draw the power to vest in itself the title to the northwest territory, to frame this ordinance for its government, to abolish slavery therein, and to provide for the admission to the confederacy of five new states? The "Federalist" answers the question thus briefly: "All this has been done, and done without the least color of constitutional authority; yet no blame has been whispered, no alarm has been sounded." In other words, we are to suppose that the states, tempted partly by a willingness to despoil Virginia of her vast western claims, and partly by a desire to share in the proceeds of the western territory as a common stock, were willing to allow their imbecile congress to appropriate a source of revenue to which it had no shadow of claim, and which, as it then seemed, would so increase in a few years as to make congress independent of the states. Such a supposition does far less than justice to the acuteness of the state politicians who were then the controlling class; they would have been glad to withhold the power to govern the territories from congress, and yet how were they to avoid granting it? The reason for their "whispering no blame, sounding no alarm," lay in the patent necessity of the case, in the political law which finally forces a recognition under any form of government, that it is only in non-essentials that a limitation on sovereignty can be deduced by implication, and that there are certain essential attributes of sovereignty which can only be restricted in express terms. (See also Hamilton's argument in BANK CONTROVERSIES, II.) The right to acquire property is as much the natural right of a government, however limited, as of an individual; and a government, if restricted so far as to be denied this right, is either non-existent or impotent. It is not true that circumstances, in this case, compelled the states to allow a violation of the articles of confederation; it is rather true that circumstances, in this case, compelled the state politicians to respect the natural rights of the national government, which, in so many other cases, they had attempted to limit by the general phrases of the second article. (See NATION.) We are therefore to take the sovereign right to acquire territory as the justification of the ordinance of 1787, just as in the case of the annexation of Louisiana, which was equally unauthorized by the constitution. (See CONSTITUTION, III., *B*, 2.) — Undoubtedly the greatest benefit of the ordinance to the territory which it covered was its exclusion of slavery from it. It thus received the full sweep of that stream of immigration, foreign and domestic, which so carefully avoided slave soil; the strictness with which this westward stream confined itself to the comparatively narrow channel bounded by the lakes and the Ohio, is of itself a testimony to the wisdom of the sixth article. Beyond this, however, there were countless other benefits. The enumeration of the natural rights of the individual was a political education for the people of the new territory, as well as a chart for the organization of the new state governments. The stipulations for the encouragement of education, though too indefinite to be binding, have exerted an enormous influence upon the demands of the people and upon the policy of the legislatures. This whole section was thus, from the beginning, the theatre of a conscious and persistent attempt to combine universal suffrage and universal education, each for the sake of the other; and the success of the attempt, though still far from complete, has already gone far beyond any possible conception of its projectors. Most important of all, from a political point of view, the ordinance was the first conscious movement of the American mind toward the universal application of the federal principle of state government to the continent. The original states owed their formal individuality to accident or the will of the king; the inchoate states of Vermont, Kentucky and Tennessee were the accidents of accidents; here, in the northwest territory, the nation first consciously chose the state system for its future development. (See NATION, III.) — Major General Arthur St. Clair, a delegate from Pennsylvania, and president of congress during the adoption of the ordinance, was the first governor of the territory, 1788–1802. His biography, cited below, is the best exposition of the practical workings of the ordinance. When the portion of the northwest territory outside of Ohio was organized as Indiana territory (see that state), William H. Harrison became its governor, 1800–11, and was succeeded by John Gibson, 1811–13, and Thomas Posey, 1813–16, until Indiana became a state. When the separate territory of Illinois was organized (see that state), Ninian Edwards became its governor, 1809–18. Michigan, as a territory, had as governors William Hull 1805–13, Lewis Cass 1813–31, Geo. B. Porter 1831–4, and Stevens T. Mason 1834–5. When Wisconsin was separated from Michigan as a territory, its governors were Henry Dodge, 1836–41 and 1845–8, James D. Doty 1841–4, and N. P. Tallmadge 1844–5. The small remainder of the territory, after the admission of Wisconsin as a

state (see WISCONSIN; MINNESOTA), was added to Minnesota. — For the cessions of the various states which went to make up the northwest territory, see TERRITORIES. — The text of the ordinance is in 1 Poore's *Federal and State Constitutions*, 7; 1 *Stat. at Large* (Bioren and Duane's edition), 475; Duer's *Constitutional Jurisprudence*, 512; Andrews' *Manual of the Constitution*, App. xiii.; see also *North American Review*, April, 1876; Hildreth's *Pioneer History*, 193 (Ohio Company); Taylor's *History of Ohio*, 493; 1 Bancroft's *Formation of the Constitution*, 177, and 2:98; H. B. Adams' *Maryland's Influence in Founding a National Commonwealth;* Coles' *History of the Ordinance of* 1787 (read before the Penn. Hist. Soc., June 9, 1856); 4 *Journals of Congress*, 373, 379; 3 Hildreth's *United States*, 449; 1 von Holst's *United States*, 286; 1 McMaster's *History of the American People*, 505; 1 Schouler's *United States*, 98; 2 Pitkin's *United States*, 210; 1 Curtis' *History of the Constitution*, 291; 1 Draper's *Civil War*, 180; 1 Wilson's *Rise and Fall of the Slave Power*, 31; 1 Greeley's *American Conflict*, 38; 2 Holmes' *Annals*, 354; 1 *Stat. at Large*, 50 (act of Aug. 7, 1789); Smith's *Life of St. Clair;* Burnet's *Settlement of the Northwest Territory;* Washburne's *Sketch of Edward Coles;* Story's *Commentaries*, § 1310; *The Federalist*, xxviii. (by Madison); and authorities under articles referred to. For Jefferson's claims to the authorship of the ordinance, see 1 Benton's *Thirty Years' View*, 133; 1 Randall's *Life of Jefferson*, 397; for Dane's, see 3 Webster's *Works*, 397; for Dane's, King's and Pickering's, see 2 Spencer's *United States*, 202; Pickering's *Life of Pickering*. ALEXANDER JOHNSTON.

OREGON, a state of the American Union. It was claimed to have been rightfully a part of the Louisiana purchase, as its western boundary was defined in 1819 by the Florida treaty (see ANNEXATIONS, I., II.), and it was evidently under this claim that Lewis and Clarke first explored it in 1804–6, by direction of President Jefferson. The conflicting claims are elsewhere given. (See NORTHWEST BOUNDARY.) The people of Oregon, without waiting for action by congress, formed a provisional government in 1843. After several failures to pass an act for the organization of the territory (see WILMOT PROVISO), an act for that purpose became law, Aug. 14, 1848. It covered all the territory of the United States west of the Rocky mountains and north of latitude 42° north (see WASHINGTON TERRITORY), and prohibited slavery by putting in force the provisions of the ordinance of 1787. No enabling act was passed by congress, but a state convention at Salem, Aug. 17–Sept. 18, 1857, under authority of the territorial legislature, adopted a state constitution. Under this the state was admitted Feb. 14, 1859. — BOUNDARIES. The boundaries fixed by the act of admission were as follows: on the north, the Columbia river and latitude 46° north; on the east, the Snake river from latitude 46° north to its junction with the Owyhee, and thence directly south to latitude 42°; on the south, latitude 42°; and on the west the Pacific ocean. These differed from those claimed by the state constitution in only one respect: the latter took as a northern boundary the Columbia and Snake rivers, thus including the territory between latitude 46° and the Snake river, which congress preferred to assign to Washington territory. — CONSTITUTION. The first constitution is still in force. It restricted suffrage to whites, on six months' residence and one year's declaration of intention to become a citizen; authorized the legislature to prohibit the immigration of persons not qualified to become citizens of the United States; provided for a legislature of two houses, the senate to consist of sixteen members, chosen by districts for four years, and the house of representatives of thirty-four members, chosen by districts for two years; forbade the passage of special or local laws in a number of specified cases; gave the governor a term of four years, and made him eligible not more than eight in twelve years; provided that he should be chosen by popular vote, or, in default of a popular majority, by a joint vote of the legislature; forbade the legislature to charter any bank, to subscribe to the stock of any company, or to charter any corporation otherwise than by general law; and ordered the state capital to be fixed by popular vote. Two other questions were submitted to popular vote, with the following result: by a vote of 7,727 to 2,645, slavery was prohibited in the state; and by a vote of 8,640 to 1,081, free negroes or mulattoes not then resident in the state were forbidden to "come, reside or be within this state, or hold any real estate, or make any contract, or maintain any suit therein," and the legislature was authorized to pass laws for their removal and exclusion, and for the punishment of persons who should employ or harbor them. The constitution has not since been amended in any particular. In 1882 the legislature changed the time of inauguration of state officers from September to January, so that the new governor holds from September, 1882, to Jan. 1, 1887. — GOVERNORS. John Whittaker, 1859–62; Addison C. Gibbs, 1862–6; Geo. L. Woods, 1866–70; Lafayette S. Grover, 1870–78; Wm. W. Thayer, 1878–82; Zenas F. Moody, 1882–7. — POLITICAL HISTORY. The long interval between Oregon's adoption of a constitution and its admission as a state was due mainly to the "anti-negro clause" of the constitution, which made republicans in congress very unwilling to vote for a ratification of the instrument. The clause was due to the existence of three parties in the state, one in favor of slavery, a second opposed to it, and a third opposed to negro immigration. The last two united to prohibit both slavery and negro immigration; but the first was sufficiently strong to compel the convention to submit to the people the question of "slavery or no slavery." After the ratification was complete, and the state admitted, the first and third factions united against the second, and made Oregon a

democratic state. The democratic party of the state had so strong a pro-slavery element in it that one of the Oregon senators, Lane, was the Breckinridge candidate for the vice-presidency in 1860. In that year the republicans obtained the electoral vote of the state by a plurality, the popular vote being as follows: Lincoln, 5,270; Breckinridge, 5,006; Douglas, 3,951; Bell, 183. From that time until 1868 the state was republican in state, congressional and presidential elections. In 1868 the democrats, by about 1,000 majority, obtained the electoral vote of the state for Seymour, and elected the congressman and a majority of both houses of the legislature. Since that time the parties have alternately been successful in the state's biennial elections. In 1870, 1874 and 1878 the democrats carried the state, electing the governor, congressman, and a majority of the legislature; in 1872, 1876 and 1880, the "presidential years," the republicans secured the electoral vote of the state, the congressman, and a majority of the legislature. (See OREGON, under ELECTORAL COMMISSION.) In 1883 the legislature is republican by the following majority: senate, sixteen to fourteen; house, thirty-nine to twenty-one. — The most prominent political leaders of the state have been the following Lafayette Grover, democratic congressman in 1859, governor 1870–77, and United States senator 1877–83; Joseph Lane (see his name); John H. Mitchell, republican United States senator 1873–79; and George H. Williams, republican United States senator 1865–71, and attorney general under Grant, 1872–5. — See NORTHWEST BOUNDARY, and authorities under it; Grover's *Oregon Archives*, 1849–53; Dunn's *History of Oregon* (1844); Tucker's *History of Oregon* (1844); Greenhow's *History of Oregon* (1845); Gray's *History of Oregon* (1849); 2 Poore's *Federal and State Constitutions; Tribune Almanac*, 1859–83; Hines' *Oregon and its Institutions* (1868); Dufur's *Statistics of Oregon* (1869).

ALEXANDER JOHNSTON.

ORIENTAL QUESTION, The. By this, or by the equivalent term, Eastern Question, is usually understood the political complications which are ever on the point of arising, in the Ottoman empire, in consequence of the mutual antagonism of the Christian and Mussulman populations which inhabit that country, on the one part, and of the prevision of the conquest of Turkey by the Russians, on the other. — The extreme diversity of the nations occupying the vast territory subject to the porte, and the bonds, ethnographic or religious, which unite the greater number of them to Russia, constantly imperil the integrity of the Turkish monarchy, and threaten, at any moment, to cause fresh revolutions in that country, the consequences of which would be felt immediately all over Europe; for the possession of Constantinople would give the czars an increase of power which would destroy at a blow the foundation on which the balance of power in Europe rests. Said Napoleon, in an address to the French senate, dated Jan. 29, 1807: "Who can calculate the length of the wars and the number of campaigns it would be necessary to enter on, some day, to repair the evils which would result from the loss of Constantinople, if the love of cowardly ease and the seductions of the great city should prevail over the counsels of a wise foresight? We should leave our posterity a long inheritance of wars and misfortunes. The Greek cross being triumphant from the Baltic to the Mediterranean, we should, in our own day, see our provinces overrun by a swarm of fanatics and barbarians; and if in this too tardy struggle civilized Europe should perish, our guilty indifference would justly excite the complaints of posterity, and would be a title of opprobrium to us in history."* Napoleon, however, foresaw all the dangers which threaten the existence of Turkey when he wrote: "The patriotism of the peoples and the policy of the courts of Europe would not prevent the downfall of the Ottoman empire." — The origin of these dangers, and of all the political complications connected with the serious problem called the Eastern or Oriental question, goes back to the reign of Othman I., who, at the head of numerous Asiatic hordes, occupied several provinces of Asia Minor, and thus laid the foundations of an empire which was destined to find its chief power in the subjection of Greek peoples. The taking of Constantinople during the reign of the sultan Mohammed II. definitively marked the establishment of the Turks in Europe, who thenceforth planned the subjection of the principal neighboring states and the extermination of the Christians. — To these religious and ethnographic causes must be added the tendencies of Russian policy to pursue its work of universal domination by the conquest of the Ottoman empire. The remarkable testament of Peter I. left by that prince to his successors, and deposited among the archives at Peterhof (near St. Petersburg), tells what should be and what are the political views of Russia in this regard. In this document, whose length does not allow its reproduction here, *in extenso*, the czar declares that he considers the Russian people called by Providence to universal domination; that the "Russia which he had found a *rivulet* and intended to leave a *mighty stream*, would, under his successors, become a *great sea*, destined to fertilize impoverished Europe, and that its *waters would overflow* spite of all the dikes which weakened hands would oppose to them, if his descendants knew how to direct their *course*." It was to teach the czars, his successors, how to direct that course, that he thought it expedient to leave them his counsels or instructions. After having explained the necessity of certain conquests which have been accomplished since his time, he continues: "§ ix. Get just as near as

* Who would write history after civilized Europe had perished? We are not so sure that the conquest of Turkey by Russia would add to the power of the latter.—MAURICE BLOCK.

possible to Constantinople and the Indies. *The prince who reigns there will be the real sovereign of the world.* To this end, excite continual wars now in Turkey and now in Persia; establish ship builders' yards on the Black sea; get control by degrees of that sea, as well as of the Baltic, two points necessary for the success of the project; hasten the decay of Persia; penetrate as far as the Persian gulf; restore, if possible, by way of Syria, the old commerce of the Levant, and advance to India, which is the great emporium of the world. Once there, it will be possible to do without England's gold. § xi. Induce the house of Austria to drive the Turk from Europe, and on the occasion of the conquest of Constantinople calm its jealousy, either by exciting a war between it and the old states of Europe, or by giving it a part of the conquest which *is subsequently to be taken from it.* § xii. Attach to and gather about you all the disunited or schismatic Greeks spread through Turkey; become their centre and support, and establish in advance universal predominance by a species of sacerdotal royalty or of *sacerdotal supremacy:* this will give you so many friends among your enemies."—It is well known how religiously this testament has been followed to the letter, and how consistent the politics of Russia have been with the doctrine laid down in it. The Crimean war (1855–6) was the consequence of a premature endeavor to establish the suzerainty of the czar, not precisely over Ottoman territory, but over all subjects of the sultan who belonged to the Greek church whose pope and head is at St. Petersburg. The sympathy of the Hellenic populations with the Russian government betrayed itself at that period, and was all the more keen as there exists among them a profound hatred for the Ottoman element. The treaty of Paris, by taking away from Russia the right to maintain a war fleet in the Black sea, only postponed the time when the czar would descend on Turkey anew. But only a moment was needed for that stipulation to become illusory. That moment came in 1870, on the occasion of the Franco-Prussian war, when Russia asked and obtained in its favor a revision of the treaty of 1856 on this point.*—We shall not try to foresee what shall one day be the solution of the Eastern question. That problem, which presents itself periodically to European cabinets, with new corollaries, is so complex that it is unreasonable to predict what may be in store in relation to it. The powerlessness of Turkey in Syria and Lebanon, and the perpetual antagonism of the Maronite Christians and the Druses create, in Asia Minor, motives for the intervention of France and England similar in character to those which Russia finds for intervention in European Turkey, in which Christians of the Greek rite utter incessant complaints against the Mussulman authorities and claim the protection of the head of their religion. A perceptible improvement in the internal organization of the Ottoman empire can not be denied. Still it is doubtful whether it can early enough make the progress which it remains for it to make in order to put itself in a condition to meet the storms which sooner or later will break upon it.

LEON DE ROSNY

OSTEND MANIFESTO (IN U. S. HISTORY). The filibustering expeditions against Cuba (see FILIBUSTERS) occasioned anxiety in Europe as to the possible future action of the United States government in concealed or open favor of such expeditions. In 1852 Great Britain and France jointly proposed to the United States a tripartite convention, by which the three powers should disclaim all intention to obtain possession of Cuba, and should discountenance such an attempt by any power. Dec. 1, 1852, the secretary of state, Everett, refused to do so, while he declared that the United States would never question Spain's title to the island. Everett's letter has been severely criticised, but it seems justifiable as a refusal to voluntarily and needlessly restrict future administrations.—Aug. 16, 1854, President Pierce directed the American ministers to Great Britain, France and Spain, James Buchanan, John Y. Mason and Pierre Soulé, to meet in some convenient city and discuss the Cuban question. They met at Ostend, Oct. 9, and afterward at Aix la Chapelle, and drew up the dispatch to their government which is commonly known as the "Ostend Manifesto." It declared, in brief, that the sale of Cuba would be as advantageous and honorable to Spain as its purchase would be to the United States; but that, if Spain should obstinately refuse to sell it, self-preservation would make it incumbent upon the United States to "wrest it from her," and prevent it from being Africanized into a second St. Domingo.—The Ostend manifesto was denounced in the repub-

* Russia's ambitious designs found expression again in the last Russo-Turkish war. The insurrections which took place in Herzegovina, Servia and Montenegro, in 1876 and 1877, not without being produced by Russian influence, caused new controversies between Russia and Turkey, after the latter had refused the guarantees desired by the great powers for the security of the Christians, in the conference which met at Constantinople in November, 1876, and which continued in session till January, 1877. These controversies led to a declaration of war by the czar against the porte, April 24, 1877. This was the fifth Russo-Turkish war. On March 3, 1878, a treaty of peace, called the peace of San Stefano, was signed, by which the war was ended. But the congress of Berlin materially changed its provisions in favor of Turkey. This congress met at Berlin, June 13, 1878, under the presidency of the German chancellor, Prince Bismarck. It was called to examine the result of the Russo-Turkish war (1877-8) created by the peace of San Stefano, and to make it harmonize with the interests of the other powers, especially of England and Austria. The result of the transactions and deliberations of this congress was the peace of Berlin, which provided for the independence of Rumania, Servia and Montenegro, and established two new independent states, Bulgaria and Eastern Rumelia. The immediate gain to Russia by this war was not great considering the sacrifice it had made in it. It cost 500,000,000 roubles, and 172,000 men on the European theatre of the war. On the other hand, the war greatly increased the influence of Russia, as a great Slavic power on the Balkan peninsula, and afforded it an opportunity to interfere in the affairs of that peninsula at any time.

lican platform of 1856, as "the highwayman's plea that might makes right"; and was not openly defended by the democratic platform of 1856 or of 1860, except that the latter declared in favor of the acquisition of Cuba by honorable and just means, at the earliest practicable moment. — See 3 Spencer's *United States*, 510; 1 Greeley's *American Conflict*, 278; 2 Wilson's *Rise and Fall of the Slave Power*, 611; Cairnes' *Slave Power*, 145; Cluskey's *Political Text Book of* 1860, 477 (correspondence and manifesto in full).

ALEXANDER JOHNSTON.

OUTLAWRY. The declaring one by superior authority outside of the protection of all law, was a proceeding not unknown to the Greeks and Romans, but was inflicted by them when offenses had been committed against the national religion, and was more in the nature of ecclesiastical excommunications and interdicts such as are found in some Christian countries. — At common law process of outlawry originally lay only in cases of treason, but was at later periods extended to minor offenses and even to civil actions. The consequences, however, of a judgment in outlawry, and the legal steps to obtain it, were very different in the last mentioned cases. — In Bacon's Abridgment outlawry is defined as a punishment inflicted on a person for contempt and contumacy, in refusing to be amenable to and abide by the justice of that court which has lawful authority to call him before it. And as this is a crime of the highest nature, being an act of rebellion against the state or community of which he is a member, so does it subject the party to divers forfeitures and disabilities, for hereby he loses *liberam legem*, is out of the king's protection. It is further said in the same place, that in outlawry in treason and felony the law interprets the party's absence as a sufficient evidence of his guilt, and, without requiring further proof, accounts him guilty of the fact, on which ensues corruption of blood and forfeiture of his whole estate, real and personal, which he holds in his own right. — One of the most memorable proceedings in outlawry was directed against the well-known agitator and member of parliament, Wilkes Booth, in consequence of his withdrawing to France, while an information for libel was pending against him (1770). On technical grounds (Lord Mansfield presiding) the proceeding was quashed. The process of outlawry was so beset with technical difficulties that it could hardly ever be successfully maintained. In the United States it never was generally recognized either in criminal or civil cases. This process of outlawry, as found in the common law, as applicable to minor offenses and even to civil cases, if it ever prevailed on the continent of Europe, was soon superseded by process and judgment *in contumaciam*, taken from the Roman and canon law even in criminal cases. Parties sued or indicted may, under that process, be summoned by publication and be condemned in their absence, but not without evidence being heard, which condemnation, however, upon appearance within certain prescribed periods, may be set aside on terms. — Outlawry in the English sense was there confined to high and capital crimes, and was frequently applied by the secret courts, held by certain tribunals in some parts of Germany, under imperial sanction (*Vehm Gerichte*) in the middle ages. Those convicted, when within the power of the tribunal, were at once executed by the subordinate officials, and those who escaped were outlawed, and liable to be executed wherever found by officers or members of the brotherhood. In Rome and Greece everybody could kill an outlaw, and it is a somewhat disputed point whether at earlier times this was not also allowable at common law before it was expressly prohibited by statute. In the holy German empire outlawry, called *Reichs-Acht* (*Bann*), played a great part, but it was more of a political than strictly legal process. It was adopted in cases of felony, committed by the great vassals against the emperor, their liege lord; also in cases of great crimes and misdemeanors not strictly breaches of fealty. The imperial great bann had to proceed from the diet; the lower bann could be pronounced by local courts, and had but a local application. Upon complaint, sustained by the estates of the empire assembled in diet, the accused was summoned, usually three times, and upon default conviction followed and declaration of outlawry. With the great vassals the decrees could only be enforced by a real war. The outlawry of Henry the Lion (the head of the Guelph faction), duke of Saxony and Bavaria, was perhaps the most noted instance of this process. Having failed to heed the summons to answer the impeachment at three different sessions of the diet, outlawry (the *Ober-* or *Aber-Acht*) was pronounced against him at the diet held at Wurzburg (1180) by the emperor Frederick I. (Barbarossa, chief of the Ghibelins). It was a political act more than a legal one, as it also declared a forfeiture of his estates held as benefices, and not in his own right, which was not usual either at common law or at the German law. Henry took up arms, but being unsuccessful, fled to his father-in-law, the king of England. Later, amnestied, he was reinstated into Brunswick and Luneburg, his allodial possessions. — The outlawry of the elector John Frederick of Saxony, and of Philip, landgrave of Hesse, the Protestant leaders in the reformation, was wholly irregular, being declared by a mere edict of the emperor Charles V., without sanction of the diet (Reichstag) 1547. Equally irregular had been the outlawry of Martin Luther, by a mere minority of the diet of Worms in 1521, when the session, by the departure of most of the members, had been virtually closed. Some of the most powerful princes of the empire at once protested against it, and the emperor never took steps to execute it. All formalities had been neglected. The only resolution that was legally passed against Luther was one binding the estates of the empire not to obstruct the

papal bulls against Luther, which had only a clerical effect by excommunicating him. Other imperial outlawries sanctioned by the diet were those against the elector palatine Frederick, king of Bohemia, and his allies, in 1619, and against the electoral princes of Bavaria and Cologne in the war of the Spanish succession, on account of their alliance with France in 1702. An attempt to outlaw Frederick the Great of Prussia, at the commencement of the seven years war (1758) failed in its initial steps. Purely political acts, without any legal proceedings, were the outlawry of the Baron de Stein, ex-minister of Prussia, by Napoleon I., in 1809, and that of Napoleon himself by the princes assembled at the Vienna congress in 1815, as also that of Gen. B. F. Butler by the confederate states.

GUSTAVE KOERNER.

OUTLET. An outlet, properly speaking, is an opening made for the sale of certain products. We say that a merchant seeks an outlet for his wares, when he is in quest of places where he can sell them; that he finds an outlet abroad, when his products are ordinarily sold abroad. To open outlets to a country is to give it the opportunity of entering upon friendly relations with other countries, which will afford it new avenues of sale. It would seem that this subject does not allow of any really economic development. But J. B. Say has almost given us a theory of it. We here reproduce his thoughts on the matter. They have been approved and appreciated by all economists. — "As the division of labor makes it impossible for producers to consume more than a small part of their products, they are compelled to seek consumers who may need these surplus products. They are compelled to find what is called, in the language of commerce, *outlets*, or markets, that is, means of effecting the exchange of the products which they have created against those which they need. It is important for them to know how these outlets are opened to them. — Every product embodies a utility, the faculty of ministering to the satisfaction of a want. A product is a product only by reason of the value which has been given to it; and this value can be given to it only by giving it utility. If a product cost nothing, the demand for it would be infinite; for no one would neglect an opportunity to procure for himself what satisfies or serves to satisfy his wants, when he could have it for the wishing it. If this were the case with all products, and one could have them all for nothing, human beings would come into existence to consume them; for human beings are born wherever they can obtain the things necessary to their subsistence. The outlets opened to them would become immense in number. These outlets are limited only by the necessity under which consumers are to pay for what they wish to acquire. It is never the *will* to acquire, but the *means* to acquire, that is wanting. — Yet in what does this means consist? In money, we shall be hastily told. Granted; but I ask in turn, by what means does this money come into the hands of those who desire to buy? must it not be obtained by the sale of another product? The man who wishes to buy must first sell, and he can only sell what he produces, or what has been produced for him. If the owner of land does not sell with his own hands the portion of the harvest which comes to him by reason of his proprietorship, his lessee sells it for him. If the capitalist, who has made advances to a manufacturer, in order to get his interest, does not himself sell a part of the manufactured goods, the manufacturer sells it for him. It is always by means of products that we purchase the products of others. Beneficiaries, pensioners of the state themselves, who produce nothing, are able to buy goods only because things have been produced, by which they have profited. — What must we conclude from this? If it be with products that products are purchased, each product will find more purchasers in proportion as all other products shall have increased in quantity. How is it that in France eight or ten times more things are bought to-day, than under the miserable reign of Charles VI.? It must not be imagined that it is because there is more money in that country now; for if the mines of the new world had not increased the amount of specie in circulation, gold and silver would have preserved their old value; that value would even have increased; silver would be worth perhaps what gold is worth now; and a smaller amount of silver would render the same service that a very considerable quantity renders us, just as a gold piece of twenty francs renders us as much service as four five-franc pieces. What is it, then, that enables the French to purchase ten times as many things, since it is not the greater quantity of money which they possess? The reason is, that they produce ten times as much. All these things are bought, the ones by the others. More wheat is sold in France, because cloth and a great number of other things are manufactured there in a much greater quantity. Products unknown to our ancestors are bought by other products of which they had no idea. The man who produces watches (which were unknown in the time of Charles VI.), purchases with his watches, potatoes (which were also then unknown). — So true is it, that it is with products that products are purchased, that a bad harvest injures all sales. Indeed, bad weather, which destroys the wheat and the vines of the year, does not, at the same time, destroy coin. Yet the sale of cloths instantly suffers from it. The products of the mason, the carpenter, the roofer, joiner, etc., are less in demand. The same is true of the harvests made by the arts and by commerce. When one branch of industry suffers, others suffer too. An industry which is prosperous, on the other hand, makes others prosper also. — The first deduction which may be drawn from this important truth is, that in every state the more numerous the producers are, and the more

production is increased, the more easy, varied and vast do outlets become. In the places which produce much, there is created the substance with which alone purchases are made: I mean value. — Money fills only a transient office in this double exchange. After each one has sold what he has produced, and bought what he wishes to consume, it is found that products have always been paid for in products. — We thus see that each has an interest in the prosperity of all, and that the prosperity of one kind of industry is favorable to the prosperity of all others. In fact, whatever may be the industry to which man devotes himself, whatever the talent which he exercises, he will find it easier to employ it and to reap a greater profit from it in proportion as he is surrounded by people who are themselves gaining. A man of talent, sadly vegetating in a country in a state of decline, would find a thousand avenues of employment for his faculties in a productive country, where his talents might be used and paid for. A merchant established in an industrious city, sells much larger amounts than one who lives in a country in which indifference and idleness rule. What would an active manufacturer or a capable merchant do in one of the poorly peopled and poorly civilized cities of certain portions of Spain or Poland? Although he would encounter no competitor there, he would sell little, because little is produced there; whereas in Paris, Amsterdam or London, despite the competition of a hundred merchants like himself, he might do an immense business. The reason is simple: he is surrounded by people who produce much in a multitude of ways, and who make purchases with what they have produced; that is to say, with the money resulting from the sale of what they have produced, or with what their land or their capital has produced for them. — Such is the source of the profits which the people of cities make from the people of the country and which the latter make from the former. Both have more to buy in proportion as they produce more. A city surrounded by a productive country finds there numerous and rich buyers; and in the neighborhood of a manufacturing city the products of the country sell much better. It is by a vain distinction that nations are classed as agricultural, manufacturing and commercial nations. If a nation is successful in agriculture, it is a reason why its commerce and its manufactures should prosper. If its manufactures and its commerce become flourishing, its agriculture will be better in consequence. A nation is in the same position as regards neighboring nations that a province is in relation to the country; it is interested in their prosperity; it is certain to profit by their wealth; for nothing is to be gained from a people who have nothing wherewith to pay. Hence, well-advised countries do all in their power to favor the progress of their neighbors. The republics of America have for neighbors savage peoples who live generally by the chase, and sell furs to the merchants of the United States; but this trade is of little importance, for these savages need a vast extent of country to find only a limited number of wild animals, and these wild animals are diminishing every day. Hence, the United States much prefer to have these Indians civilized, become cultivators of the soil, manufacturers, in fine, more capable producers; which unfortunately is very difficult of accomplishment, because it is very hard for men reared in habits of vagabondage and idleness to apply themselves to work. Yet there are examples of Indians who have become industrious. I read in the description of the United States, by Mr. Warden, that the tribes then living on the banks of the Mississippi, and who afforded no market to the citizens of the United States, were enabled to purchase of them in 1810 more than 80,000 francs' worth of merchandise; and probably they afterward bought from them a much larger amount. Whence came this change? From the fact that these Indians began to cultivate the bean and Indian corn, and to work the lead mines which were within their reservation. — The English rightly expect that the new republics of America, after their emancipation shall have favored their development, will afford them more numerous and richer consumers, and already they are reaping the harvest of a policy more in consonance with the intelligence of our age; but this is nothing compared with the advantages which they will reap from them in the future. Narrow minds imagine some hidden motives in this enlightened policy. But what greater object can men propose to themselves than to render their country rich and powerful? — A people who are prosperous should therefore be regarded rather as a useful friend than as a dangerous competitor. A nation must doubtless know how to guard itself against the foolish ambition or the anger of a neighbor, who understands its own interests so badly as to quarrel with it; but after it has put itself in the way to fear no unjust aggression, it is not best to weaken any other nation. We have seen merchants of London and Marseilles dread the enfranchisement of the Greeks and the competition of their commerce. These men had very false and very narrow ideas. What commerce could the independent Greeks carry on which would not be favorable to French industry? Can they carry products to France without buying her products and carrying away an equivalent value? And if it is money that they wish, how can France acquire it otherwise than by the products of her industry? A prosperous people is in every way favorable to the prosperity of the other. Could the Greeks indeed carry on business with French merchants against the will of the latter? And would French merchants consent to a trade which was not lucrative to themselves and consequently for their country? — If the Greeks should become established in their independence, and grow rich by their agriculture, their arts and their commerce, they would become for all other peoples valuable consumers; they would experience new wants, and

have wherewith to pay for their satisfaction. It is not necessary to be a philanthropist to assist them; it is only necessary to be in a condition to understand one's own true interests. — These truths so important, which are beginning to penetrate among the enlightened classes of society, were absolutely unknown in the periods previous to our own. Voltaire made patriotism consist in wishing evil to one's neighbors. His humanity, his natural generosity, lamented this. How much happier are we, who, by the simple advance of enlightenment, have acquired the certainty that we have no enemies but ignorance and perversity; that all nations are, by nature and by their interests, friends of one another; and that to wish prosperity to other peoples, is to love and serve our own country." J. B. SAY.

OVER-PRODUCTION. Over-production is a term which is clear and simple as each man applies it in his own business, but which is liable to be misunderstood when applied to the business of the community. This combination of apparent clearness and real doubt has caused much confusion and unnecessary argument; so that we must begin with a careful analysis of its meaning in various aspects. It is defined by Malthus as occurring "when the production of anything is carried beyond the point where it ceases to be remunerative." For instance: a manufacturer owns his plant, but depends upon credit for the purchase of raw materials and the means of paying wages. Now if his product brings the expected price, it compensates him for all these advances, and gives him his business profit in addition. But a slight fall in the price of his product, from whatever cause it arises, will sweep away his business profit. This is the point where production ceases to be remunerative. A further fall will not only leave him without business profit, but also without compensation for the wages he has advanced, or without the means of paying for his raw material; so that the more he has manufactured the poorer he is for it. To him, then, all production on these terms is over-production. And to him the result is the same in its main features, whatever be the reason for the fall in price. He could have avoided the worst of the trouble to himself, had he but curtailed his production in time. — But if we go one step back, and look for the causes which occasion this fall in price, we find that it may be due to any one of three things: 1. A disproportionate production of this particular article; 2. A hindrance of any kind which prevents placing goods in the most advantageous market; 3. A general fall in prices. As regards its relation to the general business of the community, the first of these causes acts in a very different way from the second and third; and it is to the first of these causes that the name over-production is most properly applied. The mistakes of Sismondi, Chalmers and even Malthus in this connection arose from their supposing that it meant the same thing in the second and third causes as in the first. They said that depression in individual branches of trade arose from over-production in those branches, and inferred that when phenomena of the same kind were seen everywhere there was the same kind of over-production everywhere. But this is by no means the case. Disproportionate production is one thing; failure to sell at the expected price may be quite another. It may look like the same thing to the individual producer, and yet mean very different things respecting the past and future of the business community. Disproportionate production is liable to occur at any time in individual branches of trade. It is only when it becomes much more serious than usual, and is combined with other causes, that it is followed by a commercial crisis. But the so-called general over-production does not ordinarily occur except in connection with a crisis, and there it is a result rather than a cause. By keeping this distinction in mind we shall avoid confusing the real partial over-production which usually precedes commercial crises, with the apparent general over-production which is characteristic of their advanced stages. It is with the former of these that this article mainly deals. — Disproportionate production on a small scale, such as constantly occurs in one or another branch of industry, readjusts itself so easily as to occasion no harm except a temporary one to a few individual producers in that line. The capitalists see their mistake the moment their business profits are swept away, and use less capital in their business; the excess of supply is quickly consumed, prices recover, and the business goes on as before. But special circumstances may aggravate the trouble to the extent of a public calamity, and special lines of production are particularly liable to such misfortune. When large amounts have been invested in fixed capital, such as machinery, public works, or, above all, railroads, such excess of supply can not be quickly consumed, but exerts its depressing influence for a long time to come. And, on the other hand, when special lines of production have been stimulated by a temporary demand at abnormally high prices, as was the case in the iron business in 1873, and is liable to be the case to a less marked extent in almost any other line of manufacture, it will be found that after the excess is worked off and consumed, prices still do not recover anything like their former figures. We thus have two types of business liable to over-production; one because the excess of supply is permanent, the other because the high price is abnormal. The history of railroad building on the one hand, and of iron production on the other, furnishes the most striking instances of these results, as well as the most complete statistics for our purpose. — Ever since the invention of railroads excessive railroad building has been a leading symptom of an approaching crisis. In 1837, it is true, the system of railroads was not yet far enough advanced to be an important factor, yet here we had the same kind of extrava-

gance in building roads and canals on borrowed capital, and the same effects from it. It was in England in the years preceding the crisis of 1847 that the railroad first assumed its importance as a subject of speculative production. Of the workings of a railroad system capitalists knew very little; but they went into the business with the same blind confidence that their ancestors had gone into South sea bubbles. And this reckless investment of capital was encouraged by the blind belief of legislators in unchecked railway competition as an unmixed benefit to the public. 678 companies—for the most part, it must be said, with ridiculously short lines—applied for incorporation in the year 1845 alone; and of these 136 were actually incorporated, 65 receiving the royal assent in a single day. And this at a time when the system was in its infancy. By the end of the year 1847 the estimated value of the railways incorporated was more than a thousand million dollars, and a large part of this sum had been actually expended, while most of the work was too incomplete to bring in returns that could be used in payment of interest. There is no need, for our present purpose, of going into the further history of the crisis of 1847; in a community which had been investing its capital thus recklessly, any economic shock must needs produce the most serious results. The crisis of 1857 is not so distinctly an instance in point. There was indeed in many cases a sudden shrinkage of railroad earnings and a marked decrease in railroad building—3,647 miles being added in the United States in 1856, 2,647 in 1857, 2,465 in 1858, and only 1,821 in 1859. But this was hardly over-production in its truest sense. The shrinkage came elsewhere even more than here. There had been speculation and extravagance everywhere, and much property changed hands as values settled down to a truer basis. But there was no useless mass of lingeringly insolvent capital, almost no disproportionate production that could not be made use of in some way beneficial to the community. — Not so in 1873. For five years men had been building railroads to an extent hitherto unheard of. High wages and prices had made the real cost of construction great, and the extravagant spirit of those years had added other items of expense. Only an abnormally stimulated trade could enable them to meet their obligations and furnish profit besides. But the panic of 1873 left trade abnormally depressed; and many roads were in no condition to meet their obligations. Sooner or later they had to reorganize; but before this could be done they succeeded in doing a great deal of harm to other people's property as well as their own. Once regarding themselves as insolvent, they felt exempt from a number of responsibilities that had hampered them. If they could not get business at a paying price they would get it at a price that did not pay, and force competing solvent roads into non-paying rates. Hence arose the railroad wars culminating in 1876, when the Grand Trunk and the Erie, then insolvent roads, swept away the profits of the Pennsylvania and the Baltimore & Ohio, and for the time greatly reduced investors' confidence in the New York Central. This is the typical effect of over-production: the surplus is not only in itself unprofitable, but as long as it lasts will depress values of everything with which it competes. And the continued existence of such masses of undisposable surplus may be regarded as a leading difference between the long crisis of 1873 and the shorter one of 1857. — The extent to which railroad over-production was carried is shown by the figures in Poor's Manual. In 1869 there were built in the United States 4,615 miles of railway; in 1870, 6,070; in 1871, 7,379; in 1872, 5,878; and in 1873, 4,107: an average for five years of over 5,600 miles. In 1874 the number fell to 2,105, and in 1875 to 1,712; for the five years succeeding 1873 the average was less than 2,300, or only about two-fifths the previous. The figures for France and Germany about the same time tell a similar story. Not less striking are the figures illustrating shrinkage of value. The "Railroad Gazette" of Sept. 27, 1878, furnishes statistics on this point concerning forty-five roads dealt in by the New York stock exchange, and in soundness presumably above the average of those in the country. The aggregate value of these roads, at their highest prices in 1873 (reduced to a gold basis), was $567,000,000; at the lowest prices of the same year it had fallen to $380,000,000; while in September, 1878, it was still only $460,000,000. Still more to the purpose are the figures concerning foreclosures furnished at the beginning of each year by the "Railway Age." In 1876 there were sold under foreclosure, (this term being apparently used in a rather wide sense), 3,846 miles of road, representing $218,000,000 of capital; and in the four years succeeding, 3,875, 3,902, 4,909, 3,775, miles of road, representing investments of $199,000,000, $312,000,000, $243,000,000 and $264,000,000, respectively. One-fifth of the railway investment of the country sold under foreclosure in these five years of settlement! Whether this has taught us its lesson remains to be seen. Men have lost faith in unlimited railway competition; but a specially pernicious form of over-production is developed in the case of parallel roads, built to sell rather than to operate; for the sake, that is, of forcing the old road to buy a controlling interest to avoid a railroad war. The enormous increase of railways in recent years (4,721 miles in 1879, 7,174 in 1880, 9,358 in 1881, 11,343 (?) in 1882) gives ground for apprehension, even though this rate of building is not likely to continue. — In looking at over-production in the iron industry, variations in price are even more striking than variations in production. In January, 1871, the average Philadelphia price of No. 1 pig iron was $30.50 per gross ton. From this time it steadily increased till, in September, 1872, the month's average was $53.87. In December, 1874, it had declined to $24, a loss of more than one-half in a little over

two years; and this decline on the whole continued till November, 1878, when the price was $16.50, scarcely one-third of what it had been in 1872, even if we make allowance for the gold premium. In Great Britain the same change was still more marked. Scotch pig, which in 1870 had sold as low as 49½s., rose in 1870 to 145s., and in 1878 had fallen to 42½s., less than three-tenths of what it had brought five years before. A similar change was seen in America at the beginning of 1880, when iron, which in July, 1879, was selling at $19.25, rose to $40 and $41, only to fall, three months later, to $23. — The reason for these extraordinary changes is to be found in the character of the demand for iron. A demand for iron at all often means a demand at any price, whether it be for a railroad that can make no money till its tracks are laid, or a factory that can make none without new machinery. But the demand that forces up the price is moderate in quantity; and though the high rates may be submitted to by the immediate demand, they may check the future demand. Thus, those who have gone into the iron business under the stimulus of high rates find that the pressure was only temporary; the extra supply, by the time they are ready with it, no longer wanted; and in place of the readiness to buy at any price, however high, comes an unwillingness to buy at any price, however low. Just this course of events is indicated by the statistics of iron production. The American pig iron product, which in 1870 had been about 1,859,000 net tons, and in 1871 about 1,905,000, rose under the stimulus of high prices in 1872 to 2,855,000, and in 1873 to 2,868,000 tons. But by this time the fall in prices had been so marked that the iron men checked production as best they might. In 1874 they reduced their product to 2,689,000 tons; but in spite of this reduction and of the further fall in prices there remained at the end of the year 796,000 tons unsold in the producers' hands. The further course of events is shown in the following table, compiled from figures in the report for 1881 of the secretary of the American iron and steel association:

YEARS.	Average Price.	Tons Produced.	Tons Unsold.
1875	$25.50	2,267,000	761,000
1876	22.25	2,098,000	687,000
1877	18.87	2,315,000	642,000
1878	17.62	2,577,000	575,000
1879	21.50	3,071,000	142,000

From this it appears that in spite of diminished production and prices it was not until 1877 that they were able to reduce materially the proportion of their product unsold. As soon as they began to do this they were on a sounder basis; but what this involved may be inferred from the fact that out of 700 furnaces in the United States only about 250 were in blast in the year 1877; and that in the whole iron industry there was probably not a branch worked up to half the capacity which its fixed capital would admit. (For the statistics of the same general depression throughout the world, see "Economist," Com. Hist. and Rev. of 1878, supplement to March 5, 1879.) A repetition of some of these phenomena has been seen in the last four years; notably in the case of steel rails, whose price increased from $42 per gross ton in May, 1879, to $85 in February, 1880, but at the end of the year 1882 had fallen to $39. There was the same reckless investment of capital to meet a temporary demand at high prices, and the same impossibility of maintaining anything like those prices when the extra supply was thrown on the market. — Railroad production and iron production furnish types of the two causes which render disproportionate production a source of lasting evil: in the former case, because the increase of supply is permanent; in the latter, because the high demand is only momentary. The introduction of machinery is apt to produce effects of the former character; the supply of articles of fashion and luxury is subject to the latter. It was the combination of these two that had a large share in causing the English crises of 1818 and 1825. Agricultural produce is less liable to these disturbances than anything else, the exception in the case of cotton in 1837 and 1839 being only apparent; the evil was due to speculation on the part of cotton producers rather than to disproportionate production of cotton. So in England in 1847, when an exceptionally good harvest was the occasion of a crisis, it was not because there was more food than people had been in the habit of demanding, but because to certain individuals, who had speculated in the price of grain, normal production meant ruin. Results like these may occur when any combination makes a speculative attempt to control production and prices both. When such a combination is powerful enough to form a monopoly, there is no doubt that a check to production generally increases their returns, the prices rising more rapidly than the quantity diminishes. And, conversely, an increase of production, even under their own hands, actually diminishes the gross returns. If an individual extends his production his gross returns are commonly increased. If a monopoly extends its production the opposite effect is quite as common. — We have hitherto spoken of over-production only in the sense of disproportionate production. It was shown at the outset that the same effect upon individual producers might result from a failure to reach the right market, or from a general fall in prices. The first may be due to transportation difficulties, or to tariff legislation; the second, to a contraction of the currency; but by far the commonest cause of both is a commercial crisis. It renders the credit system so far inoperative that it is impossible to place goods where they are the most needed; and it so far increases the demand for ready money instead of credit documents that it has the same effect upon prices as currency contraction. It may thus happen that the appearance of over-production will occur as the result of a crisis even in

those lines where there has been no abnormal production, merely in consequence of difficulty in doing business and in paying debts. This is what has given rise to the name and idea of general over-production. — For more extended theoretical discussion of certain points, which the limits of this article do not allow, see Roscher, *Political Economy*, § 215–217; J. S. Mill, *Principles of Political Economy*, bk. iii., ch. xiv.; Francis A. Walker, *Political Economy*, § 214–224; George Chesney, *Fortnightly Review*, September, 1881.

ARTHUR T. HADLEY.

P

PACIFIC RAILROAD. (See INTERNAL IMPROVEMENTS, RAILROADS.)

PAPER MONEY. If there be an experiment which has been seriously made and as to the results of which there can be no doubt, it is the experiment which demonstrates the chimerical advantages and grave dangers of *paper money*, employed as an instrument of production. Nevertheless, numberless deceptions, the injury done to public credit and national good faith, and the ruins of the past, do not seem to have entirely dissipated a dangerous illusion; recent facts, as well as the persistence of false doctrines, prove this but too well; the human mind frees itself with difficulty from the fatal influence exerted over it by the mirage of wealth acquired without labor, of a pretended increase of capital called into existence by the magic wand of credit, and of a new species of alchemy which transmutes paper into gold. — Nothing, however, can be simpler than the examination of this problem, and nothing easier of solution. It suffices to know what is the part played by money, to measure how little such an arbitrary creation as paper money can do, and to understand its dangers. — Ours is not the age in which the wealth of states was confounded with the possession of coin; money, the great wheel of circulation, as Adam Smith calls it, preserves nevertheless, however, an important place in the economy of nations; it constitutes the mechanism of exchange in the clearest and surest conditions; it enables us to set a value on all products and services; it gievs activity to the creation and facilitates the distribution of wealth. It is in fact owing to money that all are impelled to the common work of the nation, and that the result obtained is divided among those who have contributed to it. It introduces a common language into the operations of social commerce. — But it is not a language of the imagination; money is the sign and measure of values, because it is their guarantee, because it represents a value that is known, acknowledged and accepted everywhere. It is a universal commodity, while it at the same time affords each country its local instrument of purchase and sale, and of remuneration for both public and private services. — In our day the fetters which cramp the international movement of exchanges are gradually disappearing, and a regular equilibrium may be established to adapt to the wants of each market the quantity of *money* necessary for the transaction of its business, when this business preserves its character of purity, and does not degenerate into fiction. Let us suppose, for a moment, that gold and silver alone, without any mixture of fiduciary signs, are the only instruments of exchange. As nothing prevents the transportation of the precious metals, they will always resume their level by going where a certain scarcity of them assures them greater advantage, and abandoning those places in which an over-abundance causes their depreciation. An admirable law of attraction governs them and proportions them to the useful services which they are called upon to render, by opposing equally a sterile abundance and a scarcity of specie. The very force of things establishes a weir for metallic wealth, which always falls into equilibrium with the wants of circulation. — There is a risk of the situation being modified from the very moment that, in order to economize upon the mechanism of exchange, an effort is made to substitute for gold and silver artificial means more or less ingenious, and more or less sure, by calling to its aid what is called the magic of credit, whose power people are inclined to exaggerate. Two ways are open to reach this end. By following one of these ways the movement of exchanges is simplified and the number of actual payments reduced; recourse is had to those ingenious creations which render the actual intervention of specie superfluous, or limited in a number of cases, by means of bills of exchange, of open accounts in the banks, of set-offs and transfers; or else circulation is accelerated in such a manner as to increase the services rendered by each piece of money. In this way we obtain an advantage similar to that which two iron rails placed parallel upon the ground afford by the saving in friction, which increases the traction. The same result is obtained with less expenditure of force and capital, thanks to the economy and energy of the springs set at work. Here all is gain and no danger; such is the largest function of credit and an inexhaustible source of fecundity. — But, by the side of these useful combinations, whose influence is too often ignored, we have the creation of a sign easy to manufacture, which costs next to nothing, and which is substituted in a greater or less proportion for metallic money: we refer to the *bank note*, which is called upon to act the part of money, because it is or ought to be accepted in business transactions to liquidate debts. — If this

fiduciary sign rests on the guaranty of a metallic value, against which it may be exchanged at will, and if we may accept or refuse it at pleasure, it constitutes *money paper*, which must be carefully distinguished from paper money. If it be imposed by authority, whether it emanates from the public treasury or from a private institution, and we are not at liberty to demand its equivalent in gold or silver, but are obliged to accept it, it degenerates into *paper money*. In the first case it aims to supply in part the metallic money, of which the country should reserve a sufficient amount to assure the exchange of bills for specie, and to serve in those transactions in which bank notes can not enter. In the second case it has for effect to replace metallic money even to the point of the issue of paper money with compulsory circulation or of so-called legal tender character. — The aggregate of business transactions requires but a certain determinate amount of specie in each country at a given time. If bank bills are substituted for a part of the instruments of exchange, the surplus disappears under the form of merchandise, in order to restore the level, unless the coin be reserved in the treasury as a pledge of the paper money in circulation: thus it is that *paper money drives out coin.* — We may in a certain limited measure, as we shall see, economize upon the portion of the national capital employed in the making of the instrument of exchange. An institution of credit, solidly established, may maintain in circulation a mass of bills which will be in as much favor as specie, provided the metallic reserve guarantees their payment at sight, and provided the bill represents a sufficiently important part of the monetary unit to facilitate transportation and shorten accounts. However, we can supply in this way only a portion of the money needed; but the amount of the latter relatively to the amount of business transactions diminishes in proportion as civilization advances, as society improves, and as credit is extended. In 1873 the wealth of England was estimated at two hundred milliards of francs, and its production at about twenty-four milliards; the total amount of money in the country, metallic and fiduciary, scarcely exceeded three milliards; the wealth of France in the same year was estimated at one hundred and sixty milliards of francs; its production was scarcely inferior to that of England; it had twice the amount (about six milliards) in specie and bank notes. It would be an exaggeration to reckon the wealth of Russia at 50,000,000,000 francs, and its products at 12,000,000,000; it employs about 4,000,000,000 francs in specie and paper money. The possible economy on the amount of capital employed in the medium of circulation, is therefore in an inverse ratio to the sum total of national wealth. The richer a country is, the less it gains by abandoning the solid ground of gold and silver. — The saving of capital effected by the regular use of bank notes would be reckoned high if placed at from one-fourth to one-third of the sum required for the purpose of the exchange of wealth; if we take into consideration the necessary reserves, it does not amount to half a milliard of francs in England, and if it rises to two milliards in France, it is because of an abnormal condition, the result of the Franco-Prussian war, which can not last. It amounts, according to this showing, to the one four-hundredth part of the wealth of the United Kingdom, and to about one-hundredth part of the wealth of France. Regarding this comparison from another point of view, we may say that the interest of the metallic capital thus replaced frees England and France from an annual burden of twenty and eighteen millions of francs respectively, calculating the interest at 4 per cent. This is equivalent to about the one-thousandth part of the production of England, and to about the one three-hundredth part of the production of France. As a matter of course bank notes render much more important service in France by the facility and convenience which they afford, and by the saving which they render possible, even without taking any account of the inconveniences of compulsory circulation, to which France was subjected after 1870. — These gains are not without their accompanying dangers, which grow more serious the more the volume of notes increases. In proportion as this volume increases, the metallic supply decreases, and as confidence is the stuff of which credit is made, if a period of calm and prosperity be succeeded by one of uneasiness, or if imperative needs require a great exportation of specie, every effort must be made to recall the absent metal, even at the cost of great sacrifices and by paying dear for it; this it is that makes the emission of bank notes so perilous; this it is that forbids us to go beyond a certain restrictive limit, unless we would resign ourselves to the dangers of compulsory circulation. If this limit, which is variable it is true, be passed, it necessarily leads to commercial crises when the fiduciary paper has been issued only as the representative sign of private engagements, and to a political crisis when paper money has been issued to meet the wants of the state. — Adam Smith recognized the utility of the "wagonway through the air" of credit, which enables the "country to convert, as it were, a great part of its highways into good pastures and corn fields," highways represented by metallic money. "Nevertheless," he adds, "the commerce and the industry of the country, it must be acknowledged, though they may be somewhat augmented, can not be altogether so secure when they are thus, as it were, suspended upon the Dædalian wings of paper money, as when they travel upon the solid ground of gold and silver." After having pointed out the danger he endeavors to destroy the attraction of an imaginary benefit: "the whole paper money of every kind which can circulate in any country can never exceed the value of the gold and silver of which it supplies the place." — Let us, by an extreme hypothesis, suppose ourselves in a society from which the use of the precious metals has en-

tirely disappeared. If we should go beyond this, as paper money does not unite in itself the characters both of sign and of pledge, and as it does not become a commodity when it ceases to be a means of discharge from debt, it can not flow into foreign countries, and its excess produces depreciation. But who will flatter himself that he can measure exactly the amount of the media of circulation necessary in a country? This amount depends not only upon the mass but also upon the rapidity of exchanges. When the precious metals alone are employed, or when they effect the major part of business transactions, their level is maintained naturally, thanks to the weir which opens on foreign markets: this level can not but be violently disturbed when the bounds of prudence are overstepped by the issue of money paper, and especially when the nation abandons itself to the dangerous seductions of paper money. — The danger exists even when a private institution is granted the dangerous privilege which excuses it from payment at sight; it assumes a much graver aspect when the state itself assumes this perilous function. History furnishes most sad and striking examples of the chastisement everywhere visited upon these same mistakes. France, England, Austria, Russia, and the United States, not to swell the list by citing the instances of secondary states, have paid the penalty of the system of Law and of the assignats, of the forced circulation of bank notes, of the *Bankzettel*, of paper roubles, and of continental money. It is a curious fact that Poland alone, a country which it is sought to blot out entirely from the map of Europe, preserved itself from this plague down to the very time of its subjugation by Russia. This latter country has, on the contrary, always had, upon a large scale, a fictitious system of circulation, which it inherited from Chinese, Tartar and Mongolian traditions. We do not wish to make any vain display of erudition, nor to enter into investigations which could be of interest only to the curious, and we shall therefore confine ourselves to recalling the fact that Genghis Khan made use of paper money, and that, toward the end of the thirteenth century, his grandson Koblai employed it in such a manner as to excite the ingenuous admiration of Marco Polo. This admi ration proved only too contagious: the system, which from China and Mongolia had invaded Russia, was also admitted into western Europe. But we believe we ought to point out, as a remarkable fact, the scrupulous care with which Napoleon I. always guarded against a like attempt. He never consented to the issue of paper money. While England had resort to the compulsory circulation of paper money to resist him, and while Russia and Austria issued prodigious quantities of assignats, Napoleon ever held aloof from this disorder, and de Montalivet, minister of the interior, said, in a circular addressed to the prefects on the 25th of October, 1810: "The emperor regards paper money as the greatest scourge of nations, and as being, to morals, what the plague is in the physical order." — By a singular concatenation of truths and errors the wisest operations of the most severely administered banks have in the end degenerated into a monstrous creation of paper money. — Everywhere in Europe, except in Poland, the right of the crown to coin money, which had pretended to put an end to the fraud and pillage organized by local suzerains, ended by giving rise to successive lowering of the standard, lessening of the weight and debasing of the coin. The great Copernicus wrote, in the beginning of the sixteenth century, upon this important question in a treatise that is almost unknown: "However innumerable the scourges that ordinarily lead to the decline of kingdoms, principalities and republics, the four following are, to my mind, the most formidable: discord, pestilence, barrenness of the land, and the deterioration of the money. As far as the first three are concerned the evidence is such that no one is ignorant of them. But as to the fourth, if we except a few men of superior intelligence, very few concern themselves about it; and why? Because it does not ruin the state at a single blow, but little by little, by a sort of hidden action."— The diversity and variation of moneys was one of the causes that led to the establishment of banks of deposit, which reduced these uncertain signs to a common denomination, by creating bank money fixed and invariable which took into consideration the metallic value of the specie deposited. The notes issued were fully represented by the specie deposited in the banks; to convenience and accuracy they joined the most complete security, and soon gained universal favor. — It was noticed that the greater part of these titles continued in circulation, without any demand being made for the restitution of the specie guaranteeing them. Some banks employed the latter, thus leaving a part of their notes unsecured, at least as far as the metallic pledge was concerned. They were likewise led to attempt the inverse operation by issuing more notes than they possessed reserve in money or in bullion, thus increasing the profits of the institution and replacing a portion of their metallic stock by what we may call trust notes. They had obligated themselves to pay at sight: but as the demands for coin were not made simultaneously, these demands were met by diminishing the amount of their reserve corresponding to the titles issued. The declivity was a dangerous one, the enticement of gain urged the banks of issue to extend their operations, and to utilize more and more the marvelous power they possessed of coining in some measure money from sheets of paper rushed through a press. It is true that their obligation to immediately redeem it forced them to incessant precaution, which was constantly opposed by the allurement of gain: they were in constant danger, if they had not sufficient specie to pay at sight. The situation in this respect in our own day has not changed; it seems to us to lead to a clearer and clearer distinction

between the issue of notes which perform the functions of money and banking operations properly so called, and to give a separate existence, by its concentration, to the power of creating these notes. The two principles, which always made war upon the liberty of the banks and the oneness of the note payable to bearer and at sight, are thus reconciled. — At the time when the errors of the mercantile system estimated the wealth of states by the amount of gold and silver they possessed, the supplementary circulation furnished by the bank note could not but be received enthusiastically. As paper was raised to the level of gold and silver, which were considered as the equivalents of wealth, wealth could be increased at will. There remained, it is true, the troublesome condition of redemption; but this condition, it was said, was superfluous, it was an obstacle to the expansion of capital, and the sovereign authority, which was master of all, might readily do away with it. What an admirable discovery! Was not the genius of Law, as the poets of the time sang, to *Enrichir à la fois, les sujets et les rois;* since he opened an inexhaustible source to the spirit of enterprise, since Mississippi was called by him to become what California has since become! Thus people began by seeking in banks of deposit a remedy for the degradation of the coinage: the bank note circulated because based upon a full specie guarantee; afterward this guarantee was diminished in the banks of issue, and finally disappeared in paper money. — Colbert denounced the unrestricted license to borrow, as a cause of ruin to the state; what would he have said of this formidable instrument of paper money, which was on the point of handing over abundant resources to the prodigality and rash enterprises of governments, by drawing to itself produced wealth, at the risk of destroying it by foolish expenses and by the squandering of a part of the public fortune, which was destined to disappear in smoke under the deceptive form of notes having a forced circulation and of assignats? Sophisms were not wanting to give a brilliant coloring to these disastrous operations. To procure for paper the value and efficacy of money was to make something out of nothing, and to have a share in divine power; wealth consisted in an abundance of money; thanks to paper, people were no longer tied to the precious metals, which would not increase at will, nor follow the commands of man, while paper money, the fruitful and docile agent of the supreme power, could be increased at will. The abbé Terrasson explains in a curious manner this phenomenon of financial optics. "A merchant's note," he says, "as it may be refused in trade, does not circulate like silver, and consequently soon returns to its source; its utterer finds himself obliged to pay, and deprived of the benefit of credit. This is not the case with the king: as every one is obliged to accept his note, and this note circulates as silver, *he pays validly even with his promise.*" "Gold and silver," he adds, "are merely the signs that represent real wealth, that is, commodities. An écu is a note conceived in the following terms: any seller will give to its bearer the commodity or merchandise which he may need up to the amount of three livres for as much of another kind of merchandise which has been given me; and the effigy of the prince takes the place of his signature. Now, what difference does it make whether this sign is of silver or of paper? Is it not cheaper to choose a material that costs nothing, and which one is not obliged to withdraw from trade, where it is employed as merchandise, which, in fine, is manufactured in the kingdom, and which does not render us necessarily dependent upon strangers and owners of mines, *who eagerly take advantage of the seduction or éclat of gold and silver to cause the ruin of other nations;* a material that can be increased according to his needs, without fear of ever exhausting the supply; finally, a material which no one will be tempted to use for any other purpose than for circulation? Paper has all these advantages which render it preferable to silver."— We see that the pretended discoveries, pompously vaunted by the new social alchemists of our day, are but old rubbish, long since condemned by good sense and experience! Doctrines similar to those of the abbé Terrasson inspired Law's system, and led to an emission of 2,696,400,000 livres of irredeemable notes, absorbed by a disgraceful bankruptcy, at an epoch when the value of each piece of money was, we must bear in mind, much greater, and the needs of circulation much less, than to-day; these doctrines, allied with other errors in her coinage system, gave birth to the 45,000,000,000 of assignats in France. The attempt has been vainly made to palliate such a debauchery of credit, by saying that the assignats saved the revolution, just as it has been said that the reign of terror saved the republic. We protest against this view with all the energy of a conviction based upon a scrupulous study of facts. The able memoir communicated to the academy of moral and political sciences by Levasseur shows how the ruin brought about by the disordinate issue of assignats weakened France, and Michelet has eloquently said: "The reign of terror killed the republic by exciting in men's minds a feeling more powerful than that of fear, the feeling of pity!" — A young ecclesiastical student, twenty-two years of age, who afterward became illustrious under the name of Turgot, completely annihilated the errors professed by the defenders of paper money in his admirable letter to the abbé de Cicé (Paris, April 7, 1749). It would be difficult to find more cogent logic enlisted in a better cause. — Save a slight difference, arising from the cost of production, uncoined silver is on a par with coined silver, the money value being only a denomination. "It is as merchandise that silver is, not the sign, but the common measure of other kinds of merchandise, and this not by any arbitrary convention, based upon the splendor of this metal, but because, as it can be employed as mer-

chandise under different forms, and has, by reason of this property, a salable value which is somewhat increased by its use as money, since it can, moreover, be reduced to the same title and divided exactly, its value is always known."—After having clearly stated the true principle, Turgot points out the danger of the arbitrary multiplication of paper. "But," says the abbé Terrasson, "it is to the king's interest, in order to preserve his credit, to keep paper money within just bounds, and this interest of the prince is sufficient to establish confidence." What are these just bounds? and how shall they be determined? Gold and silver are distributed by their very circulation, according to the proportion of products, of industry, wealth and revenue which they procure, as well as of the expenses incurred. Paper money has no measure but deceptive approximations, which a natural allurement is wont to swell at the wish of power. Instead of proportioning its issue to the unknown wants of the market, the latter made its issue conform to the insatiable requirements of the treasury; and ruin was the consequence. This is the common history of paper money wherever it has functioned as an attribute of public power, when the bank note ceased to be protected by a contract, and was transformed into an act of power. — We must not confound the disastrous effects of inordinate emissions with the temporary privilege accorded to a bank, authorizing it to suspend the redemption of its notes in specie. When care is taken to limit the amount of notes in circulation, it is possible to ward off the bad effects of such an act, especially when it is easy to foresee the end of them, and when the prudent conduct of the institution has acquired for it great solidity. — The act of 1797, which made compulsory the circulation of the notes of the bank of England, had but little effect, because they were not increased beyond the actual needs of the home circulation. The entire amount of notes in circulation in 1796 was £10,730,000; in 1797 it was but £9,675,000, and did not exceed £13,000,000 even in 1800. Their depreciation began when the needs of the treasury increased this sum. We must add, also, that the prodigious stir in industry about this time required more numerous instruments of exchange, while it at the same time furnished the sinews of war. Thanks to the inventions of Watt and Arkwright, the English mechanics spun gold, so to speak, and furnished material for the successive loans called for by the treasury, which reached colossal proportions. The bank of England facilitated these loans by discounting the notes of the exchequer, but the circulation of the notes never reached such proportions as to be a source of uneasiness; it never exceeded £20,000,000, except in 1810, and the maximum point reached was £28,000,000, before the resumption of specie payments in 1822. Still, even thus restricted, the prolongation of compulsory circulation was the cause of considerable losses, first by the rise in the price of gold, and then by the painful transition from a depreciated currency to the re-establishment of metallic money. The bank of England, does not, therefore, furnish any argument in favor of the inconsiderate issue of paper money; and it suffices to recall how comparatively moderate it was in its conduct, without, however, escaping the danger of the depreciation of fiduciary paper, to induce us to abandon rash designs of a similar character. — There is much more reason not to cite the example of the bank of France in 1848, in defense of paper money. Every one knows what good services the good standing of this great establishment, the safety of its operations and the care it had always taken to maintain its specie reserve, enabled it to render to the government and to industry during this direful period, in spite of the terrible shock caused by the revolution of February. The compulsory circulation of its notes was in a measure only nominal: public administrations, the manufacturers and the merchants received the specie they needed. The confidence which the bank enjoyed attracted deposits to it. Although it had absorbed the departmental banks, and realized the grand idea of unity of issue, it was restricted at first to a circulation of 452,000,000 francs in notes; this figure was increased to 525,000,000 on Dec. 22, 1849, when its reserve was firmly re-established; its notes exchanged at par, and even at a small premium; and, in reality, it was the specie that had compulsory circulation, as the demand for notes exceeded the supply. The resumption of specie payments was urgently demanded by the bank itself, and prescribed by the decree of Aug. 6, 1850, without causing any trouble. — Thus we see what is gained by not being carried away by chimerical facilities, and multiplying notes as Austria and Russia did, when the wants of circulation did not require it; this multiplication must necessarily lead to the instability of the measure of values, and to a variable lowering of the representative sign in all business transactions. We shall soon tell how France, in the face of apparently increasing financial necessities, in great part escaped this danger; for everything here is a question of proportion. The state which goes beyond this delicate measure tolerates or is guilty of an abuse, and is wanting in the performance of the high mission of power; instead of maintaining order, guaranteeing security, and maintaining the public faith, it becomes itself an instrument of sad disturbance, and at the same time aims a blow at moral law and the interests of production. From the moment that money loses its character of a solid pledge of business transactions, or that, instead of avoiding the variations of value, it suffers their effect, confidence disappears, operations extending over a long period are stopped, credit, the mainspring of industry, is destroyed, and circulation ceases. Paper money destroys the *type*, or, as Lord Liverpool styled it, the *sovereign archetype* of value, the precious metals. The bank note ceases to be their reflection and representative sign: the danger rapidly increases, if, instead of remaining an in-

strument of commerce, and of being backed by the discount on merchandise, it is handed over at the arbitrary will of the state, which transforms it into a mere resource of the treasury. It then becomes almost impossible to avoid a fatal declivity; an excessive emission leads to bankruptcy, for the state always issues more notes than the needs of circulation require, and, in proportion as the law of depreciation manifests itself, it hastens the catastrophe by the necessity of employing more notes to meet the same expenses. — The loss which the country suffers is far from being confined to the diminution in price of the mass of fiduciary signs; it is increased by the unnatural amount of business transactions, rendered so by a fictitious value. The money of a nation never forms but a small portion of its wealth, and the depreciation of paper exercises a direful influence upon all products, which are henceforth distributed in a false proportion. All the relations of the sovereign power with citizens and of citizens with one another, are changed by it; contracts are violated; injustice triumphs, and the public fortune declines as a result of the ruin of individuals. — How deplorable soever the system of paper money appears to us, we do not wish to exaggerate anything; it is not impossible to escape the dangers which it seems to provoke, but to do so we must renounce the idea of seeing in it too rich a mine, and of demanding of it more help than it can render. By confining it to well-defined limits, by scrupulously preventing it from exceeding a fraction of the receipts and expenses of the state, the government may find in paper money, if accepted by all the public treasuries, the means of effecting a real loan without interest. But this can never be but a limited resource, and as it may lead to dire consequences, it would be better to renounce it from the moment there appears a possibility of these consequences. Many of the small German states have treasury notes, which circulate as money, because there are but very few of them. In 1873, with a budget of 1,000,000,000 francs, Prussia had not 60,000,000 of *Tresorscheine;* the duchy of Baden reached a larger proportion, 3,000,000 florins of paper money to a budget of 19,000,000 florins. It is only in microscopic and needy states that the relative proportion is still further increased; but the amounts are small. Saxe-Meiningen had, in 1873, a budget of 2,000,000 florins and 356,000 florins of paper money. Saxe-Altenburg had 400,000 thalers of paper money when the treasury receipts reached only 874,192 thalers, and there were 950,000 thalers (more than $600,000) of this irredeemable paper in Anhalt alone. These modest figures seem insignificant by the side of the 3,000,000,000 of paper money of the Russian empire, which would like to appear less majestic in this respect. If France, at the close of a disastrous war, was compelled to carry such an amount of paper, she did it only by maintaining a larger specie reserve in the presence of wealth treble the amount, and of a trade four times that amount. She endeavored, besides, to resume her normal condition by a prompt redemption of the state's indebtedness to the bank of France. — The two distinctive characteristics of paper money are, that it is not redeemable in coin, and that, instead of having public confidence for its limit, it is imposed by authority, by means of forced circulation and the usurpation of the power of discharging debts. Bad as an instrument of commercial credit, it becomes disastrous as an instrument of public authority, unless it be lessened to such an extent as to render only secondary services. As soon as the attempt is made to use it upon a very large scale, it leads to an abyss. — Never more than in these later times have we seen numerous states applying the dread remedy of *paper money* upon a great scale. The United States at the close of the war of secession, Italy after gaining her independence, and France when defeated by Prussia, have put themselves side by side with Russia and Austria in the use of this dangerous expedient. This affords us a great lesson, for all these states were or are merely endeavoring to escape from a false situation, whose inconveniences they all appreciate. The old illusions have disappeared: men no longer extol paper money; they no longer see in it a source of wealth; they appreciate better the elements which constitute productive power; they know how often an apparent economy is transformed into losses of various kinds, whose amount far surpasses the pretended benefit. — If we sum up the total amount of paper money issued by the five powers mentioned, we will find, after deducting the amount of the specie reserve, that it amounted, in 1873, to $250,000,000,000. This was not *one-seventieth part* of the accumulated wealth of these states; as a pretended increase of productive power, therefore, paper money is a feeble benefit, entirely counterbalanced by the trouble it causes in circulation. The measure is already full, and can not be increased. The common efforts of all civilized nations are directed toward a reduction of the amount of paper money. But should not this necessary reduction of notes render those more circumspect who, acknowledging only gold as a medium of circulation, would run the risk of destroying the necessary equilibrium between business and money? (See MONEY AND ITS SUBSTITUTES.) L. WOLOWSKI.

PARAGUAY (Republic of). Paraguay was one of the numerous provinces included in the vice-royalty of Buenos Ayres, which comprised the Spanish-American possessions connected by the Rio de la Plata with the Atlantic ocean. Like all the other Spanish colonies of Central and South America, Paraguay, when the cry of independence resounded throughout the American continent, succeeded in shaking off the yoke of the mother country, almost without a struggle, in 1810. But this province, which had already had its separate history in the past, a strange history and one entirely different from that of any

other state, also contributed to the revolution which it had just accomplished, features which contrasted in a most striking manner with those of the other republics of La Plata. — A few words here about the past. Paraguay, like the greater part of South America, was conquered to the crown of Spain, about the middle of the sixteenth century, by the hardy adventurers who, on the heels of Columbus, Cortez, Pizarro and Americus Vespucius, had cast themselves upon the new world, as ardent in their endeavors to despoil and enslave the aborigines as to convert them to the Christian faith. But in these remote countries, in which relations with Europe were almost impossible, the religious element soon prevailed over the political element, and the powerful company of Jesus which, since 1588, had through its missions planted the germs of refinement of manners and community life in these countries, obtained, in 1611, the privilege of governing Paraguay, under the suzerainty paramount of Spain. — This government of the Jesuits established a pure theocracy in Paraguay, and maintained it with firmness, moderation and success during more than a century and a half, until the year 1767, when the society was expelled under the ministry of the count of Aranda. We can not here undertake to defend theocratic government, as both experience and reason demonstrate that human societies develop only under the influence of ideas of progress and liberty. We must note, also, that individual action, under the enervating régime of their vast conventual organization, no longer had the energetic stimulus of the feeling of ownership or property. But, when we consider the savage state of the inhabitants, it is impossible to deny that the Jesuits worked a marvelous transformation during their prolonged domination. If they concerned themselves more about the souls than the intellects of the aborigines, if their religion itself was a sort of paganism, tending to divert the natives because external in form in almost everything, they nevertheless bent these large and lazy children to the law of labor; and it is a demonstrated fact that the agriculture of Paraguay was checked after the expulsion of the company, and that even to this day it has not regained its former development, so that numerous localities, formerly well cultivated, are now abandoned. What is specially worthy of note is, that the rule of the Jesuits left a strong impression upon their minds, and that respect for authority remained the heritage of the country when the declaration of its independence handed it over to the experiment of a republican form of government. Nor were its efforts in this direction long continued: while everywhere else, throughout Spanish America, the people sought their way amid endless commotions, the people of Paraguay found theirs without hesitation and without groping; or rather, as immutably disciplined disciples of the Jesuit fathers, the people of Paraguay allowed themselves to be led without a shadow of resistance, by the energetic man who took their destiny in his hands. With the aid of the patriots of Buenos Ayres, Paraguay had overthrown the Spanish domination in the month of May, 1811: a junta had been established, and the victorious insurgents gave the highest place to Doctor Francia, who had taken no part in these events, but whom they regarded as the only Paraguayan capable of directing public affairs. — In fact, from the moment that Doctor Francia was accorded a place in the new republic, he became everything: he first presided over the junta, then when a congress had established, at his suggestion, a government with two consuls, he filled one of the consular chairs, which had been called by the names of Cæsar and Pompey. Soon after, in 1814, the chair of Pompey, which had been only an embarrassment, was removed from the hall of congress, and Francia was named dictator for three years. Finally, the assembly conferred perpetual dictatorship upon him. Thus was the republic of Paraguay governed until the year 1840, when the dictator, weighed down with years, but ever feared, respected and obeyed as a god, was called from the throne and from the world. — Absolute power was not exercised during so many years without falling into excesses. Francia, who had obtained supreme power at the age when passions are extinct, and who had immediately renounced all taste for gaming and sensual indulgence, hitherto the sole object of his life, abandoned himself to the sombre passion of old men, vengeance. He was sure of the submission of the people, but he wished to inspire fear, and he cared little whether he was hated or not. Those who had known him best, those who, in the beginning of his career, had helped to bring him forward, and whose jealousy had been excited by his new greatness, were the more especial objects of his pitiless spite. Under pretext of conspiracy, his old friends were imprisoned, judged by him alone, and executed. His dictatorship was a veritable reign of terror, and even to-day scarcely any trace can be found of the bloody executions he prescribed, as his written orders were returned to him after the execution, and by him immediately destroyed. — Francia had, we may add, no regard whatever for human life, and this is the odious feature of his dictatorship; but his cruelty, his strange and fantastic humor, did not constitute the entire man, for whose continued power there would be no pretext, even in Paraguay, if he were not possessed of certain striking public virtues and of extraordinary governing qualities. The old dictator, with a preconceived system, devoted himself to what he believed to be the interest of Paraguay. Much better informed than any of his countrymen, he took everything into his own hands, always knowing the end which he wished to attain. Without ministers, without counselors, without confidants, he had with him only a secretary of the lowest rank, called *actuario*, who recorded his wishes, without pretending to influence them. He was ever disinterested: he said that the state stood

more in need of money than he did, and of the 9,000 piastres assigned him by congress he never took more than 3,000 piastres a year. Such being his own practice, Francia impressed upon his whole administration rules of austere probity which singularly contributed to render his name popular. — The dictator's policy was very simple; it was the policy of isolation. He aimed at maintaining Paraguay free not only from all contact with Europe, but also and especially from all intercourse with the ancient provinces of the vice-royalty of Buenos Ayres. There was never a shadow of indecision in his conduct, in this regard. Despite all the attempts of the governments that succeeded one another in the Argentine Republic, he never would admit that the autonomy of Paraguay could be broken, and in the last years of his life he even refused to examine the pressing demands addressed to him on this subject by Rosas, who was then at the height of his power. This had been somewhat the policy of the Jesuits; but Francia, who was thoroughly imbued with the anti-Catholic ideas of the eighteenth century, had not the religious motive of his predecessors. He wished to defend himself against liberty, which, in fact, did not work wonders in the Argentine countries, where Rosas had inflicted upon the people a dictatorship more severe than that of Francia himself, without giving, in exchange, the profound peace which can scarcely be said to have been interrupted, during the thirty years of Francia's rule, by a few aggressions of the savages from the desert. — The death of Francia, which occurred in 1840, left the work which he had created without a guide. But after him, in default of statesmen, there remained the people whom he had trained to obedience, and who, faithful to their tranquil habits, passed over the period of transition to a new government without any trouble. They remembered what had been done in 1810; a general constituent assembly was convoked, elected by universal suffrage, and composed of five hundred members. This assembly appointed two consuls to govern the republic, Don Carlos-Antonio Lopez, a wealthy landed proprietor, and Don Mariano-Roque Alonzo, commander-in-chief of the army, who had been called by the voice of the public to provide for the most urgent wants of the government, and for the convocation of the representatives. The powers given to the consuls were to expire at the end of three years; and superiority on the one hand, and deference on the other, were so firmly established, that the three years elapsed without the least collision. But in 1844, when the assembly met again, it happened, as in the time of Francia's administration, that one of the consuls absorbed the other. Antonio Lopez was named president for ten years.— The presidency of Paraguay became a real dynasty. When his constitutional term had expired, Lopez wished to be succeeded by his son, Don Francisco-Salano Lopez, and the assembly very graciously lent itself to this notion. But Gen. Lopez declined the honor tendered him, and his refusal does not seem to have displeased the head of his family, who willingly allowed himself to be renominated. It was not until 1862, on the death of Antonio Lopez, that the congress finally called Don Francisco-Salano Lopez to the decennial presidency. — The elevation to power of Don Carlos-Antonio Lopez had been of immense benefit to Paraguay, and his son, still more completely freed from the traditions of Francia, and more inclined to the civilization of Europe, which he had visited, promised to continue the benefit. Don Antonio had governed Paraguay with mildness, and his patriarchal justice was full of mercy. Of the foreign policy of Francia he had retained only his determined resolution to maintain the autonomy of Paraguay, and to preserve it against the attempted invasion of its turbulent neighbors. He would not at any cost return into the distracted pale of the old vice-royalty of Buenos Ayres, and exchange the order and prosperity which his fellow-countrymen enjoyed for the deceptive unity of the Argentine provinces, a unity fruitful only in endless civil strife. But what was his personal work, and remains his title to honor, is the intention he formed, and afterward accomplished, of demolishing the Chinese wall which Francia, after the example of the Jesuits, his predecessors, had built around Paraguay. He above all wished to open communications with Europe. Owing to the persistence with which he pressed the conclusion of treaties of navigation and commerce with France, England, the United States, Brazil, etc., the isolation of Paraguay was in part done away with in 1860. This isolation was due in great part to the very situation of Paraguay. It is a vast plateau of arable land, watered by mighty rivers and numerous streams, but elevated above all the other countries of South America, situated in the very centre of the continent, far from any sea, and has communication with the other states only by means of its two rivers, the Parana and the Paraguay. The fixed purpose of the two Lopezes was to secure the freedom of navigation of the two rivers. The second Lopez established it by a decree. He also had a railroad constructed. Very much inclined to the economic progress of Europe, whence he had returned *decorated* (an immense prestige in America), he had resolved to make of Paraguay a state of large resources, and economic works, after the fashion of France in 1852 and the succeeding years, whose political constitution he pretty closely copied. He acted as the ruler of a country of 901,640 square kilometres and 1,337,000 inhabitants. The revenues were increased to 12,450,000 francs, derived principally from the sale of the herb *maté* (Paraguay tea), from the domains (over 8,000,000 francs), and customs duties. Paraguay had no public debt, and its 4,500,000 francs of paper money were secured by a specie reserve of an equal amount. Its imports amounted to over 8,000,000 francs, and its exports to 7,000,000. — Lopez's position as head of the state was a unique one; less than 7,000

square kilometres of this vast country belonged to private parties; the remainder was state domain administered by Lopez. All the farmers were therefore his tenants, so to speak; the manufactures which they produced were his; Paraguay was but an immense farm in his hands. Its means, however, were not in keeping with the greatness of its natural resources: these fertile plains were worked with the spade; the farmers who used the plow were few. There was no industry but that which was improvised for the necessities of war. The navigation of the Paraguay was at the mercy of Buenos Ayres, which commands the mouth of the river. The hostility of the Argentine Republic was surpassed by that of Brazil, which, for the ownership of vague and contested territory, drew the other states bordering on the Parana into a coalition which overcame Lopez. — Brazil demanded the left bank of the Paraguay (1864), and the Argentine Republic the right bank, which is possessed by Uruguay. It was against Uruguay that the coalition was first formed. The two greedy governments, refusing the intervention of Italy, put in power, in opposition to the moderate (*blanco*) government which regularly governs Uruguay, the revolutionary (*colorado*) party, which invaded the republic. Lopez, who was friendly to the *blancos*, felt himself threatened, and while refusing an alliance with Uruguay, he protested against the invasion of the Brazilian squadron in lower Paraguay, Nov. 17, 1864. He declared war against Brazil, and invaded the Brazilian territory. Flores, the *colorado*, who, with his Indians and half-breeds, and the assistance of the allies, took possession of Montevideo, joined the coalition. This struggle of one against three, of a great military farm against three nations provided with every industrial and maritime resource, moved Europe. Lopez was on good terms with the governments of Europe, and also with the United States; but American intervention was rejected by Brazil. This empire, which evidently dragged the two republics of La Plata into the struggle against their will, pushed matters to extremes. Lopez, five times conquered, five times repaired his losses by a general conscription, comprising women and children. He was finally captured and killed. There are few examples in history of a war so desperate, and so complete a ruin (1865). The population of Paraguay fell from 1,330,000 to 500,000, and the revenues from 13,000,000 francs to 2,000,000. — It seems that the conquerors wished partially to justify their ordinary, and in this case plausible, pretense of making war only in the interest of civilization and liberty; for, after having stipulated for the territorial acquisitions which they had long demanded, they left the Paraguayans free to manage their own home government. By the treaty of Suret, concluded with Brazil and the Argentine Republic May 1, 1865, and ratified June 20, 1870, Paraguay was allowed to retain only the territory situated between the Paraguay and Parana rivers. Hence the area of the republic is at present only about 172,500 square kilometres. A constitution, proclaimed Nov. 25, 1875, provided for a president for four years, and a legislative congress composed of a senate and a chamber of representatives. It is substantially a reproduction of the constitution of the United States. — Examples of such efforts as Paraguay now made to repair so complete a catastrophe are as rare as the catastrophe itself. The government of Paraguay proposed the sale of the immense national property, which comprised almost its entire territory. But these lands had to be hypothecated to guarantee a loan of £25,000,000, which was effected in England. In 1862 there was no public debt: in 1870 it amounted, besides the English loan, to 1,180,000,000 francs. Disorganization was such that the government had lost the titles to its property; a special commission had to be appointed to enforce the rights of the state. The instruments of production and the products themselves were everywhere damaged, when they were not destroyed. The railroad had to be supplied anew with rolling stock, workshops and stations. They had to rebuild public edifices, reestablish tribunals, issue paper money, take measures for the representation of Paraguay at the international exposition of Cordova, and to encourage immigration. Slavery was abolished (1871), the standing army reduced, and foreigners admitted to the enjoyment of all the rights of natives, but not to high political and administrative functions.* — BIBLIOGRAPHY. L. A. Demersay,

* The ministry consists of five secretaries, presiding over the departments of the interior, of finance, of worship and justice, of war, and of foreign affairs. For administrative purposes the country is divided into seventy departments (*departementos*), governed by commanders. — The public revenue of Paraguay is derived mainly from customs duties. In 1881 they yielded £82,548. In 1882 the expenditure was estimated to amount to £82,685, inclusive of interest on the debt, army expenses and other items. — The republic had no debt until the war of 1865–70, which led to the raising of large internal loans. In 1871 and 1872, the government contracted two foreign loans, the first of the nominal amount of £1,000,000, and the second of £2,000,000, each bearing 8 per cent. interest. The loans, issued at the price of 80, were hypothecated on the public lands of Paraguay, valued at £19,380,000. Payment of both interest and sinking funds on the two loans ceased in 1874. No part of the previous payments, according to the report of the select parliamentary committee on foreign loans, 1875, "was provided for by the government of Paraguay, but the whole was derived from the proceeds of the loans themselves. Since these funds so set apart have been exhausted, no payment on account of interest or sinking fund has been made by the government of Paraguay." According to treaty stipulations arising out of the war of 1865–70, Paraguay is indebted to Brazil to the amount of 200,000,000 pesos, or £40,000,000; to the Argentine Confederation to the amount of 35,000,000 pesos, or £7,000,000, and to Uruguay to the amount of 1,000,000 pesos, or £200,000, being a total war debt of 236,000,000 pesos, or £47,200,000. — The military force in the war against the united armies of Brazil, Uruguay and the Argentine Republic, carried on during the years 1865–70, comprised 60,000 men, including 10,000 cavalry and 5,000 artillery. These troops were afterward altogether disbanded, and the entire force in 1877 consisted of 185 foot soldiers, forming the garrison of the capital. The permanent army is only 500 men. — The frontiers of the republic, not well defined previous to the war of 1865–70—large territories considered part of it being claimed by Brazil, Bolivia and the Argentine Confed-

Histoire physique, économique et politique du Paraguay et des établissements des Jesuites, 2 vols., 8vo, Paris, 1865; Alfred Du Graty, *La République de Paraguay*, 8vo, Bruxelles, 1865; K. Johnston, *Paraguay*, (in "Geographical Magazine," July, 1875), London, 1875; A. J. Kennedy, *La Plata, Brazil and Paraguay, during the War*, 8vo, London, 1869; Chas. Mansfield, *Paraguay, Brazil and the Plate*, new edit., by the Rev. Charles Kingsley, 8vo, London, 1866; G. F. Masterman, *Seven Eventful Years in Paraguay*, 8vo, London, 1869; M. G. and E. T. Mulhall, *Handbook to the River Plate Republics, etc., and the Republics of Uruguay and Paraguay*, 8vo, London, 1875; Commander Thomas G. Page, *La Plata, the Argentine Confederation and Paraguay:* Narrative of the Exploration of the Tributaries of the River La Plata and adjacent countries during the years 1853-6, under the orders of the United States Government, 8vo, New York, 1867; Charles Quentin, *Le Paraguay*, 8vo, Paris, 1866; George Thompson, *The Paraguayan War*, with sketches of the history of Paraguay and of the manners and customs of the people, 8vo, London, 1869; Joh. Jac. v. Tschudi, *Reisen durch Suedamerika*, 2 vols., 8vo, Leipzig, 1866; Chas. A. Washburn, *The History of Paraguay*, with notes of personal observations, 2 vols., 8vo, Boston and New York, 1871; Fregeiro, *Diccionario geografico e historico del Rio de La Plata, etc.*, 1878.

CHAS. REYBAUD.

eration—were fixed by a treaty of alliance between Brazil, the Argentine Confederation and Uruguay, signed May 1, 1865, to be between 22° and 27° south latitude, and 57° and 60° west longitude, of the meridian of Paris. By the final adjustment of the boundaries between Paraguay and neighboring states the area of the former is now estimated at 91,970 square miles. — An enumeration made by the government in 1857 showed the population to number 1,337,439 souls. — At the beginning of 1873 the number of inhabitants, according to an official return, was reduced to 221,079 souls, comprising 28,746 men and 106,254 women over fifteen years of age, with 86,079 children, the enormous disproportion between the sexes, as well as the vast decrease of the population, telling the results of the war. Since that date, another enumeration was taken, in 1876, the returns of which state the population at 298,844, being an increase of 72,765 in three years. About one-third of the inhabitants are living in the central province, containing the capital, the rest being spread thinly as settlers over the remaining portion of cultivated country. Nearly three-fourths of the entire territory is national property. — The chief article of foreign commerce of Paraguay is the *yerba maté*, or Paraguayan tea, made of the leaves of the *Ilex Paraguayensis* tree, dried and reduced to powder, which are extensively consumed in all the states of South America. About 7,600,000 pounds of tobacco were exported in 1881. However, the total commerce of the republic is very small, the aggregate of imports and exports not amounting, on the average, to more than half a million sterling per annum. In 1881 the imports amounted to £255,600, and the exports to £362,400. The imports are derived to the extent of three-fourths from Great Britain, and one-fourth from France and Germany. The British imports are passing entirely through the territories of Brazil and the Argentine Confederation, and since the year 1862, when a few articles of machinery and furniture, valued at £1,764, arrived from England, there has been no direct intercourse between Paraguay and the United Kingdom. — The only railway in Paraguay is a short line of forty-five English miles, from Asuncion, the capital, to Paraguay. There are no lines of telegraph but one at the side of this railway. —F. M.

PARASITES, Social. The parasite is one who lives at the expense of other men. The number of parasites is so great, and their place in this world so considerable, that we can not speak of the general economy of societies without concerning ourselves with them. No human being can live unless he has become exclusive master, that is to say, proprietor, of some portion of matter, be it but the piece of bread or of fruit which he is on the point of eating, or of the clothing which covers him. Some men live by the honest acquisition and accumulation of property, or by the just conservation of property previously acquired; these constitute the useful and active part of the human race. Others live on the resources of their neighbors; but it is none the less necessary that they should obtain the proprietorship of the things indispensable to their subsistence. A man may live by the use and consumption of the things or the product of the things which he has previously obtained by occupation, or which have been acquired, preserved or accumulated by virtue of the right of inheritance. We call individuals thus provided, proprietors, capitalists. The usage of speech reserves these names to persons who possess more material objects than are needed to satisfy the immediate wants of life. It is not customary, though he really is one, to call a proprietor the unfortunate man who possesses merely his clothing or his food for the day. A man may own nothing, either in capital producing an income or in stocks of provisions or other property, or he may possess only an insufficient quantity of these, and yet live upon his own resources. Within each one of us there is a powerful instrument of acquisition capable of furnishing material objects for our enjoyment. This inner most personal force, superior if not to all, at least to the usual and probable, risks of chance, is labor; in other words, the development of our powers of activity. Through this force we are enabled to render useful service to ourselves and others; and we acquire with certainty our share of property by the exchange of services, and accidentally by occupation. When a man lives neither by his own labor nor capital, a term in which, for greater convenience, we include all property previously acquired actually laid by, he must live by the labor or capital of others. Every man belongs then, necessarily, to one of these classes: capitalists, workmen, parasites. We are wrong in speaking of three classes: in truth, what are called classes here are only three attributes, three aspects of humanity. Two of these qualities, or all three of them, are often united in the same person. When we range men in these three classes, we take principally into consideration which of the three qualities is predominant in each of them. — Mirabeau, in the discussion on the tithes in France, uttered the following words, which provoked the murmurs of the assembly: "It is time to renounce the prejudices of a proud ignorance which disdains the words wages and wage-workers. I know of but three ways of existing in society: a man

must be a beggar, a thief or a wage-receiver Proprietors themselves are merely the first among wage-receivers; what we commonly call his property is nothing but the price which society pays him for the distribution which he is intrusted with making to other individuals, in return for his consumption and his expenses. Proprietors are the agents and stewards of the social body." The following day the abbé Duplaquet, on resigning from a priory, said: "I commit myself to the justice of the nation; considering, whatever M. de Mirabeau may have said on the subject, that I am too old to earn my wages, too honest to steal, and that the services which I have rendered should excuse me from begging." This witty repartee of the abbé was misleading; the right to the continuation of his wages was already earned, for the reward for past services is one of the elements of honest wages. The assembly, therefore, did wrong to receive it with murmurs, and to take offense at the term wage-receivers, which its great orator, obeying the luminous boldness of his good sense, tried to free from an unmerited reproach. Mirabeau's classification approached the truth, but did not reach it; proprietors are not wage workers; beggars and thieves constitute the principal branches of parasites, but do not include them all. Mirabeau was right in saying, with the physiocrates, that, being the agents and stewards of the social body, proprietors distributed wages for their consumption and their expenses: the inaccuracy consisted in pretending that they received social wages for that distribution. This was to confound the origin of its acquisition with the use of the thing, and to take account only of the service rendered by property, and not of its right over the thing. Owners of property gain the right to wages only in so far as to the character of proprietor is joined the character of workman, which, it is true, is usually added and in varying proportions, but which corresponds to a different order of relations. Owners, masters of their property, use it to suit themselves, in their own interest, at their own risk; the utility accruing indirectly to society from this use is the only service inherent in their quality as owners, and calls for no reward. It is in this use itself that they find the pay for this service. When society guarantees them the peaceable, permanent possession and the free enjoyment of their property, it does not pay them wages; it fulfills its own duty by causing the rights of owners to be respected; they it is who, by paying their taxes and bearing other public burdens, pay society for the service it renders them by guarding and guaranteeing their property. They distribute wages only because these wages bring them a profit by means of the values in things or services, of which wages are the representation, and the thing given in exchange for. The social utility of property is the consequence of its right, but neither its basis nor its measure. To lift the respect due to property to its true height, it is necessary to go to the length of saying that even if property remained idle, unproductive or badly used, it would still be sacred for the same reason and in the same degree as if employed in useful consumption and productive expenditure. Very distinct in theory, the quality of the proprietor and that of the wage-earner are linked together in the concrete realities of life by numerous points of contact, and are frequently found united in the same individual. Every workman possesses in his own person an immaterial capital, which consists in his capacity for labor. It is composed of his natural activity, his theoretical instruction, his practical skill; the direction which his moral development imparts to his powers must also be included as of great importance. Even if we confine ourselves to the consideration of material objects which may become property, it is not necessary, in order to find workmen capitalists, to consider only great manufacturers, etc., operating on a large stock previously accumulated. The artisan who has become owner of his tools and furniture is a capitalist, though on a modest scale; for he possesses articles which enable him to live, and things which he can use without destroying, and which will continue to be ulterior instruments of gain to him. In proportion as his property increases, as his tools become more numerous or better, as his stock of provisions accumulates for future consumption, his character as capitalist becomes more evident. — There are capitalists who live only on their capital or on their income; but they are in the minority. The majority employ a certain amount of paid labor in giving life to, fructifying and increasing their property. Of all the sophisms used to pervert the understanding of the public sentiment, one of the falsest and most productive of danger is that which, exalting labor at the expense of property, endeavors to range capitalists among parasites so far as that part of their fortune not produced by actual labor is concerned. The full and peaceful enjoyment of property, accompanied by its essential character of indefinite transmissibility, would be the wisest of calculations and the most useful of combinations, even if it were only the result of human convention. But property is more than this: it is a right, and, to consider it only in its relations with labor, it is the right of labor itself. Take away the certainty of being recognized as the master of goods legitimately acquired, and you break the spring of the activity which acquires them; deprive the father of a family of the assurance of transmitting the property acquired or preserved for his children, and you have destroyed the family spirit, and with it saving, temperance, providence, resignation, and plans for the future. Man is born for labor; but he craves repose, leisure, and the serene and disinterested culture of the mind. To stigmatize in theory, or disturb in practice, the past of which capitalists are the depositaries, would be the death of the present and the future. Labor, which is future property, has confidence in its forces only through the stability of property, which is, mainly,

past labor. — The parasite uses his neighbor's goods, that is, his property or his labor, without giving in return anything or any service. But it does not follow because an object was acquired parasitically, that it was illegitimately obtained. Ownership of things originates in several legitimate ways. Its first source is in the right of occupation; by virtue of which a vacant thing is appropriated by the person who first takes it. This origin excludes all idea of a parasitic acquisition, since it relates only to things to which no other person had acquired a right. Things already occupied can only be acquired by transmission. Transmission is legitimately effected in three different ways. One is inheritance, which, considering as a unit the natural association of relationship or affection, transfers the property of a deceased person to his heirs, by title of the civil continuation of his person. The heir is not a parasite, since he acquires in virtue of his own right, which is the complement and consequence of the full and entire right of his parent. Another way is exchange, through which property is acquired for an equivalent furnished in things or in services. Thanks to exchange, each man need owe to himself alone the means of living and owning property, and thus obtain independence and dignity from his own free acts. The third legitimate way of transmission is the way of gift. This is the only source of existence regularly open to parasite life. Outside of these four modes of acquisition, morality and law recognize no other. Robbery, rapine, cheating, extortion, confiscation, war, every act which takes another's goods by fraud or violence, should be ranked as a crime or misdemeanor. There are some distinctions to be made on the subject of confiscation and war, which may be legitimate by way of exception, but which are then resolved into forms of exchange, and as a reparation for damage caused. — Parasites live irregularly, by misdemeanors, or regularly by gift. With regard to parasites of the first order, Mirabeau was right when he called them robbers; it is for the penal laws to settle with them. These parasites are found in every station of life, in all degrees of the social scale, and even among the wealthy. To live by confiscation, to grow rich by unjust privileges, to receive pay for work which is never done, for a place which is never filled, to break a contract or one's word, to appropriate by violence, by cunning, by credit or by power, the goods, the work, the liberty, the rights of others, is to take the place of the lowest of parasites without any exhibition of shame. — Society, in its relations with this corrupt and corrupting class of men, has duties of various kinds to fulfill. The first is to punish them; the second is to see that the punishments inflicted furnish security and serve as an example to the rest of the people; the third is to turn the penalties into an effort to reform the guilty, and above all to prevent their becoming, through the fault of institutions, a new cause of individual corruption and social danger. With these public duties is connected everything which relates to penal legislation, to the administration of repressive justice, to the management of prisons, to banishment, and to the penitentiary system. Too mild punishment disarms and discourages society. Excessive severity destroys the sentiment of justice, and causes it to degenerate by putting vengeance in its place. It invites impunity. The cause of the greatest moral disturbance is to be found in a cowardly complaisance toward wealthy parasites, whom their social position raises up to serve as an example, which position they have not been able to protect from the baseness of living at the expense of others. To surround illy acquired wealth with honor, to lavish unmerited bounties, to urge to cupidity, to arouse vicious inclinations, as happens, for instance, when the official character is soiled by connecting it with lotteries and gaming establishments, is to widen the breach for the invasion of parasites. The want of enlightenment and mistakes of calculation lead society to such a result, when, even without immoral intent, it combines or manages its institutions in such a manner as to take from the common fund, made up of the contributions of all, the means to support monopolies, privileges or franchises, which return nothing to compensate therefor, monopolies created in certain kinds of labor, services, commerce, industry. If we examine the protective system closely, it will not be difficult to perceive that its principal wrong is that it establishes and develops artificially parasitic privileges, covering them, often in good faith, and without understanding their real effect, with the cloak of general utility. It is not given to human laws to remedy everything; and, whatever be their wisdom, a part of the race will always live on the spoils taken from the other part. But we are justified in wishing that laws and governments should have a sound understanding of what is just, and should unite to the sagacity which points out evil, the probity to hunt it down, and the constancy to stop its progress as far as lies in the power of man. — The parasites who live on gifts, and whose existence thus depends on a regular title, even in the case when irregular causes have given birth to this title, are a curious and difficult subject of study. All the questions of pauperism belong to this subject, but they are not the only ones that belong to it. Gift, a legitimate source of acquisition, is an indispensable element in the harmony of society. It is a result of the completeness of the power of the proprietor, who is free to deprive himself of his property gratuitously, without receiving anything in return. To receive gratuitously the services or the property of another is a parasitic act, the character of which is determined by the circumstances which accompany it, and which is, in itself, neither good nor bad. The name parasite is given to persons who, by habit and these parasitic acts, live altogether or principally by donation. The moral disfavor which custom attaches to the acceptance of the services or property of

others without giving an equivalent therefor, arises from an honorable susceptibility, and answers to a respectable instinct of dignity, but is not always just. This acceptance, if confined strictly to its economic meaning, should be morally neutral, in spite of the idea of inferiority and dependence which it implies; it is right in some cases, but wrong in others, to make such gratuitous acceptance an expression of contempt. What is beyond all controversy, is, that we must not apply the harsh term beggar to all those who live by gift. The idea of mendicancy is connected with the idea of a permanent condition of solicitation based on the allegation of entire helplessness to procure the necessaries of life in any other way. The man is not a mendicant who receives the donation without asking for it, especially he is not one who receives it as a consequence of affection existing between him and the donor, or as the satisfaction of an obligation connecting the donor with him. Beggary is confounded with rapine and robbery when it exacts assistance instead of requesting it. — Among those who receive without giving, and who live on the substance of others without furnishing anything of their own in return, must be reckoned nearly all the human race during the period of childhood. Our first years are passed in absolute impotence as far as productive labor is concerned. This time is devoted to physical, intellectual and moral development, destined, no doubt, to create in those who reach the age of maturity an immaterial capital of force and activity, but which may never have this result. The age of productive labor is reached at different periods by different persons. Ordinarily it commences too early in the poor families of artisans and agricultural laborers, who hasten to employ their children in a lucrative occupation, while the more provident or well-to-do families are not so hasty to consume the present at the expense of the future. The quality of capitalist belongs to children only in exceptional cases. The number of those who are born with a fortune of their own and who can be supported and reared by means of their own property, is extremely small, even in the wealthy class. If we consider children in individual isolation only, they must be called parasites, for they live solely on the resources of others given to them; but they figure in society as members of the collective being called the family, of which they form an integral part by right; and the family itself would become a parasite, if by impotence or bad will, it should allow the cost of their subsistence to fall on others. The child lives at the expense of the family without giving any actual return, unless in affection, in happiness, in morality, in hopes, precious values indeed, but which can not be measured. Later, the child should make a return for the assistance and services rendered it in advance. Its right to existence rests on a two-fold foundation: on the duties which the instincts of our nature engrave on our hearts and dictate to the positive law; and on the continued mutuality of obligations, which, contracted to some, are paid to others, converting our debts to our fathers and mothers into credits to our children. The civil law obliges parents, fathers and children, the ascending and descending lines, to support each other reciprocally. The natural law extends beyond this circle of family duties. — The family is not the only collective being on which the responsibility rests of supporting its members. The same duty is imposed, in different measures and proportions, on numberless associations into which men are collected. There is a class of associations, such as the societies of mutual aid, whose capital, formed by means of individual contributions, is intended for those of its members who are in distress or who reach a certain age, or a certain time of service. The assistance demanded in this case is not a donation, it is a credit, a regular and foreseen employment of a common saving collected for this purpose. The party who receives aid here is in no way a parasite, not even with regard to those particular bodies, so long as he receives his share only after having fulfilled the conditions of his contract. He becomes a parasite with reference to the association, if, without having furnished his due, he receives from its bounty, instead of from his own contribution, the assistance which is given him. But the individual thus assisted is not a parasite on the rest of society, since he lives on resources which the rest of society did not contribute to provide for him. A county undertakes the support of its poor. These are parasites with reference to it, but not to the rest of the country, which is not called on to do anything for them. The same must be said of individuals assisted by private charity; which, by taking them in charge, relieves society in general to that extent. It is to be remarked, however, that, as the resources of private charity are limited, the parasites who exhaust it prevent it from being extended to others who need it as much or more than they; and in this manner they contribute to increase the number of the needy. It is a fundamental truth, too little recognized, that, different from other duties, which have corresponding rights, there is no right which corresponds to the duty of charity. The rich man must relieve the poor without the poor having any right as against the rich. Religion has admirable doctrines on this subject which public law might profit by: while it teaches charity to some, it commands gratitude and resignation to others. Private charity is a debt of conscience and love, and not a debt by right; it does not obey precise rules, and is not governed by the calculations of human prudence; it feels that its most urgent cares, its most bountiful assistance, its most affectionate consolations, should be given to unmerited suffering, but it desires to assist even those who have deserved their misfortune by their faults. Thus, to extend its benevolent duties, it is enough for charity to say that each man ought to feel his weakness to be such, that he should not arm himself arrogantly

against indulgence. Charity has its eyes fixed, not on what it gives, but on what it has itself received. All men would be charitable if they would remember the large number of services which each one receives from his neighbors, no matter how brilliant his actual situation may be. There is not an individual who does not draw abundantly from this large capital of the universal domain transmitted and increased from generation to generation, and who does not take much more from it than he can ever return to it. We owe too much to others to be authorized to bargain our assistance to those whom it is possible for us to aid. — Public charity is governed by narrower and more worldly rules than private charity. Consequently, men correctly cease to call it charity, and give it the more modern name of public assistance. Charity, which is love, strips itself to give to others. When the state gives and assists, it strips itself of nothing; its action is limited to distributing in a certain fashion the contributions which it levies on its citizens. Not every gift is charity; the assistance distributed by the state is only a branch of the public administration. The only parasites at the expense of the state should be the poor who can not be properly cared for by their families, associations or private charity. To live in a purely gratuitous manner at the expense of the state when not compelled to accept the gifts by which it supports the needy and unfortunate, is to belong to the worst class of parasites, to that class of people who are able not to be parasites, a perverse class, a public pest, whose close relationship with robbers we have previously pointed out, and to which we need not return. It only remains for us to speak of parasites who are really poor people. State donations, like private gifts, are essentially one-sided, in this sense, that the moral duty imposed on the donor does not suppose any right in the recipient. Where credit begins, donation ceases. It is the desire of humanity that human beings should not be left to perish of distress; it is the dictate of prudence that a mass of men excited to disorder and crime by the spur of want should not be left to increase in the bosom of society; but the duty of the state to be humane and prudent creates no right to demand its assistance. The destructive sophism which converts want into credit has been revived in our time under the names of the right to existence, the right to labor, the right to assistance. It has been frequently refuted in this cyclopædia. (See ATELIERS; CHARITY; COMMUNISM; LABOR, RIGHT TO.) The falsest sophisms are generally the exaggerations of a correct idea, or the improper generalization of a particular truth. The numerous varieties of the anti-social sophisms which parade the name of socialism, place their point of support on the undeniable theory of reparation of wrongs, but they draw strange conclusions from this. By attacking not only society, but also the law of sociality, the sacred foundation of society, they affect to see in the conditions of every-day life, such as it has been organized by the universal consent of nations, the abasement and ruin of individuals, instead of finding in it a fruitful and efficient cause of their prosperity and development. A proposition which remains true in spite of the crookedness imparted to it by these sophisms, is this, that when suffering is born of the sins of society or governments and the vice of institutions and of laws, it is no longer a question of humanity, decency and wisdom, but of a strict obligation of the state to alleviate it. It is no longer a case of donation, but of credit. Society, being held to repair its own wrongs, is not obliged to correct those which individuals inflict on themselves, any more than those which they suffer from others or from undeserved misfortune. It would be to destroy the dignity, the liberty, the responsibility of individuals, to transfer to the social body the task belonging to each one of guarding, preserving and developing himself. What society owes its members, is, to protect and guarantee the free exercise of their rights with all its strength; its office is not to think, to will or to act for them. The more liberty a state insures to its citizens, the less attention it owes their interests, since it leaves these interests more completely to the management and responsibility of the citizens themselves; if it interferes in private life and exerts an influence in managing the property of individuals, its responsibility to individuals increases with every extension which it gives to its guardianship. For societies, as well as individuals, to do good, is a secondary duty; not to do wrong is the first. The wants of a wise administration counsel the state to assist the parasitic mass, but the obligations not to create parasites itself, an obligation a hundred times more serious and binding, is antecedent to this. It should not act like a surgeon who would first wound the passers by, and then offer them his services. Society creates paupers, and consequently parasites, when it turns from the straight road of justice, and, changing the noble office of guaranteeing and protecting property into a tyranny, takes possession of property and labor, or injures them by its exactions: it creates paupers when it arrests or hampers the free exercise of moral, intellectual or physical activity, the natural expansion of labor, the legitimate acquisition or transmission of property; it also creates paupers when it offers a premium on vice, idleness and lack of courage, by too great a readiness to grant relief. Society, through the enormous power which it wields, feeds and increases the evil when it distributes imprudently what it believes to be its benefits. The moderation in public assistance commanded by prudence, rests also on another basis. The state, which can levy only on the services and the property of workmen and capitalists, should never forget that whatever it gives is necessarily taken from the goods of its citizens; generosity at the expense of others easily degenerates into spoliation. — The assistance given to parasites is an expedient rather than a remedy. Social progress

consists, not in maintaining and supporting a greater number of parasites, but in decreasing and eliminating the parasites in existence. The perversion of manners, the extinction or abasement of the moral sense, makes most parasites. A bad book, a vicious sophism, an evil example, creates more misery than hail, fire or famine. If it is necessary, because they are men, to assist human beings who consume without producing and receive without giving, it is imperative to attempt their reformation and endeavor to make them acquire property through morality and labor. Next to the task of improving its institutions and its laws in order to free itself from participation in evil, society has no more important mission than to obtain good results from good laws by improving the morals of men. The amount of misery is enormous, and alarms the most civilized societies. The true problem would be to dry up or lessen the thousand impure channels through which it is formed and increased. Society should by law leave religion free to propagate its principles; it should open schools, make education and enlightenment general, honor letters, sciences and arts, elevate the moral sense, exalt disinterestedness, remunerate services rendered, give life to indolence, smooth obstacles, remove all obstructions of the market. Its firm and vigorous humanity should avoid, as far as possible, the degrading form of alms; it should without asperity, uniting prudence to kindness, never forget that severity is generally more merciful than weakness. The danger is great, when the instinct of natural dignity which finds unearned bread bitter, grows weak and loses its honorable sensitiveness. The loss of the feeling of responsibility in individuals toward themselves, in families and other collective bodies toward their members, throws into the ranks of parasites persons of equivocal morality who find it more convenient to receive aid than to work. In the train of idleness follows covetousness; then corruption, which, increasing more and more, impels all to live at the expense of all. — The only efficacious and honorable means of combating the parasitic spirit, the last extremity of human abasement, and assisting pauperism, is a gradual increase of the freedom of labor and property. All other methods serve simply to conjure the necessities and dangers of to-day, without promising, but often preparing, a worse to-morrow. When workmen can display their activity in peace, when capitalists can with confidence accumulate and lay up their property, the products of which will enrich all, the class of parasites decreases and is quieted through the development of the other two classes. Just as workmen and capitalists prosper and suffer together, and as it would be to impel them to suicide and to mutual oppression, to arouse rivalry and envy between them, parasites should respect capitalists and laborers, not only on account of moral obligation and the command of positive law, but also from calculation of what is useful for themselves. Parasites in fact or in intention, the unfortunates who are, and the cowards who wish to be, parasites, would be, like the rest of society, ruined by the despoiling of those who labor and those who own property. Swarms of rivals, left behind, would be excited by the contagion of victory, and would rise up as enemies and destroyers of the success of the violence of a day. Ill gotten gains are not easily kept. A few days of dissipation would quickly throw back into misery those who had escaped from it by detestable means. Their momentary triumph, by removing further from them the capacity of suffering with dignity, would only redouble their incapacity for labor and their helplessness to acquire property honestly. The man accustomed to live only on others, destroys his most lasting resources, if he ruins those who alone are able to acquire and preserve. (See PAUPERISM.)

CH. RENOUARD.

PARDON. Pardon is the remission, granted by the sovereign or head of the state to a sentenced person, of the penalty imposed on him by the courts. Such penalty is sometimes replaced by a less severe one. This is what is called a commutation of sentence. — Pardon, in contradistinction to amnesty, abolishes neither the offense nor the sentence. — The utility of the right of pardon has been questioned by some publicists, as for instance, Beccaria, Bentham and even Rousseau, who have contested the necessity of its intervention. Beccaria desired to introduce clemency into the law, but not into the execution of its judgments. He thought that the moderation of penalties and the "perfection of the law" would render pardons superfluous. "The right to remit the penalty imposed on the culprit," he said, "is a tacit disapprobation of the laws." This inflexible rule, which attributes the same weight and measure to all acts of the same nature, although in the infinite variety of human affairs they differ considerably one from the other, and never have the same moral value, has been condemned by experience, which has rejected the system of the fixity of penalties. J. J. Rousseau, although less absolute than Beccaria, reached almost the same conclusions. "The right of pardon," says Rousseau, "or of exempting a culprit from the penalty declared by the law and pronounced by the judge, belongs only to one who is above the judge and the law, that is, to the sovereign; moreover, the right of the sovereign to exercise the pardoning power is not quite clear, and the cases in which that power should be exercised are very rare. In a well-governed state there are but few punishments, not because pardon is very frequent, but because there are few criminals; the multitude of crimes insures their impunity when the state is in a condition of decay. * * Frequent cases of pardon indicate that crimes will soon have no need of it." — More recently than Rousseau's time clemency in the execution of penalties found new adversaries. Mr. Livingston, an American, opposed it in principle, and proposed at least to restrict its application to certain cases. "The

pardoning power," said he, "should not be exercised except in cases in which the innocence of the prisoner is discovered after he has been condemned, or in case of his sincere and complete reformation." These few words give utterance to several errors: first, if a person condemned is found to be innocent after his condemnation, there can be no such thing as pardon; the judicial error should be corrected, and the sentence of condemnation annulled. Then, it is not correct to say that the reformation of the person condemned and his moral amendment should of themselves constitute a motive for the intervention of the pardoning power. Mr. Livingston, whom we have just cited, would, without doubt, have expressed himself differently had he borne political crimes and offenses in mind. We do not deny that repentance and the return to moral sentiments may, in the case of ordinary crimes, be made a condition of pardon. The thief and the murderer should not be allowed to re-enter society without giving it a pledge for their moral behavior. But political crimes and offenses have a special character: they do not manifest in their author the same degree of perversity as common crimes, and conscience does not express the same reprobation for them. This class of offenses, in most cases, constitutes just as serious a violation of a moral law as ordinary offenses, but not of the same law. Common crimes are crimes everywhere; political acts are crimes only in a variable and, in a sense, conditional manner. It might be said that circumstances make and unmake them. "The immorality of political offenses," says Guizot, "is neither as clear nor as immutable as that of ordinary crimes; it is always crossed or obscured by the vicissitudes of human affairs; it varies with the time, with events and with the rights and merits of power. — Public conscience is subject to reaction in favor of persons condemned for political offenses; it can not be so subject in favor of persons condemned for ordinary crimes. Public conscience amnesties the former, it pardons the latter, but it never amnesties them; it forgives but does not forget them. — How, then, can we subordinate the right of pardon in matters political to conditions of reformation and private morality, as has been proposed by Mr. Livingston? What makes repression necessary in cases of this kind is not the immorality and perversity of the person committing the offense, but political causes which must be subjected in their action to the general principles of justice and of right; the opportuneness, sometimes even the necessity, of pardon, depends on the same causes. Circumstances which change, occasions which pass away, passions which become abated, parties which are dissolved: all of these contribute toward diminishing the importance of a person condemned for a political offense." (*Théorie du Code pénal*, by MM. Chauveau et Faustin Hélie.) — In politics, the pardon granted the culprit (who sometimes is but a vanquished adversary) produces the happiest effect in favor of the power granting it; it impresses the minds of the people with the spectacle of power and greatness, and at the same time disarms the parties. "Monarchs," says Montesquieu, "have so much to gain by clemency, they derive so much glory from it, that in almost every instance it is for them a piece of good fortune to have an opportunity to exercise clemency. — How many examples are there, on the contrary, of powers pursued to death by the cry of blood uselessly spilt, and which have perished for not having pardoned in time! — But when should we punish and when pardon?" Montesquieu proposed that question to himself, which it is not an easy task to solve. Clemency, says he, should not degenerate into weakness, nor should it bring the prince who exercises it into contempt. Clemency, it is true, may have its dangers, but neither is implacable severity without its dangers; the latter produces terror, which offers but an unsteady basis to power: *Non diuturni timor magister officii*, and provokes retaliation. If we can not help going to extremes it is better to sin by an excess of clemency. It is not certain that this is not the better policy, even as far as duration is concerned; and posterity, which admires the victor, gives its love to the indulgent.* EMILE CHÉDIEU.

PARIS MONETARY CONFERENCE. Under this title will be given a sketch of the three international monetary conferences held in the city of Paris in the years 1867, 1878 and 1881. Bimetallism in the abstract having been considered in the article on MONEY, that subject will be treated here only in the narrative form as it was presented in the discussions of the conferences. — *Conference of* 1867. This conference was brought together on the invitation of the French government, which was moved thereto by the successful conclusion of the treaty of Dec. 23, 1865, between France, Belgium, Italy and Switzerland, constituting what is commonly known as the Latin monetary union. The letter of invitation transmitted by the French government inclosed a copy of this treaty, and suggested the holding of an international conference "to consider the question of uniformity of coinage and to seek for the basis of

* No attempt has been made in the above to give the actual law, constitutional and other, relative to the pardoning power; this Cyclopædia being one of politics and political economy, mainly, and not of law. — In the United States the power to pardon offenders is vested by the several state constitutions in the governor. It is not, however, a power which necessarily inheres in the executive. (State *vs.* Dunning, 9 Ind., 22.) And several of the state constitutions have provided that it shall be exercised under such regulations as shall be prescribed by law. There are provisions more or less broad to this purport in those of Kansas, Florida, Alabama, Arkansas, Texas, Mississippi, Oregon, Indiana, Iowa and Virginia. In State *vs.* Dunning, 9 Ind., 20, an act of the legislature requiring the applicant for the remission of a fine or forfeiture to forward to the governor, with his application, the opinion of certain county officers as to the propriety of the remission, was sustained as an act within the power conferred by the constitution upon the legislature to prescribe regulations in these cases. And see Branham *vs.* Lange, 16 Ind., 500. The power to reprieve is not included in the power to pardon. (Cooley.)

ulterior negotiations." The conference assembled June 17, under the presidency of Marquis de Moustier, minister of foreign affairs, the following named countries being represented: Austria, Baden, Bavaria, Belgium, Denmark, the United States, France, Great Britain, Greece, Italy, The Netherlands, Portugal, Prussia, Russia, Sweden and Norway, Switzerland, Turkey, and Würtemberg. The United States were represented by Mr. Samuel B. Ruggles of New York, and Great Britain by Mr. Thomas Graham and Mr. Rivers Wilson. The most eminent of the French representatives, as an economist and financier, was Mr. E. de Parieu. A committee was appointed to formulate the work of the conference. — At the second session (June 19) the committee reported a "*questionnaire*" or series of interrogatories to be debated by the conference. These were twelve in number, all having relation to the possibility of establishing a universal monetary unit, either by adopting some existing unit or by making a new one approximating to existing units, and to the means of securing the practical adoption of the same. The conference voted unanimously against the adoption of an entirely new system, and in favor of "the mutual co-ordination of existing systems." — At the third session a vote was taken on the question whether the standard of the proposed unit should be silver exclusively. It was decided in the negative unanimously. When this vote was taken, Mr. Feer-Herzog (Switzerland) noted it as a fact of much significance, that the representatives of Prussia and Sweden, countries having the silver standard, should have voted in effect in favor of the gold standard. The conference then voted unanimously (with the exception of The Netherlands) in favor of the single gold standard, "leaving each state the liberty to keep its silver standard temporarily." — At the fourth session, on the motion of Baron de Hock (Austria), the conference voted that the advantage of internationality, which the proposed gold unit would have, would not be sufficient to keep the coins in circulation in states having the silver standard or the double standard, unless suitable measures should be adopted regarding the ratio between the two metals. — At the fifth session (which was presided over by Prince Napoleon) the question, what unit should be adopted, came up for discussion. Mr. Rivers Wilson, on behalf of Great Britain, read a paper saying that his government had been glad to participate in the conference, regarding it as a means of enlightening public opinion on an important question, but could not hold out the expectation that it would abandon its own monetary unit or assimilate it to that of any continental system. The conference voted that an international coinage should consist of "types with a common denominator for weight, in gold coins of identical fineness," and that the fineness should be nine-tenths. — At the sixth session the conference voted by thirteen to two in favor of the five-franc gold piece (equal to 96½ cents) as the common denominator. England and Sweden voted against this proposition; Prussia, Bavaria, Baden, Würtemberg and Belgium did not vote. It was voted also that gold coins with the common denominator of five francs should have legal circulation in the countries agreeing to the action of the conference, and that it would be expedient to coin gold pieces of the dimensions of twenty-five francs for international circulation. — At the seventh session it was voted to refer the decisions of the conference to the several states for diplomatic action; that the answers of the several states should be transmitted to the French government, which should have power to reassemble the conference; and that it was desirable that the answers should be received before Feb. 15, 1868. The conference adjourned July 6, and was not reassembled. — *Conference of* 1878. By the coinage revision act of Feb. 12, 1878, the gold dollar of twenty-five and eight-tenths grains nine-tenths fine was declared to be the unit of value in the United States, and the silver dollar was omitted from the list of coins authorized to be struck at the mint. By the act of Feb. 28, 1878, the silver dollar was restored to the list of coins and made full legal tender, and the secretary of the treasury was directed to purchase silver bullion and coin into such dollars not less than two million dollars' worth, and not more than four million dollars' worth per month. By the same act the president was directed to invite the governments of Europe "to join in a conference to adopt a common ratio between gold and silver for the purpose of establishing internationally the use of bi-metallic money and securing fixity of relative value between those metals." That portion of the act of 1873 which made the gold dollar the unit of value was not altered by the act of 1878. — The conference assembled in Paris, Aug. 16. Delegates were appointed by Austria-Hungary, Belgium, France, Great Britain, Greece, Italy, The Netherlands, Russia, Sweden and Norway, Switzerland, and the United States. Mr. Mees (The Netherlands), Mr. Brock (Norway), Mr. Feer-Herzog (Switzerland), and Mr. Delyanni (Greece) had been members of the conference of 1867. The representatives of the United States were Reuben E. Fenton of New York, W. S. Groesbeck of Ohio, and Francis A. Walker of Connecticut, with S. Dana Horton as secretary, Mr. Horton being admitted to the conference as a member. Great Britain was represented by the Rt. Hon. Geo. J. Goschen, Mr. Henry Hucks Gibbs, Sir Thos. L. Seccombe, and Mr. Wm. B. Gurdon. The most distinguished representative of France was Léon Say, minister of finance. Germany declined to send delegates. No action was taken at the first session beyond the election of Léon Say as president. — At the second session Mr. Groesbeck, on behalf of the United States, offered two propositions for the consideration of the conference: 1, That it is not to be desired that silver be excluded from free coinage in Europe and the United States; 2d, That the use of both gold and silver as unlimited

legal tender may be safely adopted by equalizing them at a ratio fixed by international agreement. Mr. Groesbeck said that that portion of the law of 1873, by which the silver dollar was made to disappear from the coinage, had been passed through inadvertence rather than intentionally, and that the United States, although desiring to restore silver to absolute equality with gold, had been compelled to limit the coinage of silver on account of the market value of the metals, and also by reason of the action of the Latin Union restricting the coinage of silver. Mr. Goschen and Mr. Gibbs inquired what was to be understood by the "inadvertence" of the act of 1873, and whether that act had been passed without debate. Mr. Groesbeck replied that "no newspaper or chamber of commerce" had considered or recommended the bill, and that several members of congress had confessed to him that they did not know at the time what they were doing. Mr. Feer-Herzog said that silver had disappeared from circulation in the United States long before the act of 1873 was passed, that there had been only eight millions of silver dollars coined from the beginning of the government down to that time, and that he had documents which he would lay on the table showing that the section of the law of 1873, by which the silver dollar was made to disappear from the coinage of the United States, was not passed by inadvertence, but voluntarily and with reflection, and determination to establish the single gold standard, which was in fact, and had for a long time been in practice, the standard of the country. Mr. Walker said that he himself, although at that time occupying a chair of political economy and lecturing on money, was not aware of what was being done, and he presumed the great majority of his fellow-citizens were equally ignorant. The president (M. Say) said that Mr. Groesbeck's observation that the action of the Latin Union restricting the coinage of silver had been one of the motives impelling the United States to restrict it also, did not seem to be well founded. It seemed to him that this restriction was a compromise effected in congress by means of which a majority could be obtained. Mr. Horton replied that the Bland bill had been introduced in 1876, and that between that time and the passage of the silver remonetization act the subject had been discussed in all its phases, and that the action of the Latin Union had not been overlooked in the discussion. Mr. Pirmez (Belgium) said that the real question before the conference was whether the double standard should be made universal. His country could not do otherwise than reject such a proposition, whose immediate result would be to give enormous profits to speculators in the metals by withdrawing the one and substituting the other with every change of market value. Count Rusconi (Italy) thought the conference might pronounce upon the question of principle: "Is it possible to establish a fixed relation between gold and silver?" and then, if it be decided affirmatively, consider the means to establish such ratio. Mr. Broch (Norway) said that the double standard was a delusion and a misnomer; there was no such thing anywhere. Countries having the double standard in law had the gold standard in fact to-day and the silver standard to-morrow, but the double standard never. Silver, by reason of its weight and bulk, was not adapted to the wants of civilized countries and an active circulation. Gold alone responded to those needs. Silver was suited only to countries which were backward or stationary. Even if all European countries could be persuaded to adopt the double standard, the influence of India and China would produce incessant perturbations and fluctuations by alternate importations and exportations of silver. Mr. de Thoerner (Russia) believed that it was opposed to the very nature of things to endeavor to establish a fixed relation between the value of silver and that of gold. After some further discussion it was resolved, on the motion of Count Rusconi, that an invitation be extended to the German government, in the name of all the delegates, to send representatives to the conference.—At the third session Mr. Goschen said that England could not adopt the double standard, but that she had, nevertheless, so large an interest in the question under discussion, through her Indian possessions, that she could not fail to give her aid and co-operation in any intelligent movement to arrest the fall of silver. If all states should resolve on the adoption of the gold standard, and if Italy, Austria and Russia should resume specie payments, would there be sufficient gold for the purpose without a tremendous crisis? It was better for the world at large that the two metals should continue in circulation than that one should be universally substituted for the other. The conference could not adopt the American proposition, but efforts might be made in other directions to check the downward course of silver by making some definite disposition of the German surplus, estimated at $75,000,000. If, for instance, this could be taken into the United States treasury in place of an equal amount of gold, it would no longer weigh on the market. Mr. von Hengenmuller (Austria-Hungary) said that Austria was attached to the principle of the double standard, and in theory must subscribe to the American proposition, but unfortunately the advantage of it depended upon its general adoption, which was not to be looked for. His government was, therefore, compelled to maintain an attitude of expectancy. If the conference were asked to formulate its opinions on the American proposition he should, however, vote in favor of it. Mr. Mees said that so long as England and Germany adhered to the single gold standard it would be impossible for Holland to adopt another system. There was not, at the present time, a single state in Europe where the coinage of silver was free, not even among those which have theoretically the silver standard or the double standard. The United States might, nevertheless, find powerful

allies in Asia and South America, as well as among those countries of Europe which are still under the régime of paper money. The general demonetization of silver undertaken everywhere at once, would have the most fatal consequences. The president (M. Say) explained the monetary position of France. In closing her mint against silver, the government had no intention of moving toward the single gold standard. France had about twenty-five hundred million francs in silver, of which nine hundred millions were in the vaults of the bank. To demonetize such a mass and throw it on the market was inadmissible. But to hold the mint open to take a further indefinite quantity at the ratio of fifteen and one-half to one, especially when it was known that Germany had fifteen or seventeen million pounds sterling in hand ready to sell, was impossible. Hence, the attitude of France was that of expectancy. France was waiting to get clearer ideas of the causes of the depreciation of silver, and to see what disposition was to be made of the German stock. She held herself in readiness to adopt the single gold standard or to revert to the double standard, according to circumstances. She could vote readily for the first clause of the American proposition, that it is not to be desired that silver be excluded from free coinage in Europe and the United States. She could vote also that silver already coined and holding the legal tender character ought to be maintained in that character, but could not acquiesce in the other clauses of the American proposition, although at some future time, when the atmosphere should be cleared, she might be able to do so. Mr. Delyanni said that the position of Greece was identical with that expressed by M. Say on behalf of France. Mr. Feer-Herzog was not able to coincide with other speakers in giving such prominence and gravity to the unsold stock of silver in the German treasury as a disturbing cause in the market. This stock was only equal to one year's supply from the mines, or to the demand from India last year. The commerce of India was the greatest factor in the silver market, the production of the mines the next greatest, while the German monetary reform could only be counted as the third in importance. He disclaimed for himself and other adherents of the single gold standard the thought of suppressing silver money. He merely desired that it should take its natural and proper place as the money of the less advanced portions of mankind, while gold should take its place as the money of a higher civilization. It was the persistent fall of silver, showing itself as a constant fact, which had led governments, even against their will, to adopt the single gold standard. Switzerland had given her delegates no authority to agree to the adoption of the ratio of sixteen to one, or any other ratio between silver and gold. Count Rusconi did not consider it impossible to establish a stable relation between silver and gold. Law alone, he said, makes money. If the uncoined metal was subject to variations of the market, the coined metal, having legal tender power, had a price which did not vary. It had the power of paying obligations which the uncoined metal did not possess. The metal might change in value, but the coin did not change. It had, actually and effectively, the value which was indicated by the imprint. Mr. Brock could not share in the opinions which had been expressed concerning the quantity of gold which would be required to enable those countries now under the paper régime to resume specie payments. In his opinion more silver would be required than gold; for those countries would not discard their note issues when they should resume, but the fractional notes would be retired, and silver coin would take their place in the hands of the people. Norway and Sweden were on the gold basis, but scarcely any gold was seen. The circulation consisted of notes and silver. So it would be in Italy and Austria and the United States after resumption. Specie resumption in the United States would necessarily be in gold. The coinage of silver dollars under the limitations of the present law would do no harm for a long time. The dollars would circulate at par with gold so long as they were not in excess. But a time would come, especially if they should adopt unlimited coinage, when the two would not circulate at par with each other. The power of the United States, or of all the nations of Europe together, would not suffice for the struggle against the balance of international trade, or to change the terms of the balance. He agreed with the delegate from Switzerland that the greater or less demand for silver in India was the governing factor of the silver problem. In other words, it was the condition of trade between Europe and Asia that determined from time to time the relative values of silver and gold. Holding this opinion, he did not believe that the means proposed by the United States to secure fixity of value between the two metals would have the results which they expected from it, even if accepted by all Europe. Nevertheless, he had the most profound respect for the motives which led to the calling of this conference, and he believed that great good would result from the interchange of views, even if no resolution should be adopted. — At the fourth session, the president said that the German government had replied, through Prince Hohenlohe, to the invitation to send delegates to the conference by expressing thanks for the invitation, and regretting its inability to accede to the wishes of the conference. Mr. Walker replied to the remarks of Mr. Feer-Herzog at the previous session. Silver, he said, had not ceased to be money in Europe through natural causes, but by the action of man, by political action, by laws and decrees of governments suggested and urged by political economists of a certain school. The action of Germany in 1871, involving important changes in the policy of the Latin Union, was wholly gratuitous, not suggested by any commercial exigency. It was

taken under bad advice, with little or no consideration as to the general effects upon the production of wealth which would be wrought by so great a diminution of the money supply of the world. Mr. Feer-Herzog had said that he expected and desired to see the world divided into gold countries and silver countries, the former civilized, the latter uncivilized. He (Mr. Walker) affirmed that "there are not more than three territorially extensive countries in the world which could possibly maintain a single gold standard upon true economic principles." A diminution of the money supply was one of the gravest evils that could menace mankind. Whether the money supply of Europe should be reduced by silver demonetization 40, 30 or only 20 per cent., the consequences would be most disastrous. "Suffocation, strangulation, are words hardly too strong to express the agony of the industrial body when embraced in the fatal coils of a contracting money supply." Against so great a wrong to civilization and to the hopes of mankind, the representatives of the United States were here to raise their earnest protest and warning. The interest of the United States in this question as a silver producing country, was utterly insignificant as compared with their interest in it as it stands related to trade and industry in general. Mr. Waern (Sweden), thought it right to reply to so much of Mr. Walker's speech as implied that only the richest nations would be able to obtain and keep gold sufficient for their needs under the single gold standard. Sweden was a country very inferior in wealth, and she had adopted the single gold standard in 1873, yet she had experienced no difficulty upon this score. She had found all the gold she needed as the basis of her fiduciary circulation, and she had had no difficulty in retaining it. Mr. Horton replied to Mr. Feer-Herzog's historical citations, and especially to his statement that England, in adopting the single gold standard in the year 1816, had simply conformed the law to what had been the practice for nearly a century. The English gold standard law, said Mr. Horton, really dated from 1798. Much of the monetary confusion which England suffered between 1798 and 1821 was to be attributed to this unwise proceeding. Mr. Horton thought that the conference was diverging into collateral discussions, and that it would be better to adhere to the real question suggested by the United States government, viz.: Is it in the interest of nations to wage a monetary war, each seeking to get rid of a falling metal? or ought they to unite together to give to the monetary basis of business a stability which it does not now possess? If the conference should separate without answering this question it would have left only an interrogation point at the end of its labors. Mr. Baralis (Italy) urged that a sub-committee be appointed to consider and report upon the subject of an international coinage. The president thought it was better to pursue the discussion of the American propositions till a definite conclusion should be arrived at. Mr. Feer-Herzog, replying to Mr. Horton's statement of the real question before the conference, said that, if England were asked to establish a fixed ratio between the rupee and the sovereign, she would refuse to do so. If Holland were asked to do the same as between the gold florin and the silver florin, she would refuse to do so. And so it would be all around. It was politically impossible and commercially impossible to establish a fixed and permanent relation between the two metals. All governments together, with their united efforts, could not do it. Mr Horton could not admit that it was a good answer to say that it was impossible to come to an agreement merely because this or that nation would not agree to it. The conference was inquiring whether the agreement ought to be made, whether it was for the interest of the nations that it should be made. Until 1873, the variations of supply and demand had not prevented silver from remaining comparatively steady for a long period. This was due to the bi-metallic system of France, which kept the two metals in equilibrium. By giving a wider basis to this system a still more complete stability would be obtained. Mr. Goschen said that, if Mr. Horton asked the conference to pronounce upon the utility of bi-metallism, irrespective of the possibility or impossibility of establishing it, he did not consider it necessary to give a categorical answer to a question thus hypothetically put. But if the practical question were put, he should not hesitate to affirm, as Mr. Feer-Herzog had done, the entire and absolute impossibility of establishing a fixed ratio between the metals, and this for many reasons of a scientific and economic nature which he need not enter into in detail. — At the fifth session the theoretical discussion of bi-metallism was continued by Mr. Groesbeck, Mr. Pirmez and Mr. Horton. — At the sixth session the president (M. Say) laid on the table a memorandum agreed upon by the European delegates as their collective answer to the American propositions. After thanking the government of the United States for calling the conference, the memorandum declares that the European delegates recognize, 1, that it is necessary to maintain in the world the monetary function of silver as well as of gold, but that the selection of one, or the other, or both simultaneously, should be governed by the special situation of each state or group of states; 2, that the question of the restriction of the coinage of silver should equally be left to the discretion of each state or group of states; 3, that the differences of opinion which have appeared exclude the discussion of the adoption of a common ratio between the two metals. The representatives of Italy dissented from the conclusions of the other European delegates. — At the seventh session (Aug. 29), the representatives of the United States filed a paper expressing their thanks to the European states for accepting their invitation, but dissenting from that portion of the memorandum which refers the question of bi-metallism to the

separate action of each state or group of states. After a vote of thanks to the president and secretaries, and the exchange of civilities, the conference adjourned. — *Conference of* 1881. This conference was called in the month of January, 1881, by the governments of France and the United States, "to examine and adopt, for the purpose of submitting the same to the governments represented, a plan and a system for the establishment, by means of an international agreement, of the use of gold and silver as bi-metallic money according to a settled relative value between those metals." It met at Paris, April 19. Delegates were present from Austria-Hungary, Belgium, British India, Canada, Denmark, France, Germany, Great Britain, Greece, Italy, The Netherlands, Portugal, Russia, Spain, Sweden and Norway, Switzerland and the United States. Mr. Brock (Norway), was the only delegate who had been a member of both the preceding conferences. Mr. Vrolik (The Netherlands) had been a member of the conference of 1867. Count von Kuefstein (Austria), Mr. Pirmez (Belgium), Count Rusconi (Italy), Mr. de Thoerner (Russia), and Mr. Horton (the United States), had been members of the conference of 1878. The other representatives of the United States were Wm. M. Evarts, of New York, ex-secretary of state, Allen G. Thurman of Ohio, and Timothy O. Howe of Wisconsin, ex-senators. At the first session Mr. Magnin, minister of finance of the French republic, was chosen president, and a committee of one from each state appointed to draft a "*questionnaire*," or list of questions to be discussed. — At the second session (May 5) the *questionnaire* was presented by Mr. Vrolik, chairman of the committee, in substance as follows: Has the fall of silver been hurtful to commerce and to general prosperity? Is it desirable that the relative value of gold and silver should possess a high degree of stability? Is the fall of silver due to increased production, or to acts of legislation? If a large group of states should agree to the free coinage of gold and silver, of full legal tender, at a uniform ratio, would substantial, if not absolute, stability of relative value be obtained? If so, what measures should be taken to secure such result? The delegates of Germany then read a declaration on behalf of their government, giving the reasons which led them, in the year 1871, to adopt the gold standard. This reform was now so far advanced that they could not change their monetary system, but they were disposed to second the efforts of other powers which might desire to unite for the purpose of rehabilitating silver, by agreeing to abstain during a period of some years from all sales of silver, and during another period to sell only a limited quantity, so that the market should at no time be glutted thereby. Germany might even make other concessions short of changing her own monetary system. She might retire her gold pieces and treasury notes of five marks, leaving their places to be filled by silver. This would make room for 78,000,000 marks. Mr. Fremantle, the delegate of Great Britain, read a declaration of his government to the effect that they had decided in the first instance not to take part in this conference, understanding that the terms of the call issued by France and the United States committed the participating governments to the double standard. Having been subsequently assured that no committal was intended, and that entire liberty of action was reserved, they considered that they would be lacking in consideration toward friendly powers if they should persist in refusing to send a delegate. His instructions limited him to furnishing information concerning the laws and monetary system of England. They did not permit him to vote upon the proposition submitted. The delegates of British India and of Canada made similar declarations to that of Mr. Fremantle, except that the delegate of Canada was authorized to vote, reserving liberty of action for his government. The delegate of Denmark said that, as his government had no intention of abandoning the single gold standard, he was instructed to abstain from all discussion of means for establishing the double standard. The delegate of Portugal made a similar statement in behalf of his government. Any opinions which he might express in the debates should be understood as merely his private and personal views. The delegate of Russia said that his government reserved entire liberty of action and of opinion. If he should take part in the debates, it would be upon the same understanding as that announced by the delegate of Portugal. The delegate of Greece made a similar declaration. The delegates of Austria-Hungary said that their position was the same that it had been in the conference of 1878. They had an ardent sympathy for all measures to restore silver to its former position, but they reserved for their government full liberty of action. The delegates of Sweden and Norway said that their government authorized them to take part in all discussions, reserving their right to deal with their own monetary system. The delegates of Switzerland were not authorized to take part in the discussions of the conference until its action should have been first reported to the federal council. Mr. Cernuschi (France) thought that the prospect of an agreement in favor of bi-metallism was encouraging. It was only necessary to secure the co-operation of England and Germany to insure success. England had indeed refused to join in a bi-metallic union, but there was reason to believe that she might join at a later period. Germany had shown, through the declaration read to the conference, that she could not now change her course without great loss and inconvenience. He (Mr. Cernuschi) would suggest (but only on his personal responsibility) that the loss incurred by Germany in changing from the silver to the gold standard, estimated at ninety-six million marks, be reimbursed to her by the other nations which had bought her silver. These nations, he contended,

had made a gain by purchasing the silver of Germany, equal to the loss which Germany had incurred in selling it—the silver being worth one to fifteen and one-half, if bi-metallism were put in force, whereas Germany had sold it at one to seventeen or one to eighteen. Mr. Brock (Norway) thought that bi-metallism was not only impracticable, but undesirable. The substitution of gold for silver in Europe and America was not an accident, but the natural, logical and necessary result of the progress of civilization. There was sufficient gold in the world to supply the wants of all the civilized races, including those now under the régime of paper money. So far from looking upon bi-metallism as a thing to be striven for, he thought it was something to be avoided. So far from seeing danger in the single gold standard, he could only see advantages in it. Mr. Moret Y. Prendergast (Spain) moved that the conference take into consideration, first, the important declarations of Germany, England, British India and Canada, in order to get at their true scope and value, and then to adjourn to a fixed date, in order to open negotiations with those governments if it were found that the declarations afforded a reasonable basis for negotiations. It was agreed to pass over this motion for the present, and to take it up at a later stage. — At the third session Mr. Cernuschi, in furtherance of the suggestion made by him respecting the reimbursement of ninety-six million marks to Germany, asked for information from the several governments in reference to the amount of silver coined by them since 1874, and the prices at which it had been bought. Mr. Pierson (The Netherlands) called attention to the limping-standard countries (*Etalon boiteux*), meaning by this the countries where the coinage of gold is free and the coinage of silver is not free, but where silver coins of unlimited legal tender circulate side by side with gold. The Latin Union, Germany and Holland, were in this condition, a condition which could not last. The metallic stock of the banks must be all of equal goodness. Bank notes must be covered by coin having a real and not an artificial value. The danger of counterfeiting was very great when the legal tender value of silver coins was much above their metal value. The clandestine coinage of silver was a permanent menace in countries where the limping standard prevails. The demonetization of silver had not only brought trouble upon the limping-standard countries, but upon the gold-standard countries, upon England and Germany as well as upon Holland. The fall of the value of the rupee had wrought confusion in the trade of England with India, and caused great losses to British merchants and manufacturers. The only remedy for these evils was international bi-metallism. Mr. Pirmez (Belgium) denied that the gold-standard countries were suffering by reason of the demonetization of silver. They had announced on the floor of the conference that they felt very well and that they did not desire any change. As to English trade with India, the English merchant merely added to the selling prices of his goods a sum sufficient to make good the decline in the value of the rupee. The Indian government had lost a certain percentage of its fixed receipts, by reason of the decline of silver, but British trade had not suffered, and the British government remained insensible to the adjurations of the bi-metallists; Germany was equally insensible. The sole result of universal bi-metallism would be the spreading over Europe of a large portion of the silver of Asia, and the sending to Asia of a corresponding amount of the gold of Europe. The production of silver would be stimulated by the artificial value conferred upon it, and the production of gold would be correspondingly checked. Thus a fresh depreciation of silver would be produced, this time irremediable. Gold would not be sold at fifteen and one-half for silver, because it would cost more to produce it. Gold would continue to circulate, but it would circulate at a premium, as it now does in Austria, Russia, and all the countries under the paper money system. All the governments in the world would be utterly powerless to decree the respective value of silver and gold. — At the fourth session, Mr. Luzzatti (Italy) replied to the argument of Mr. Pirmez. He contended that there was a strong party in England in favor of bi-metallism. He instanced the pamphlet of Mr. Gibbs, former governor of the bank of England, published with the approval of the present governor of the bank; also the remarkable work of Mr. Ernest Seyd; also the resolutions of the Liverpool chamber of commerce. As regards British India, he said that English trade with that country was injured by oscillations in the exchange, just as it is injured by oscillations in the paper money countries of Europe. These oscillations were uncertainties, and all uncertainty was prejudicial to the best interests of trade. Public opinion in Germany was likewise divided on the question, and Prince Bismarck seemed to have conceived doubts as to the value of the gold monometallic reform. There was really a dearth of gold in the world. This would be proved unmistakably when Italy, Austria and Russia should make the attempt to resume specie payments. Mr. Fremantle said that it must not be inferred from the pamphlet of Mr. Gibbs, that that gentleman, or the present governor of the bank of England, expressed the opinion of the bank of England, still less the public opinion of Great Britain. Mr. de Thoerner (Russia) said that gold was preferable to silver just as railways were preferable to roads and bridle paths, but it did not follow that roads and bridle paths should be discarded. For the purposes of a standard gold was certainly the best; for an instrument of exchange having an intrinsic value there was still room for the use of silver. Might it not be possible to treat silver in the light of a stock exchange security selling for what it was worth? If coined or stamped by governments in the form of ingots

at its exact value in gold, it might be made to play an important part in the work of international exchange without danger to any interest. Count Rusconi (Italy) contended that money was not merchandise, but a creation of law; consequently the ratio of fifteen and one-half was just as good as the ratio of sixteen or twenty. Mr. Burkhardt Bischoff (Switzerland) contended that money was merchandise, and not the creation of law. All that the state could do was to give a certificate of its weight and fineness. This it effected by means of a stamp. When that stamp was affixed, the state had exhausted its powers. The double or alternative standard was unjust in that it allowed the debtor always to pay in the cheaper metal. The greatness of London as a centre of the world's exchanges was due in large part to the invariableness of the English standard. You could always know what a pound sterling was; you could never know with certainty what a franc was under the double standard régime, when that standard existed. Replying to Mr. Cernuschi's observation on the loss of ninety-six million marks incurred by Germany, he contended that this was a fallacious assumption. Instead of incurring a loss, Germany had really made a gain. She had sold her silver at rates considerably higher than the present market price. If she wished to repurchase it she could do so now at a profit. The proper way to deal with the great stocks of silver in the banks of the Latin Union was to melt them down into ingots, and issue silver certificates for them, of so many kilogrammes each, which might pass into the world's commerce at their value according to the weight represented by them. Mr. Cernuschi reiterated that Germany had lost ninety-six million marks by her monetary reform. This was testified to by the memorandum of the German government submitted to the conference. (This memorandum showed a loss of 96,481,136 marks, comparing the sales with the original cost of the silver.)—During the fifth, sixth, seventh and eighth sessions the theoretical discussion was continued by Mr. Horton, Mr. Howe and Mr. Evarts on the part of the United States, by Count von Kuefstein and Chevalier von Niebauer (Austria-Hungary), Mr. Cernuschi and M. de Normandie (France), Mr. Pierson and Mr. Vrolik (The Netherlands), and Mr. Seismit-Doda (Italy), in favor of bi-metallism; and by Mr. Brock (Norway), Mr. Pirmez (Belgium), Mr. Forssell (Sweden), and Count San Miguel (Portugal), against it. Sir Louis Mallet, on behalf of the government of British India, made some important statements. He said that he was authorized to engage that India would continue to keep her mint open to the free coinage of silver for a certain definite period, provided and upon the condition that a certain number of the principal states of the world engage on their part to maintain within their territories during the same period, the free coinage of silver, with full legal tender faculty, in the proportion of fifteen and one-half of silver to one of gold. He would explain how the depreciation of silver affected the Indian government. The government of India had to pay £15,000,000 in gold in London annually. This was the interest on the Indian debt contracted in gold, the interest on railway and canal obligations, also pensions and annuities, and that portion of the military expenditure which relates to pay and commissariat. These expenses were fixed by contract, and could not be reduced. The loss resulting on these remittances by reason of the fall of silver was £2,000,000 per annum. The government could not increase its revenue materially, the land revenue in Bengal being fixed in perpetuity, and in other provinces for long periods. It would be impossible, without serious political danger, to propose new taxes for reasons which the mass of the people would not be able to understand. But this actual loss was not the worst part of it; it was the absolute uncertainty which hung over the future, and which prevented any accurate calculation of the resources of the government. Then, there was a loss in trade resulting from the uncertainty of the exchanges and a loss of 20 per cent. on the great quantity of silver hoarded by the natives. The great wish of the financial authorities of India had been to have a common monetary system with England. Silver being impossible as a common standard on account of the English system, the choice must be between bi-metallism and gold, and although the latter was at present too difficult, it was certain that if any opportunity should offer itself India would seize it and enter into the struggle for the sole metal left as a solid basis for an international currency. Mr. Moret Y. Prendergast suggested that England might second the undertaking of Germany in behalf of silver by keeping one-fourth of the bank reserves in that metal as authorized by Sir Robert Peel's act. Mr. Fremantle replied that his government would take into very serious consideration the views put forward by the conference, but he suggested that the proposals be put in as definite form as possible. Mr. Forssell (Sweden) said that it was vain to talk about the sufferings and groans of this country and of that country, of this great bank and of that great bank, for the want of bi-metallism, so long as England and Germany refused to be converted. Notwithstanding all that had been said about the growth of bi-metallic opinion in Germany, here was the imperial government absolutely inflexible in its adherence to the single gold standard. There was not one ray of hope in that quarter. England was equally unmoved. Her Indian interests were so far inferior to her general interests that there was not the smallest prospect of her entering into a bi-metallic union. It was said that £2,000,000 per year are lost in the Indian exchanges. That was an ascertained sum, but the loss to be sustained by entering into a bi-metallic union was an indefinite and unascertained sum. Was an exact amount of loss ever bartered for an indefinite amount of risk? Was the monetary supremacy of a country ever sold for two

millions sterling? Bi-metallism would always fail of adoption in face of the disproportion between the comparatively slight ailings complained of and the perfectly enormous remedy proposed, and however skillfully those ailings might be added up, the amount would never be deemed sufficient to justify the remedy. Mr. Forssell suggested three additional topics of discussion to be added to the *questionnaire*, viz.: Has there been, in the last ten years, a fall of general prices which may be attributed to the demonetization of silver and to a dearth of gold? Is there reason to believe that the successive adoption of the single gold standard will lead to a contraction of the metallic and paper circulation sufficiently great to exhibit itself in a fall of general prices? Is there ground for taking legislative measures to economize the use of gold in view of the progressive adoption of the single gold standard? Mr. Moret Y. Prendergast renewed his motion that the conference adjourn from the 19th of May to the 30th of June, in order that delegates who desired to communicate with their governments and receive further instructions upon propositions formulated in the conference, might have the opportunity to do so. Lord Reay (British India) thought that the excellent speeches which had been heard would be valuable contributions to economic science, but when the conference should reassemble it would be necessary to take practical steps to come to an agreement. The habits of English statesmen tended to make them give attention to facts rather than theories. If it were sought to persuade the United Kingdom to adopt bi-metallism, gentlemen could not do better than practice what they preached. They should begin by adopting bi-metallism at home. It would be another glory for the bi-metallists to accept the slight burden of some inconveniences which, on their own showing, would be only temporary. France and the United States were strong enough financially to make the experiment of bi-metallism. Great Britain had not waited for other nations to join her in adopting free trade. If other nations should show their faith in what they professed by adopting bi-metallism, Great Britain would be the first to render them the homage which she had always paid to any work tending to draw closer the bonds which unite nations. Mr. Seismit-Doda (Italy) seconded the motion for adjournment to June 30. The motion was unanimously adopted. On motion of the delegates of India the conference requested the several governments to take the opinion of the chief banks of issue in each on "the monetary question." Mr. Pierson (The Netherlands) asked the delegates of the United States what measures that country would take, in the event of the adoption of bi-metallism, to require the banks to receive silver on the same footing as gold. In most European countries the obligation could be imposed on banks of issue of buying gold and silver at a fixed price. What analogous steps could be taken in America? In short, what could she do in order that bi-metallism should exist there, not only in name, but in reality? He did not ask an immediate reply, but requested that a definite answer be made when the conference should reassemble. — After an adjournment of six weeks, the conference held its ninth session, June 30. — At the tenth session Mr. Horton regretted that he was, as yet, unable to present a response to the question which Mr. Pierson had put to the American delegates at the eighth session, or rather, to enter into the practical discussion to which the question would necessarily give rise. Mr. Thurman, reverting to the declarations of Germany and British India, which he read at length, said that these propositions required France and the United States to keep their mints open to the free coinage of silver of unlimited legal tender, this being the condition upon which Germany would agree to suspend her sales of silver for a definite period of time. While the United States would not reject any and every proposition which comes short of perfect bi-metallism, he was bound to say that a proposition which would expose them to alternate drains of gold and silver, according as the one or the other should command a premium in the market, would not be acceptable. The United States held a large stock of gold at the present time, and only a small stock of silver. They would hesitate to enter into an agreement the effect of which might be to lessen the amount of their gold. They would cheerfully become parties to a great bi-metallic union, but without such union would not surrender their power over their own coinage. He said this without underrating the importance of the German and English propositions, which were entitled to most respectful consideration, but which, in his judgment, fell far short of what the exigency required. Mr. Schraut (Germany) desired to combat the assertion that the sales of silver by his government had been the principal cause of the depression of that metal. The largest sales had been made in the year 1877, when the average price was one and three-fourths pence higher than in 1876, and two pence higher than in 1878, showing that there were other and more powerful causes at work than the sales of silver by Germany. These causes, in his opinion, were the increase of production, and the increase of sales of India council drafts on the London market, which, taking the place of silver as remittances to India, lessened the demand for silver by an equal amount. The sale of such bills in London from 1871 to 1879 had exceeded the sales of silver by Germany more than three to one. Mr. Cernuschi contended that neither the more plentiful issue of bills by the Indian government nor the increased productiveness of silver mines had caused the depreciation of silver. If Germany had not adopted monometallism, France would have continued to coin the two metals freely: therefore the depreciation could not have taken place. Germany was the sole author of the silver crisis. Unless she had further declara-

tions to make to the conference, she had as yet made no proposition which the United States and France could regard as a concession. Mr. Horton, while agreeing with Mr. Cernuschi as to the mistake which Germany had made in her monetary legislation, could not look upon her as the sole cause of the mischief. It dated further back. England began it, and the Paris conference of 1867, in which the United States took part, propagated it. The responsibility was not only on Germany, but on the civilized world. Baron von Thielmann (Germany) said that his government had nothing to add to the declaration presented at the first session of the conference. Mr. Fremantle said that at a later session of the conference he should present a fresh communication which he had just received from his government. — At the eleventh session Mr. Dumas (France) made an extended argument in favor of bi-metallism. But if bi-metallism were for any reasons found to be impracticable, he would suggest the suppression of small gold coins, in order to give greater employment and steadiness of value to silver. Mr. Schraut concurred in this suggestion, and would add to it the suppression of bank notes of less denomination than twenty francs, and of the one and two dollar notes in the United States. Mr. Brock (Norway) said that all monometallists would concur in those suggestions, but he pointed out that the proposal of Mr. Dumas differed from that formulated by his colleague, Mr. Cernuschi. Mr. Cernuschi said that all such measures were only half measures; they only looked at small sides of the question, and could come to nothing. The internationality of silver at fifteen and one-half was the point to be arrived at. Without that, nothing would be effected. "We must have all or nothing." Mr. Pierson presented a declaration of The Netherlands government saying that it would join in a bi-metallic union consisting of "all the great states of Europe and America," but could not engage to act thus if the system were confined to a more restricted area. It would, nevertheless, give serious attention to a project, if proposed at the conference, for establishing bi-metallism in an area comprising only several great states of Europe and America. — At the twelfth session, Mr. Seismit-Doda presented a declaration of the government of Italy, saying that Italy would unite with the other states of the Latin Union and the United States of America "in resuming the limited coinage of silver" for a fixed term, provided Germany would agree during the same term (which should be at least five years) to suspend her sales of silver and replace her gold five-mark pieces and treasury notes with silver money, and provided the British government would increase the paying power of its silver crowns. Italy could in no case agree to the free and unlimited coinage of silver, unless England and Germany, or one of them, should unreservedly adhere to it. Mr. Fremantle presented a declaration from his government transmitting to the conference a communication from the bank of England. This communication was in effect an agreement on the part of the bank to receive silver and issue its (gold) notes therefor, to the extent of one-fourth of the gold held by the bank in its issue department, as authorized by its charter, provided that the mints of other countries would return to such rules as would insure the certainty of the conversion of gold into silver and of silver into gold. All its notes were payable in gold on demand, and it was required by law to receive all the gold offered to it in exchange for its notes. The president suggested that it would be well at the next session to consider the subject of adjournment. After such profound discussions it was not likely that any fresh light would be thrown upon the subject or additional eclat be given to the proceedings. — At the thirteenth session (July 8) Mr. Evarts, in behalf of the delegates of France and the United States, and in the name of their respective governments, read a declaration stating, 1, that the depression and great fluctuations of the value of silver relatively to gold are injurious to commerce and to the general prosperity, and that the establishment of a fixed relation of value between them would produce most important benefits to the commerce of the world; 2, that a bi-metallic convention entered into between an important group of states for the free coinage of both silver and gold at a fixed ratio and with full legal tender faculty, would cause and maintain a stability in the relative value of the two metals suitable to the interests and requirements of commerce; 3, that any ratio now or lately in use by any commercial nation, if so adopted, could be maintained, but that the adoption of the ratio of fifteen and one-half to one would accomplish the object with less disturbance to existing monetary systems than any other ratio; 4, that a convention which should include England, France, Germany and the United States, with the concurrence of other states which this combination would assure, would be adequate to produce and maintain throughout the commercial world the relation between the two metals that such convention should adopt. The president said that a considerable number of delegates had expressed a desire to see the conference suspend its labors and adjourn to some later date. He suggested that this subject should be discussed. Mr. Forssell (Sweden) objected to this proposal as likely to lead to no practical result, while it would give a character of permanence to the conference which was not contemplated or authorized by the governments represented. It would be better to acknowledge at once that the projects of bi-metallism had collapsed, and to reaffirm the conclusions of the European delegates at the conference of 1878. Baron von Thielmann (Germany) asked that the reasons for adjourning the conference to a future date be formulated. After a recess of twenty minutes, the president read an explanatory resolution saying that, considering the speeches and observations of the delegates and the declarations of the

several governments, there is ground for believing that an understanding may be established between the states which have taken part in the conference, but that it is expedient to suspend its meetings; that the monetary situation may, as to some states, call for governmental action, and that there is reason for giving an opportunity for diplomatic negotiations; therefore the conference adjourns to Wednesday, April 12, 1882. The resolution of adjournment was supported by Mr. De Normandie, Mr. Pirmez, Lord Reay, Count von Kuefstein and Mr. Brock. Mr. Forssell withdrew his objection. The resolution was adopted. On motion of Baron von Thielmann, the thanks of the conference were awarded to the president for the impartiality with which he had directed the proceedings. The conference then separated. It did not reassemble at the time fixed in the resolution of adjournment. There has been no public statement of the reasons why it was not reconvened. HORACE WHITE.

PARLEY. Two hostile armies often have need, even in the very midst of hostilities, of holding some correspondence with each other; for example, concerning the burial of the dead or the exchange of prisoners, or to propose a capitulation, to arrange for a suspension of arms, etc. This correspondence is effected by means of persons charged with the parley. In antiquity, at least in Greece and Rome, as well as in the middle ages, the persons sent to conduct the parley were always heralds, that is to say, men who held that office, not only for a special mission, but, in a way, permanently. Heralds fill a large place in Homer's poems, and many passages bear witness to the profound respect which was paid them in those remote times. For example, Talthybius and Eurybates, sent by Agamemnon to demand Briseis from Achilles, stopped overcome with terror at the door of the hero's tent; but the latter saluted them with these words: "Welcome, sacred heralds, ministers of gods and of men, you are innocent of the insult which I receive." For a long time the custom has been simply to send as *parlementaires*, officers accompanied by a drummer or a fifer, bearing a white flag.—The inviolability of the *parlementaire* (person of truce), which appears to have been founded in antiquity upon the sacred and almost priestly character of the herald, rests to-day upon international law. It is one of the oldest, most elementary and most essential regulations of this law. "*Nomen legati*," says Cicero, "*ejusmodi esse debet, quod non modo inter sociorum jura, sed etiam inter hostium tela incolume versetur.*" Whoever attacks this principle, not only injures his adversary of the moment, but, to use Vattel's expression, "he injures the common security and safety of nations; he renders himself guilty of an atrocious crime against all peoples." It would not do to allow any departure from this sacred rule, even in civil war and toward the envoy of a party which is considered, rightly or wrongly, as rebellious; but there is always the right to refuse to admit a *parlementaire*, or person of truce, or to make his admission subject to such conditions as may seem proper; for example, that he shall be introduced into the lines with his eyes bandaged. Once admitted, the *parlementaire* should be protected, not only against all bad treatment, but against all insult.* The *parlementaire* is not obliged spontaneously to close his eyes and ears during the course of his mission, and he has a perfect right to observe what he is allowed to see, sometimes with design, and to let his side take advantage of his observations. But if he should abuse his character to act as a spy and to concoct plots, he would expose himself to be ignominiously expelled; he might even, in certain cases, be deprived of his immunities, be detained as a prisoner, or even be put to death. The rigor of the law can even go to this extremity; but it is almost always not only more humane, but even more politic, not to have recourse to it, and to respect the character of the *parlementaire*, even in those who have abused it.

GASTON DE BOURGE.

PARLIAMENT, The British, is the supreme legislature of the United Kingdom, and its history is, to a large extent, the history of the growth of political freedom. The attempts to trace the origin of this parliament to the Saxon period fail to connect the *Wittena-gemote* (meeting of wise men) with the representative principle, the hereditary character, or the royal summons, three characteristics of the present British parliament, which are deemed essentials of its constitution. It is by act of the crown alone that parliament can be assembled; only twice have the lords and commons met by their own authority—first, before the restoration of Charles II., and again at the revolution in 1688. Parliament is also prorogued (adjourned to a certain day), or dissolved by royal proclamation only.—While the main constitution of parliament, as Blackstone says, was marked out in *magna charta*, A. D. 1215, when King John promised to summon the nobles, bishops, etc., to council, its actual first existence is commonly referred to the year 1265, when the writs of Simon de Montfort first summoned knights, citizens and burgesses to parliament. From that time parliament has consisted continuously of two houses, the lords and the commons, while the Saxon *Wittena-gemote* and later councils consisted of one chamber only. The creation of a house of commons elected by the people (or by the property element), may be said to have had its birth in that jealous care of the rights of property, so all-pervad-

* The institution of parley is useful to the strong as well as to the weak; not to respect it is not only a crime, but also, for each, a very grave fault against his own interest. It sometimes happens in war that a *parlementaire* is killed; we believe this is always by mistake. The flag has not, perhaps, been seen, or, if the envoy presents himself during a battle, which is generally a very inopportune moment, he may be accidentally wounded.—M. B.

ing in the British mind. The early kings had so abused the power of raising money, and the lords and bishops were so subservient to the royal will, that it became necessary to have the check of an elective body to assert and jealously maintain control over the taxing power. This control, claimed and exercised by the lower house of parliament for centuries, is so absolute that all bills, whether for the raising or the expenditure of money, must originate in the commons. The successive steps by which the important power over the public purse was transferred from the king to the commons, is a history of determination on the one hand and of stubborn resistance on the other, the English monarchs using every wile to secure supplies, which the parliament stubbornly refused except on condition of redress of grievances. The steady increase of the power of parliament during the reigns of the arbitrary house of Tudor, culminated during the Stuart dynasty in that struggle for supremacy between Charles I. and his parliament, which ended in the complete victory of the latter, the subversion of the monarchy, the abolition of the house of lords, and the establishment of the commonwealth. — The duration of a parliament, outside of the seven years' limitation embodied in the act of 1715, is dependent upon the policy and measures of the ministry commanding a majority in the lower house. Practically, the average life of a parliament in the present century has been less than four years; the shortest one having lasted only four and one-half months (in 1807), and the longest a little over six years. The "appeal to the country," caused by the resignation of ministers who fail to command a majority, is made through writs of election. The last general election was in 1880, returning 338 liberals, 239 conservatives, and 60 home rulers. Members are chosen by what is regarded in England as nearly universal suffrage. There are, however, but 3,181,701 actual voters (in 1883) out of the population of 35,246,633, or about one in every eleven inhabitants: while in France and in the United States, where manhood suffrage is really universal, the proportion of voters to the population is one in every four or five inhabitants. The reform act of 1867–8 was a large extension of the franchise, giving it to all householders in boroughs (cities and towns), and to occupants of lands or houses bringing £12 rent or upward in counties, or in the country. This leaves the large class of agricultural and other laborers unrepresented. Since 1872 parliamentary elections are by secret ballot. (See BALLOT.) — The omnipotence of parliament is regarded as the great feature in British polity. "The power and jurisdiction of parliament," says Coke, "is so transcendent and absolute that it can not be confined, either for causes or persons, within any bounds." It wields not only the whole legislative power, but, for nearly two hundred years past, the executive power as well. In theory, the queen appoints the ministers or heads of administrative departments; in practice, these heads can be no other than the representatives of the will of the house of commons for the time being. What is called the government of England embraces not only the cabinet, but from forty to fifty political heads of departments, who quit their places with every change of administration. These changes, as we have seen, occurring every four years on an average, are effected by the majority in the house of commons, and this in its turn is dependent upon qualified suffrage. The powers of parliament are theoretically divided between three co-ordinate branches—the crown, the peers, and the commons—for the sovereign is, by the constitution, a part of parliament, having to be present in person or by proxy, and every law requiring the royal assent to its passage. The veto power, still lodged in the crown, has not been exercised since 1707, or for nearly two centuries. The house of lords, which has in theory equal law-making powers with the commons, can really do little but register the edicts of the latter. Although there are some measures of policy, such as the right of Catholics and Jews to sit in parliament, the extension of the suffrage, and the reduction or abolition of taxes or prescriptive privilege, upon which the stubborn opposition of the lords has for years stood in the path of reform, that reform has always sooner or later been carried. The political history of England is one long testimony to the weakness of precedent and prerogative when standing in opposition to the power of an enlightened public opinion. — It may appear something like a paradox to assert that the powers of the popular branch of parliament are even greater now than in the days of Cromwell, when both the throne and the house of peers were abolished, and all sovereignty was swallowed up in a parliament of one chamber. Yet it is apparent that, with the single exception of the judicial power, which is still reserved to the house of lords, the commons of England, through their legislation and through their cabinet, wield a far more comprehensive authority than did the long parliament under the lord protector. The very constitution of the kingdom, that unwritten yet all-controlling governmental power, is nothing but the net result of the long series of parliamentary assertions and statutes, down to the latest embodiment of administrative power in the cabinet, which is defined by Bagehot as "a committee of the legislative body, selected to be the executive body." — The organization of parliament is attended with great formality. The lord chancellor announces to the house of commons (previously summoned by the gentleman usher of the black rod to attend in the house of lords) that as soon as the members of both houses shall be sworn, her majesty will declare the causes of her calling this parliament; and further requests them to choose their speaker, who must be presented in the house of lords the day after, for the royal approbation. This being done, the speaker formally claims, on behalf of the commons, "all their ancient and undoubted rights

and privileges." These being graciously confirmed, the commons, with the speaker, withdraw to their own chamber: then follows the taking of the oaths, and an address in answer to the speech from the throne. — The queen's speech is delivered in the house of lords by herself in person, or by the lord chancellor, reading it in her presence, or by commissioners whom she appoints (and this is called opening parliament by commission). Before this, neither house can proceed with any business. The lord high chancellor presides as speaker of the house of lords. The presence of forty members or upward is required in the commons to constitute a quorum (the whole number of members in 1882 being 652). In the house of lords, which consists of 516 members, business may proceed with only three peers present. The parliament is obliged to meet at least as often as once a year. Customarily, the annual sessions of parliament begin early in February, and end some time in August; but this depends upon the public business, the ministry, and the concurrence of the two houses, so that parliament not unfrequently has a special session in November, or else does not rise until September, long after the close of the London "season." The opening of the daily session (formerly at 10 o'clock, and later at 12 M.) is now fixed at 4 P. M.—except morning sittings for private business, or toward the close of a session, in which cases the house resumes at the hour of 6 P. M.—the sittings often continuing far into the night. Both houses are opened with a fixed ceremony. At ten minutes to four, two gentlemen in court suits of black, steel buckles and swords, accompanied by a third, carrying a huge golden mace upon his shoulder, precede the speaker, who is dressed in a full-bottomed wig and robes of black silk, and who enters the house followed by a train-bearer, chaplain and secretary, to the cry of "Way for Mr. Speaker! Hats off for Mr. Speaker!" Then all persons must be uncovered, except only the members of the house of commons, whose peculiar privilege it is to wear their hats, a right usually exercised except when speaking. The chaplain reads prayers; the strangers' and reporters' galleries are then opened; the members present are counted. If after four o'clock there are not forty present, the house is adjourned till the next day. At half past four public business begins (half an hour being devoted to private business and petitions), after which the leading members of the government are all found in their places to answer any questions put by members of the house, of which one day's notice has been given. The house of lords usually meets at 5 P. M., but frequently sits as a court of appeal during the day, when it is open to the public like other judicial tribunals. At other times admission to the strangers' gallery is had only through a peer's order. In the house of lords the bishops always sit together, and the members of the administration occupy a front bench on the right of the woolsack (speaker's chair). The peers who vote with the government occupy the benches on the same side of the house; the peers in opposition are ranged on opposite benches. In the commons no particular places are allotted to members; but the front bench on the speaker's right is occupied by the members of the administration, while the leading members of the opposition usually take the front bench on the other side of the speaker's chair. The mass of members sit somewhat promiscuously, though approximately divided into supporters of the government, occupying benches on the right of the chair, and members of the opposition party on the left. The members of parliament in both houses serve without salary. Members elected to the house of commons serve as such until the next general election for a new parliament. — It was formerly illegal to publish any of the proceedings or debates in parliament; and history records a long series of exclusions, punishments for contempt, and disgraceful persecutions against writers and printers who had presumed to make the people acquainted with what was said and done in parliament. At length, however, all restrictions were removed, and the daily press contains pretty full reports. Besides this, effected by private enterprise, "Hansard's Debates" are a full report (though in the third person) of the speeches made in both houses, taken in short-hand, and paid for, though not published, by the government. The journals of the house of lords have been printed officially ever since 1509, and those of the commons since 1547, in great folio volumes, with numerous indexes. — The restrictions as to who may be elected members of the house of commons have been gradually removed, and since 1870 any subject over twenty-one years of age (even a naturalized alien) is eligible to election to parliament, except clergymen, contractors, judges, peers, bankrupts and office-holders. In several instances members elect below the legal age have been permitted to sit. Curiously enough, dissenting clergymen may be members of the commons, while those of the church of England, the established religion, are excluded, although bishops sit in the house of lords. The houses of parliament do not adjourn on occasion of the death or funeral of members of the body, nor are there any mortuary eulogies on such occasions. — Although members of parliament serve without salary, the expenses of their election are frequently very heavy. The honor or reputation incident to a seat in parliament, as well as the influence which it enables a man of talent to wield, counts for much. It is not uncommon in vigorously contested elections to have from £1,000 to £5,000 expended in the numerous appliances for political meetings, printing and publishing, lights, brass bands, decorated hustings, and other devices to rouse and to keep up popular enthusiasm. Bribery, also, was formerly a too common channel for expenditure, but since the abolition of the rotten boroughs, the stringent anti-bribery laws, and the adoption of the secret ballot, the control of votes by purchase has been

greatly diminished. — Members of the commons have not the right to resign their places. To accomplish this object one must ask to be appointed "steward of the Chiltern Hundreds," an old and nominal office, without any functions, which is given to any member who applies for it. By this pleasant fiction a member can get out of parliament without violating the law which requires him to serve out the term for which he is elected. — If the sovereign dies during a recess of parliament, it must convene immediately; and if it has been dissolved, it may resume its powers for a period of six months. All bills affecting the rights or privileges of the peerage must be offered in the house of lords, and can only be amended by the commons. All motions proposed in the house of commons are required to have a second; but this rule is not enforced in the house of lords. In neither house of parliament is any journal read of the previous day's proceedings. — In the progress of business the ministers have the precedence in bringing forward motions of every kind. — In taking a vote in the house of lords the members vote in the order of their rank, the lords voting in the affirmative answering "Content," and those opposed, "Not content." Each peer might vote by proxy for two absentees until 1868, when the practice was discontinued by a standing order. In the house of commons the members vote "Aye" or "No," instead of "Content" or "Not content." When the vote is counted the ayes pass into a lobby on the right, and the noes into one on the left: in each room is a secretary, who checks off the names of members on a printed list, aided by two tellers appointed by the speaker. The tellers report the figures of the vote to the speaker, who announces it in open house. — The speaker of the house of commons is precluded from participating in debate on legislative business; but in the lords the presiding officer, if a member of the body, may leave the chair and speak in his character of a peer. On the other hand, he has no casting vote; if the lords are evenly divided, the question is lost. But if the house of commons is tied, it becomes the duty of the speaker to give the casting vote, which determines the question one way or the other. — The following table exhibits the duration of each parliament since the accession of Henry VIII. in 1509:

21 Jan.	1509—23 Feb.	1509	29 Oct.	1586—23 Mar.	1587
4 Feb.	1511— 4 Mar.	1513	4 Feb.	1588—29 Mar.	1588
5 Feb.	1514—22 Dec.	1515	19 Nov.	1592—10 Apr.	1593
15 Apr.	1523—13 Aug.	1523	24 Oct.	1597— 9 Feb.	1598
3 Nov.	1529— 4 Apr.	1536	7 Oct.	1601—29 Dec.	1601
8 June,	1536—18 July,	1536	19 Mar.	1603— 9 Feb.	1611
23 Apr.	1539—24 July,	1540	5 Apr.	1614— 7 June,	1614
16 Jan.	1541—29 Mar.	1544	16 Jan.	1620— 8 Feb.	1621
23 Nov.	1545—31 Jan.	1547	12 Feb.	1623—24 Mar.	1625
8 Nov.	1547—15 Apr.	1552	17 May,	1625—12 Aug.	1625
1 Mar.	1553—31 Mar.	1553	6 Feb.	1626—15 June,	1626
5 Oct.	1553— 6 Dec.	1553	17 Mar.	1627—10 Mar.	1628
2 Apr.	1554— 5 May,	1554	13 Apr.	1640— 5 May,	1640
12 Nov.	1554—16 Jan.	1555	3 Nov.	1640—20 Apr.	1653
21 Oct.	1555— 9 Dec.	1555	25 Apr.	1660—29 Dec.	1660
20 Jan.	1557—17 Nov.	1557	8 May,	1661—24 Jan.	1678
23 Jan.	1558— 8 May,	1558	6 Mar.	1679—12 July,	1679
11 Jan.	1562— 2 Jan.	1567	17 Oct.	1679—18 Jan.	1681
2 Apr.	1571—29 May,	1571	21 Mar.	1681—28 Mar.	1681
8 May,	1572—18 Mar.	1580	12 Mar.	1685—28 July,	1687
23 Nov.	1583—14 Sept.	1586	22 Jan.	1688—26 Feb.	1689
20 Mar.	1689—31 Oct.	1695	27 Sept.	1796—29 June,	1802
22 Nov.	1695— 7 July,	1698	31 Aug.	1802—24 Oct.	1806
24 Aug.	1698—19 Dec.	1700	15 Dec.	1806—29 Apr.	1807
6 Feb.	1700—11 Nov.	1701	22 June,	1807—29 Sept.	1812
30 Dec.	1701— 7 July,	1702	24 Nov.	1812—10 June,	1818
20 Aug.	1702— 5 Apr.	1705	4 Aug.	1818—29 Feb.	1820
14 June,	1705—15 Apr.	1708	23 Apr.	1820— 2 June,	1826
8 July,	1708—21 Sept.	1710	14 Nov.	1826—24 July,	1830
25 Nov.	1710— 8 Aug.	1713	26 Oct.	1830—22 Apr.	1831
12 Nov.	1713—15 Jan.	1715	14 June,	1831— 3 Dec.	1832
17 Mar.	1715—10 Mar.	1721	29 Jan.	1833—30 Dec.	1834
10 May,	1722— 5 Aug.	1727	19 Feb.	1835—17 July,	1837
28 Nov.	1727—18 Apr.	1734	11 Sept.	1837—23 June,	1841
13 June,	1734—27 Apr.	1741	19 Aug.	1841—23 July,	1847
25 June,	1741—18 June,	1747	11 Sept.	1847— 1 July,	1852
13 Aug.	1747— 8 Apr.	1754	4 Nov.	1852—21 Mar.	1857
31 May,	1754—20 Mar.	1761	30 Apr.	1857—23 Apr.	1859
19 May,	1761—12 Mar.	1768	31 May,	1859— 6 July,	1865
10 May,	1768—30 Sept.	1774	1 Feb.	1866—11 Nov.	1868
29 Nov.	1774— 1 Sept.	1780	10 Dec.	1868—26 Jan.	1874
31 Oct.	1780—25 Mar.	1784	5 Mar.	1874—24 Mar.	1880
18 May,	1784—11 June,	1790	29 Apr.	1880— Present Parliament	
25 Nov.	1790—19 May,	1796			

See GREAT BRITAIN, HOUSE OF COMMONS, HOUSE OF LORDS, PARLIAMENTARY LAW. — BIBLIOGRAPHY. Cobbett (W.), *Parliamentary History of England*, 1606–1803, 36 vols.; Hansard's *Parliamentary Debates*, 3 series, 1803–83, 343 vols.; *Journals of the House of Commons*, 1547–1883, 138 vols.; *Journals of the House of Lords*, 1509–1883, 115 vols.; *Standing Orders of the House of Commons*, 1882; *Standing Orders of House of Lords*, 1876; *Parliamentary Reports, Accounts, and Papers*, 1812–83, about 5,000 folio vols.; May (T. E.), *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 8th ed., 1879; Hallam (H.), *Constitutional History of England*, new ed., 3 vols., 1872; May (T. E.), *Constitutional History of England since the accession of George III.*, 1760 to 1870, 5th ed., 3 vols., 1871; Hatsell (J.), *Precedents and Proceedings in the House of Commons*, 4 vols., 1818; Townsend (W. C.), *History of the House of Commons*, 1688–1832, 2 vols., 1843; Todd (A.), *On Parliamentary Government in England*, 2 vols., 1867; Grey (Earl), *Parliamentary Government*, 1867; Cooke (G. W.), *History of Party*, 3 vols., 1840; Dod (C. R.), *Parliamentary Companion*, 1833–83; Bisset (A.), *History of the Struggle for Parliamentary Government in England*, 2 vols., 1877.

A. R. SPOFFORD.

PARLIAMENTARY LAW. This term is commonly used to designate the formal rules, and precedents having the force of rules, which govern the proceedings of legislative bodies. In a larger sense parliamentary law is held to regulate the course of business in all deliberative assemblies, public meetings, societies, conventions, and voluntary organizations of every description. In countries where the principle of representative government is firmly established, nothing can be more important than a clearly defined, well-established, and firmly-adhered-to system of conducting legislative business in such manner as to preserve at once the equality and independence of the representatives and the rights of the people. It is also most important that the public business should proceed in an established order, and with as little interruption and delay from controversy upon side issues as possible. Yet the endless and oft-renewed

discussions in congress and legislatures upon points of parliamentary order, or upon the proper way to proceed with the business in hand, attest at once the confusion of mind of the average legislator, and the indefiniteness of the parliamentary law itself. So far from constituting a systematic code, by which difficult or doubtful questions can be settled with precision, what parliamentary law we have is largely made up of rules subject to constant change, and of precedents liable to be reversed. "What is the law upon any subject," said an eminent lecturer on jurisprudence, "is hidden in the breasts of our judges, and can only be ascertained by experiment;" and the great uncertainty which attends the administration of the rules which are presumed to govern public bodies might lead one to conclude that what is parliamentary law upon any occasion is hidden in the breast of the speaker, or the president, or the moderator, or the chairman, and has little other force than his decision. While such decisions are at all times subject to the test of an appeal from the presiding officer to the assembly, experience shows that the time wasted in long debates often proves a more costly obstruction to the progress of public business than any supposed advantage in establishing a principle. It has been computed that almost one-third of the time of the annual sessions of congress, and nearly one-third of the pages of the costly and voluminous official record, are consumed upon points of order. In parliamentary bodies where there is no restriction upon debate, as in the senate, time enough has frequently been wasted in discussion whether to take up a certain measure to have fully debated the measure itself *pro* and *con.*, and to have passed or to have rejected it besides. There are growing signs, in and out of congress, that the progress of public business will be more insisted upon than the right of unlimited utterance, or "the superstition of talk," which is an advertisement of the individual. Parliamentary action is very rarely affected by long speeches, or by sharp or finely-drawn distinctions of what may or may not be done under the rules. The loss of the precious and unreturning hours which should be given wholly to the well-considered legislation of a great people, in frivolous disputes over inadmissible motions and points of order, leaves so little time that the most important public measures are imperfectly discussed, hastily considered, and crudely framed into law, while the soul of the intelligent legislator is vexed continually, and the legislature itself is brought into contempt. Amid the mass of good and bad precedents, and of rules heaped upon rules, it is not strange to find that the business of direct legislation is hindered rather than helped. What the legislator requires, but does not find, is simplicity instead of intricacy, and an assured standard of appeal instead of a jumble of conflicting decisions. Equally important is it to the ready dispatch of business in conventions and public meetings that there should be a recognized code of procedure, as well as a firm, skillful and courteous presiding officer to enforce it. — The origin of the great body of what is recognized as parliamentary law is directly traceable to the usages of the British parliament (treated in a preceding article). From the days of the anonymous "Order and Vsage of Keeping of the Parlements in England," by John Hooker, published at London in 1572, (the earliest publication on the subject of which we find record), to the latest edition of Sir Thomas Erskine May's elaborate "Treatise on the Law, Privileges, Proceedings and Usage of Parliament," the English books are the fountains from which the American and in great part the continental treatises on the subject are drawn. It were greatly to be wished that along with the formal principles and precedents of the science (if so it can be called) we had also drawn from them one of the best features in the practice. Perhaps there is no element in the conduct of our legislative business more palpably a source of weakness than the fact that in the parliaments of America there is no responsibility for measures. In the house of commons, as in the legislative assemblies of nearly all European nations, the ministry are not only present, but are held to a direct responsibility. The party which has been for the time being intrusted with the conduct of the government, brings in its measures, supposed to be in consonance with the public will, and explains and defends them in debate. All appropriations (bills of supply) needed to carry on the government, and embracing the army, the navy and the civil service, are thus brought in and supported by able men familiar with all their details, because concerned in the administration of each department. Not only so, but most measures of the session demanded by public opinion, whether connected with parliamentary reform, education, public morals, or the widely diversified interests of the United Kingdom at home or abroad, find in the ministry on the floor of parliament vigilant advocates, courting and not shunning debate, answering objections, and ready to take the responsibility of success, or the result of failure, which will consign them from their places of power to private life. How wide the difference in our American legislatures. There, no executive officer can be so much as questioned respecting the acts, the demands or the service of his department, except in the furtive obscurity of a committee room. The only responsibility for public measures which attaches anywhere resides in one or at most two committees of the house, overwhelmed with multifarious business, and utterly unable, though never so competent, to make themselves masters of the infinite detail of the bills they present, and give attention at the same time to other public business, and to the never-ending wants of their constituents. Candid confession comes from one baffled congress after another that under the existing practice no systematic law-making is possible. Instead of a well-digested, clear and easily ad-

ministered body of laws, the statute book is filled with crudities and contradictions which those who administer them are unable to reconcile. It is some consolation, doubtless, to reflect, in presence of the 8,000 to 12,000 bills that do not become laws with which every congress is flooded, how much greater calamities we have escaped. What is true of congress is true in a modified sense of all the state legislatures: the mass of crude legislation which is irresponsibly gotten through, places before the executive a perilous task of arresting it by vigorous use of the veto power, or the perhaps still more perilous responsibility of approval. — For the sake of greater clearness and facility of reference, the various subjects embraced under Parliamentary Law will here be treated in alphabetical order. Substantially the same course of proceeding here noted as prevailing in congress is followed in the legislatures of the several states of the Union, with many variations as to details, according to the rules adopted by each body. — ABSENCE. The presence of members of the body is taken for granted in all representative assemblies, as due to their constituents. This can only be suspended by leave of absence, or employment in the service of the body. Absenteeism embarrasses business, and is unjust to other members, as well as to those represented; yet it sometimes goes so far in protracted sessions as to threaten the loss of a quorum. In congress, the constitution itself empowers less than a quorum to compel attendance of absentees; a rule of the house prohibits absence except from actual necessity or with leave; and no senator can be absent without leave first obtained. The statutes require deduction of salary *pro rata* for absence of a senator or representative, except for sickness of himself or family. In both houses, when votes by yeas and nays are recorded, the names of members absent (or not voting because paired) are published in the journal. In parliament leave of absence is usually given in case of domestic affliction or urgent business, but it is occasionally refused. In the French chambers absence is not allowed without leave of the body except in urgent cases, when the president may grant it. Requests for leave of absence are reported upon by a committee and announced by the president. The salary of deputies is stopped when absent without leave. — ADJOURNMENT. A motion to adjourn takes precedence of all others. It may be made at any time (except when a member is speaking, or the house is voting) unless a motion to adjourn has just previously been negatived: it is not debatable, nor can it be amended. The unfinished business cut off by adjournment generally has precedence in the orders of the day; and this is an express rule of the house and senate. No adjournment for more than three days is permitted to either house of congress by the constitution, unless the other house concurs. If the houses disagree as to the time of adjournment, the president may adjourn them to such time as he thinks proper. In parliament the motion to adjourn is debatable, and may be amended as to time of adjournment. In the commons the speaker adjourns the house when a quorum is found wanting, and the fact is noted; but in both houses of congress business may proceed without a quorum by unanimous consent, or until the question of a quorum is raised by a division. After this no motion is in order except for a call of the house, or to adjourn. In the French chambers, before each day's adjournment, the president consults the chamber as to the day and hour of its next meeting, as well as the subjects to be considered. — AMENDMENT. Any alteration proposed to a motion or to a bill is an amendment. Amendments are often proposed to defeat a proposition, as well as to promote its object. Amendments may be simply to strike out a portion, or to insert new matter, or to strike out, and insert in place of the matter stricken out. They are to be offered in the order of sequence, if the proposition being considered consists of several sections or paragraphs. It is not in order to refer back and amend parts which have been considered, after a latter part has been amended. Every amendment proposed is itself capable of amendment; but there can be no amendment in the third degree, *i. e.*, of an amendment to an amendment. To accomplish such an object the mover should seek to have the amendment to the amendment rejected, then moving his amendment as an alternative, with due notice to the body of the intent to be accomplished. A rule of the house permits a third amendment by way of substitute, to which one amendment may be offered. Amendments once agreed to or rejected can not afterward be altered or amended. Motions to amend may be withdrawn or modified before the previous question is ordered, but not afterward; and amendments withdrawn may be offered again at a further stage of proceeding. Amendments in parliament need not be of the same subject matter with the proposition before the body. A member may move to substitute a wholly different proposition for the one moved, and such an amendment is to be voted upon. But in committee of the whole house this rule does not apply, the house being authorized only to consider the subject referred to it. In congress no amendment is to be admitted on a subject different from that under consideration. In amendments the form of words, and not their substance, is concerned; and as anything may be moved, the opponents of a motion often attempt its defeat by rendering a proposition absurd or obnoxious, or even reversing its substance, so that its supporters join with its opponents to defeat it. No amendment can be in order which contravenes the law or the standing or special orders of either house, or which is the same with any proposition already voted upon during the same sitting. An amendment to strike out is in this country put directly, but in parliament the speaker puts the question whether the words proposed to be stricken out shall stand as part of the question. If an amendment to leave out is passed,

it is not in order to move to insert the words left out in the same place, but they may be moved in another place. The same rules apply as to amendments by insertion. Motions to amend, being properly considered previous to what it is proposed to amend, take precedence, and the question is first taken on the amendment; the same rule applies to an amendment of an amendment. Amendments moved by a member who has already spoken can not in parliament be introduced by a speech. In congress the opposite rule prevails. In congress no amendment to an appropriation bill is in order which increases expenditure or provides for expenditure not previously authorized by law, or which changes existing law. To the last an exception is made admitting amendments which are germane to the subject matter and at the same time retrench expenditure. In committee of the whole it is usual to limit debate upon proposed amendments to five minutes for each speaker; but the majority may at any moment close all debate upon any paragraph or pending amendment; whereupon further amendments may be offered, to be decided without debate. Any bill sent by one house to the other is subject to amendment in all its parts; when returned, the usual course is to disagree to the amendments as a whole or in part. If each house adheres to its disagreement, the bill or resolution is lost; but the differences are commonly adjusted by a committee of conference, whose report is usually accepted by both houses. No bill can be amended after the agreement of both houses. Amendments do not require a second in congress; in the house of commons every amendment must be proposed and seconded the same as an original motion. In the French chambers amendments are offered through the president, who refers them to the committee having similar measures in charge. They are printed, and their authors have the right to be heard before the committee. — APPEAL. The presiding officer's decisions upon questions of order are made subject to an appeal to the assembly. It is optional with the chair to decide the point of order himself, or to submit it to the body. In the house of representatives the speaker must decide. If any member appeals from the decision of the chair the question is then put, "Shall the decision of the chair stand as the judgment of the body?" If the decision is not sustained, the chair is overruled by a majority of the members, and such a vote forms a precedent of some importance on similar questions. A motion to lay the appeal on the table, if carried, has the effect to sustain the decision of the chair. This motion can not be made in committee of the whole. Questions of order just decided on appeal can not be renewed. In parliament the speaker of the lords as well as of the commons refers most questions of order directly to the judgment of the house; the process of an appeal appears not to be provided for. — APPROPRIATIONS. In parliament all bills granting supplies to carry on the government (money bills) must originate in the house of commons; and in 1678 this prerogative was carried so far as to exclude the lords from all power of amending bills of supply. This exclusive power has been jealously maintained by the commons for more than two centuries. In congress a similar claim for the house of representatives to originate all appropriation bills has been made, but not insisted on nor maintained; though the constitutional privilege of the house to originate all bills for raising revenue has always been jealously adhered to. The house committee on appropriations was first formed in 1865, to relieve the committee of ways and means of part of its too onerous duties. The senate committee on appropriations was organized in 1867, its functions having been previously vested in the committee of finance. In congress appropriation bills always have precedence, and may be reported at any time. They must be considered in committee of the whole house on the state of the Union. By one rule of the house and senate they must not embrace expenditures not previously authorized by law, nor provisions changing existing law; but such provisions are frequently incorporated by the committees reporting them. The yeas and nays must be recorded on their passage in the house, but not necessarily in the senate. After being considered and debated in committee of the whole, the bill is reported to the house for passage; but a separate vote is taken upon any clauses or amendments upon which any member claims the right to divide the house. In the French chambers the budget is in charge of a committee of thirty-three members, to whom are referred all matters of public revenue or expenditure. — ARREST. (See *Privilege*).* — AYES AND NOES. (See *Yeas and Nays*.) — BALLOT. Voting by ballot, while it preserves secrecy, is out of favor in legislative bodies, and the constitutions of eleven states require all votes taken in the legislature to be *viva voce*. In other states it is left to the legislature to regulate its own methods of voting. A rule of the house makes a majority of the votes given necessary to an election. When the house votes by ballot the speaker is required to vote. For many years past no vote by ballot has occurred in either house of congress, the speaker and the president *pro tem.* of the senate having been elected by *viva voce* votes. The other officers of each house are chosen by resolution by the controlling party, the minority usually proposing and voting for their own candidates by way of substitute. In parliament secret committees are usually chosen by ballot. The speaker of the commons is chosen upon motion and second by assent or informal vote, unless the house divides, when the usual count of votes is had. (See BALLOT, vol. i., p. 197; *Vote*.) — BAR. The bar of the house implies the railing in the rear of the outer seats of members. Formerly members were required to be within this bar in order to vote; now, a member may vote on a roll-call from any

* References given in italics, are to subjects treated in this article; those given in small capitals, are to articles in the Cyclopædia at large.

place within the hall. In counting the house he must be within the railing. In another sense, the bar of a legislative body is the area in front of the presiding officer; and offenders are brought to the bar to be examined, tried, admonished, reprimanded, imprisoned or discharged, as the case may be. The speaker appears, followed by the commons, at the bar of the house of lords on ceremonious occasions. Members of the commons not yet sworn must sit below the bar.—BILLS. A bill is any proposed act of legislation, commencing with the formula, "Be it enacted," etc. Every Monday in the house of representatives the speaker must call the states and territories, through their members, for bills offered for printing and reference without debate. In the senate one day's notice for bringing in a bill is required, unless received by unanimous consent. Bills are referred at once to the committee to which by their subject matters they properly belong. Every bill must be read three times before its passage; the first and second readings by title, on introduction; the third reading in full, when put upon its passage, or by sections, when debated and amended. No bill can be amended by incorporating in it the substance of any other pending bill. Bills or resolutions may be reported at any time from six committees only: the committee on elections, on members' right to seats; ways and means, on bills to raise revenue; appropriations, on general appropriation bills; printing, on printing for congress; accounts, on house expenditures; and enrolled bills, such bills as are enrolled. Other bills from committees must take their chance of being reported back when the committee is called in its order. Bills reported favorably by committees must go on the proper house calendar in the order so reported, and the senate has the same rule. The enacting clause of all bills must be uniform, thus: "*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled.*" Formerly every section of a bill, no matter how numerous, began with the words, "*And be it further enacted*"; but this tedious and useless verbiage was dispensed with in 1871, shortly before the statutes were codified, and no enacting words are now used in any section except the first. It is the right of every member to have a bill read through at each stage of its progress, though it is customarily, by unanimous consent, read only by title, except upon its passage, when a full reading is mandatory. After a bill has been read three times, the question is, "Shall the bill pass?" after which it is not amendable, although open to debate, unless the house at once seconds the demand for the previous question on its passage. When a bill is passed, the member in charge of it moves that the vote last taken be reconsidered, and that the motion to reconsider be laid on the table. If the house votes *aye*, no reconsideration can take place, and the bill goes at once to the senate. In the senate the passage of bills involves no such formalities. All bills passed by the house must be certified by the clerk with his signature and the day of their passage, and conveyed by him or an assistant to the senate. While bills are on their passage between the two houses, they are on paper; after being passed by both houses they must be enrolled on parchment, and examined (compared or collated) by the joint committee on enrolled bills. Next, they are signed by the president of the senate and the speaker of the house, and presented to the president for his signature. Bills signed by the president are filed in the department of state, where they form the official acts of congress, from which the annual "Statutes at Large" are printed. The president notifies his approval with its date to the house in which the bill originated, and this appears in the journal. Any bill not returned by the president within ten days becomes a law by force of the constitution, unless congress adjourns meanwhile, in which case it does not become a law. (For bills failing to become laws through the president's objections, see *Veto*.) Bills passed in one house and rejected in the other must be notified to the former; they can not be renewed the same session without ten days' notice, and leave of two-thirds. A weekly statement of bills on the speaker's table, with dates and proceedings thereon, must be printed by the clerk. Of each bill offered 750 copies are printed, and many more are frequently ordered. Bills which are undisposed of in either house can be resumed and acted on at the next session of the same congress; but all bills die with the congress, unless they have gone through both houses and been approved by the president. Private bills are defined to be those for the benefit of individuals, companies, etc. Friday in each week is by rule of the house set apart for their consideration; and when reported from committees they are considered in committee of the whole. In parliament there is a radical distinction between public and private bills, which does not prevail in congress. By the standing orders all private bills, whether for the interest of individuals, corporations or localities, must be brought in by petition, and taken charge of by a parliamentary agent. (See LEGISLATION, vol. ii., p. 756.) In the house of lords any peer may offer a public bill without notice; in the commons notice must be given and leave of the house obtained. Bills relating to religion, trade or money grants can not be brought in until they have first been considered in committee of the whole house. Bills passed by both houses receive the royal assent by commission under the great seal. Sometimes the queen assents in person to bills in the house of lords. In the French chambers bills are proposed by the ministry or by deputies, and are printed and referred to proper committees. Members proposing them may be heard before committees. Reports upon bills are printed, after which the chamber fixes the time for debate. No bill can become a law without two deliberations upon it with an interval of at least five days,

except financial bills, bills of local interest, and bills declared urgent. — BRIBERY. Any attempt to bribe a member is a breach of the privileges of the house. Several cases of lobbyists and others charged with bribery appear in the journals. (See LOBBY, vol. ii., p. 781.) Bribery in the election of members of congress is an offense which has been made the subject of repeated investigations by committees of both houses. In parliament many controverted elections have turned upon real or alleged bribery; but such practices have ceased to be subjects of investigation in parliament since the corrupt practices act of 1868, confiding the trial of controverted elections to the court of common pleas. On proof of bribery by the agents of sitting members (even without the knowledge of the latter) their seats have been vacated; while an act of parliament disqualifies for seven years any candidate guilty of bribery, and disfranchises him as a voter for the same period.— BUSINESS. In the lower house of congress there are four calendars of business: 1, a calendar of the whole house on the state of the Union, on which are placed all revenue and appropriation bills; 2, a house calendar, embracing all public bills not revenue or appropriation bills; 3, a calendar of the committee of the whole house, for all private bills; 4, a calendar of business on the speaker's table. Questions of the priority of business are decided by a majority without debate. The first business, after prayer by the chaplain, is the reading of the journal of the last day's sitting; then a call of states and territories (if on Monday) for bills and resolutions; and then a morning hour for reports from committees, called in order. After the morning hour devoted to reports, the unfinished business of the preceding session is in order; after unfinished business a motion to proceed to business on the speaker's table is in order, though seldom arrived at. After this, it is in order to go into committee of the whole house upon revenue or appropriation bills. Next in order is business on the house calendar. As it is always in order (after the morning hour) to go into committee for considering revenue or appropriation bills, there is small chance for other measures during most of the session, and thence comes an almost perpetual contest over the order of business. It requires a majority of two-thirds to suspend the rules apportioning the order in which business must be considered; and this majority is seldom obtained, because the rule forbids the speaker to entertain any motion to suspend the rules except on the first and third Mondays of each month, and during the last six days of a session. Special orders, however, are sometimes made in advance for given days, which take precedence of all except unfinished business and revenue and appropriation bills. The senate has a morning hour for presentation of messages from the president, the house, and other communications, petitions and memorials, reports of committees, and the introduction of bills and resolutions. During this hour no other business is in order except by unanimous consent. At its close unfinished business of the preceding session is first in order; second, any special order for the day; and third, the calendar in its order. This calendar must contain every bill and resolution reported from committees or on leave, and house bills and resolutions unreferred to committees. In parliament the public business is apportioned by reserving certain days for considering the orders of the day, and other days for original motions. The members are so numerous that the priority of those desiring to give notices on the same day is determined by ballot, the speaker drawing their names from a box; they are called out, when they rise and make their motions without debate. The right is reserved to place government orders (*i. e.*, the measures of the ministry) at the head of the list on every order day except Wednesday. Friday's order of the day must be either bills of supply or ways and means. Wednesdays are set apart for bills promoted by members not connected with the government, except when the public business is pressing. Special orders are frequently made in advance, as in congress. The French chamber of deputies fixes the order of business for its next session before adjourning for the day; the order of the day thus fixed is posted in the hall, and published in the official journal. On the demand of any member the order of the day must have priority. — BY-LAWS. In non-parliamentary bodies (as in societies or voluntary associations of any kind), the by-laws constitute the standing rules of the society. They usually follow the constitution, and are of great importance to the orderly transaction of business in its meetings. They should provide a rule for the suspension of them at the will of two-thirds or some other quota of the members. — CALENDAR. (See *Business.*) — CALL. Calling the roll is required at the first meeting of each session of congress. This proceeds by states in their alphabetical order, and shows by the record in the journal who are present. The ordinary roll-call is in alphabetical order of members' names, and is required on every vote that is taken by yeas and nays, the clerk calling out the name, and members answering *vivâ voce*. This call, with the delays arising from indistinctness, absences, changes and reading of the names on both sides, occupies some forty minutes in the United States house of representatives. Various schemes for abridging the enormous waste of time by the roll-call (which sometimes occupies half the hours of a sitting) have been devised: *e. g.*, an annunciator with electric wires, the member touching a button at his desk, and the vote being recorded yea or nay instantaneously for the whole house. The house, however, has never countenanced any substitute for *vivâ voce* voting. The call of committees and of members from states for bills and resolutions is treated of under *Business.* — CALL OF THE HOUSE. When no quorum is present, a call of the house is in order, which proceeds thus: the names of the mem-

bers are called by the clerk, and the absentees noted; the doors are then closed, and the majority present orders absentees sent for and arrested wherever found, by officers appointed by the sergeant-at-arms; when absent members are produced, the speaker calls for their excuses at the bar, and the house determines upon what condition they shall be discharged from arrest. Scenes of great disorder and merriment sometimes occur during a call of the house. No motion is in order during the call except to adjourn, or that all further proceedings in the call be dispensed with: the last motion is usually made upon the appearance of a quorum. In the senate a call of senators must be made when the question of a quorum is raised. If no quorum is present, the majority may direct the sergeant-at-arms to request or to compel the attendance of absent senators; pending which, no debate and no motion except to adjourn is in order until a quorum appears. — CENSURE. Members of a legislative body are liable to censure for transgressing the rules in speaking or otherwise. A vote to censure a member requires the speaker of the house to pronounce that such a member (calling him by name) has incurred the censure of the house. Votes of censure have not been infrequent, mainly for unseemly conduct or transgression of the rules of debate; and instances are not wanting where the speaker has been required to pronounce the censure of the house upon members who have been guilty of grave derelictions in their capacity of representatives. In parliament the speaker of the commons has been sometimes directed to reprimand or admonish persons at the bar who have offended against the dignity of the house. In the French chamber of deputies members are subject to censure of the chamber, who have refused to heed a call to order, or have been guilty of tumultuous conduct, or of menacing or insulting any of their fellow-members. Censure, coupled with exclusion from the hall for fifteen days, is pronounced against any deputy who has been guilty of any violence, or has resisted a simple censure, or has menaced any member of the government or the president of the republic. Both censures carry with them temporary forfeiture of the salary. If case of resistance by any deputy, or of tumult in the chamber, the president at once adjourns the session, and the public prosecutor is informed that an offense has been committed in the palace of the chamber of deputies. — CHAIRMAN. The chair is usually filled by the speaker in the house and by the vice-president in the senate. The speaker has the right to call any member to preside if he desires to leave the chair, and this member is addressed as "Mr. Chairman"; but such substitution is limited to the day when made; except that in case of his illness he may appoint a chairman, with the approval of the house, for not more than ten days. In the absence of the speaker without making such an appointment, the house elects a speaker *pro tempore*, who is addressed as "Mr. Speaker." When the house goes into committee of the whole the speaker never presides, but designates a member, who is addressed as "Mr. Chairman." When the committee of the whole rises, which is done by motion, the speaker resumes the chair, and the chairman formally reports to him what progress has been made upon the business in hand. In the senate the chairman, who is elected to take the place of the vice-president as presiding officer, is known as the president *pro tempore*. Either officer may call any senator to occupy the chair, but only for the day or a less time at his pleasure. This substitute is still addressed as "Mr. President." The chairman of a committee is the first-named member thereon, by a rule of both houses. In his absence the next-named member acts as chairman. The great amount and importance of business prepared for legislative action by the committees renders the chairmanship an influential and much desired position. — CHILTERN HUNDREDS. (See PARLIAMENT, THE BRITISH.) — CLERK. At the beginning of each congress the house is called to order by the clerk of the last house, who continues in office until his successor is chosen. He then calls the roll of members, and decides all questions of order until the election of a speaker, subject to appeal to the house by any member. His successor is elected immediately after the choice of a speaker, by *viva voce* vote. The clerk must note all questions of order and decisions thereon; keep the journal of the house and print it, with an index; certify to the passage of all bills and resolutions; attest, by signature and seal of the house, writs, warrants and subpœnas; make all contracts regarding supplies or labor for the house; disburse and account for the contingent fund; appoint and pay the assistants in his office; keep the stationery accounts; and have charge of certain classes of documents for distribution. He has the custody of all bills, petitions and other papers pertaining to business before all committees of the house at the close of each congress, to be preserved in the files of his office. He must make a roll of representatives elect before the first meeting of each congress, placing on it only those whose credentials show them regularly elected. All messages from the house to the senate are conveyed by the clerk or one of his assistants. — CLÔTURE. This term, recently adopted from the French, denotes the closing of debate, answering closely to the previous question, as it prevails in American assemblies. In parliament the previous question does not have the effect to suppress all further discussion of the main question. The want of any standing order enabling the majority of the house to close debate and secure the prompt passage of the ministerial measures, led to the protracted parliamentary contest of 1881-2, and the adoption of new rules for procedure in the house of commons. As introduced by Mr. Gladstone, Feb. 20, 1882, the procedure resolutions required the closing of debate by a bare majority approving the putting of the question by the

speaker; but the question under discussion was not to be decided in the affirmative unless supported by 200 members or opposed by less than 40. This radical measure was the fruit of the obstructive tactics adopted by the Irish members in the long session, Jan. 6 to Aug. 7, 1881. Taking advantage of the rules of the house, designed to promote freedom of debate, about forty members successfully thwarted the majority, and for many months prevented legislation giving the government power to enforce the laws in Ireland. Several all-night sessions of the house, and one continuous sitting of forty-one and one-half hours, with scenes of great disorder, were the fruits of these obstructive tactics on the part of the home rule members. A series of motions to adjourn the debate, to adjourn the house, etc., were continually renewed in the endeavor to weary out the majority and delay the obnoxious Irish bill by adjournment of the house; but the majority, backed by the conservative party, who made common cause with the ministerialists, kept the house together by relays, and the debate went on day and night. At length the speaker took the decisive measure of arresting debate by putting the motion for leave to bring in the bill to suppress disorders in Ireland. This was carried, the Irish members leaving the house in a body. The bill reaching a second reading, the obstructions were renewed, and Mr. Parnell and other members were "named" by the speaker for disregarding the authority of the chair. Resistance to the progress of business continuing, a motion for the expulsion for the day of thirty-one of the home rule party was carried; and, after four nights' debate, the first "urgency" resolution of Mr. Gladstone was carried, 359 to 56. This secured parliamentary progress, and the Irish bill was passed through both houses within a week, and received the royal assent March 2, 1881. At the next session of parliament (1882) the adoption of the *clôture* as a permanent standing order was carried after months of struggle and debate. An amendment that in no case should the *clôture* be enforced unless with the support of two-thirds of those present, was lost. The procedure resolutions were finally passed Dec. 1, 1882, and are to the following effect: 1, provides that the speaker or chairman may stop the debate at his discretion, if supported by more than 200 members; or if opposed by less than 40, and supported by more than 100; 2, provides that motions for adjournment for the discussion of a definite matter of urgent public importance, shall be entertained if forty members support it by rising up; 3, provides for limiting such debate to the subject in hand; 4, provides for the taking of divisions; 5, 6 and 7, are technical rules for the speaker's or chairman's guidance; 8, makes it a standing order that no opposed motion shall be taken after half-past twelve at night; 9, regulates the suspension of offending members; 10, gives the speaker or chairman the power to check attempts to secure delay by abuse of the rules; 11 and 12, are minor provisions; and 13 makes the first seven and last three resolutions into standing orders. In the French chamber of deputies, by Art. 108 of the *Règlement*, the president is to take the sense of the chamber before pronouncing the closing of debate. If the *clôture* is opposed, only a single speech against it is allowed. The *clôture* being once pronounced, no further debate is in order, with the single exception of remarks upon the state of the question. — COMMITTEES. A committee is an officially constituted organ of a deliberative body to facilitate its business by examining questions, canvassing their merits by discussion, testimony, etc., digesting resolutions, or preparing bills for action, and reporting their conclusions to the body of which they are members. In societies, conventions and deliberative assemblies, it is the almost invariable practice that the presiding officer appoints all committees. The mover of any special committee is usually by courtesy appointed its chairman, although the selection both of committees and of chairmen is always within the power of the assembly. Committees are most important organs of a body to forward its business by intelligent and orderly procedure. In the house of representatives the speaker has the sole power of appointing committees. There are three kinds of committees in congress, viz., standing, select and joint, besides committees of conference, which are appointed for the occasion, to reconcile differences between the houses upon matters of legislation. The standing committees of the house are forty-seven in number, appointed at the commencement of each congress. Three of these are joint committees, the senate having a similar committee to act with them. They consist of from fifteen members each down to three, the greater number having eleven members. Select committees, ordered by the house from time to time to consider special subjects, consist of various numbers and do not hold over the session, unless specially authorized, while the standing committees are for the whole congress. In 1802 the house had only five standing committees of seven members each. The call of committees for reports is daily, except on the first and third Mondays of each month. All reports of committees must be in writing. They can sit during sessions of the house only by special leave. Committee rooms are provided in the capitol for their sessions, which are private unless they choose to admit spectators. Jefferson's Manual holds that the proceedings of a committee are not to be published, as they are of no force until confirmed by the house; but in modern days the enterprise of the press is adequate to spread before the public all that is of interest in the proceedings of every congressional committee. A committee is sometimes given the special power to send for persons and papers; also to hold sessions in any part of the country where investigation is desired. A majority of the committee constitutes a quorum for business. Each committee has a clerk, appointed by the chairman with the committee's approval, and a calendar of

business. Any chairman of a committee has power by statute to administer oaths to witnesses. It is common to parcel out committee work involving examination among the individual members, or to refer various topics to sub-committees for report. Some committees meet daily, others weekly, others casually upon call of the chairman, according to the amount or importance of the business referred to them. The right of a committee to report at any time carries with it the right to consider the matter when reported; but all measures involving the raising or expending of money must be first considered in committee of the whole. The only exceptions to this rule are the committees on elections, printing, and accounts. A committee report may be made by the chairman or any one of its members; and he has the right both to open and close debate on the report. Minority reports in writing are usually printed and considered with the majority report. Questions of jurisdiction over certain business often arise between various committees, and are decided by the speaker or the house: the principle governing is, that the principal subject of the bill should control its reference. In the senate the standing committees (thirty-four in number) are appointed by ballot unless otherwise ordered. For many years past the ballot has been dispensed with, and the committees are elected each session (not for the whole congress, as in the house) on motion, the members being named in a body by the party in the majority, which has previously agreed to them in caucus. Special committees are frequently appointed by the president of the senate, who also appoints committees of conference. Reports from committees are to be called for during the morning hour next after the communications to the senate and the offering of petitions and memorials. In parliament there are no standing committees except on accounts, standing orders, selection, and railway and canal bills, and these must be reappointed every session. Select committees are appointed in the lords by ballot or on motion. In the commons select committees (usually of fifteen members) are appointed *vivâ voce* on motion of any member naming them, although the house sometimes elects committees by ballot. The house orders in each case what number shall be a quorum of the committee, usually five members in the commons and three in the lords. The object of select committees is usually to take evidence, and power is given them to send for persons and papers. The presence of strangers is usually permitted in house committees, rarely in those of the lords. Their exclusion may be ordered at any time, and is enforced while the committee are deliberating. Secret committees are sometimes appointed, whose inquiries are conducted with closed doors, even members of the house being excluded. All evidence is taken in shorthand, and printed. Reports and resolutions reported by committees, by a standing order are laid upon the table. By a new usage, first in operation in 1883, "grand committees" have been created, selected for the purpose of giving measures mature consideration before they are presented to parliament for debate. This object has thus far been well answered, and the working power of the parliament increased. In the French chamber of deputies the most important committee is that on the budget. This consists of thirty-three members, and is charged with all legislation relating to receipts and expenditures. The chamber may refer to any committee any other propositions for legislation. No member can belong to more than two committees. One day in each week is customarily set apart for committee work. — COMMITTEE OF THE WHOLE. A committee of the whole is constituted of all the individual members of the body, and must be formed by an act of the house itself. In the senate there is no formal resolving into committee of the whole of the body, but simply a resolution that the business then pending shall be considered "as in committee of the whole." This is styled by Mr. Jefferson a *quasi committee*. The house having resolved to go into committee of the whole, the speaker must leave the chair, after appointing a chairman to preside. Business is taken up in the order of the calendar, appropriation and revenue bills having precedence. The committee must rise and the speaker resume the chair if a message to the house comes in, or a bill is objected to, or any other business occasion arises requiring the immediate attention of the house; after which the house goes again into committee. The rules provide that all matters relating to taxes or appropriations of money shall first be considered in a committee of the whole. The five-minute rule prevails in committee of the whole; *i. e.*, any member is allowed five minutes to explain any amendment he may offer; after which one member is allowed to speak five minutes in opposing it, and there must be no further debate thereon. This is practically extended, however, by permitting an amendment to an amendment, so that many five-minute speeches may be made by *pro formâ* motions to amend by striking out the last word, etc. When debate runs too long, in the view of those having charge of the measure, the motion is often made that the committee rise; when the house is asked to close all debate upon the pending section; if carried, this cuts off all debate, but does not preclude further amendment. The previous question can not be put in committee, nor motions to reconsider, nor can the yeas and nays be taken, nor can motions, amendments or appeals be laid on the table. The members vote by three methods: 1, *vivâ voce* by the sound, aye or no; 2, by rising, and standing till they are counted on each side; 3, by passing between the tellers. When the matter under consideration in committee is finished, the committee rise, and the chairman reports to the speaker, "The committee of the whole house on the state of the Union having had under consideration (such a subject) have directed me to report the same with (or without)

amendments." In parliament the chair is taken in committee of the whole by the chairman of the committee of ways and means in the commons, and by the chairman of committees appointed each session in the lords. The ordinary function of committees of the whole house is deliberation. Every public bill and all matters concerning religion, trade, revenue or the grant of public money must first be considered in committee of the whole. Members may speak more than once in committee, but not in the house. — CONCURRENT RESOLUTION. This is a resolution adopted by both houses, chiefly on the subject of adjournment of the session. Unlike a joint resolution, it does not require the signature of the president. — CONFERENCE. To adjust differences in the form or substance of a measure which has passed both houses, though in a different shape, committees of conference are appointed by the presiding officer. They consist usually of three members from each house, two of whom are of the majority party, or favorable to the measure. In all cases of disagreement, or when either house refuses to concur with amendments to any measure made by the other, a conference is moved. Reports of committees of conference must be signed by a majority of the committee of both houses, and are always in order. They must contain an explicit statement as to what effect the committee's report will have on the measure. If the conferees fail to agree (as often happens) they report to their respective houses, and a new committee (or the same) is again appointed. Three or four conferences, with as many committees, are sometimes required. The usual form of moving a conference is that the house (or senate) insist on its disagreement and ask for a conference: the alternative motion is, that the house recede from its amendments, or from its disagreement, and agree to the amendments of the other body. The senate has a rule that the question of consideration of conference reports shall be taken at once without debate. In parliament conference committees are more formal, and may be demanded by either house concerning the privileges of parliament, the course of proceeding and the bills or amendments passed by the other house. Each house appoints managers to represent it at the conference, and both houses are thus brought into direct intercourse with each other by deputations of their own members. Business is suspended in both houses of parliament during the sitting of conference committees. In the French *corps legislatif*, when the senate disagrees with the chamber of deputies, a committee of conference may be moved to agree upon a new form of law. If the conference report is rejected by the deputies, it is not in order to bring in a similar bill until two months have expired, except upon the initiative of the government. — CONSENT. In the ordinary course of business at public meetings, and in some parliamentary bodies, business may be done by unanimous consent. The presiding officer puts the question: Is it the pleasure of the assembly that such a thing should be done? If no member dissents, he announces, "The chair hears no objection," and the thing is ordered without putting the question in any other form. If a single member objects, the chairman must put the question in the usual way by a motion and second. The introduction of any bill or resolution out of the regular order requires unanimous consent. It is customary for members to ask unanimous consent to withdraw papers from the files, to be excused from the house or from voting, to print remarks not actually delivered, to have a bill or motion taken up for present consideration, to have their time extended when speaking, etc. If no objection is made, the chair announces that the request is granted. — CONSIDERATION. To raise the question of consideration is to endeavor to defeat a measure by bringing the house to vote whether they will consider it. It is too late to raise the question of consideration on any question after its discussion is actually begun. — CONSTITUTION. In most societies or permanent voluntary organizations it is customary to adopt a constitution and by-laws for the government of the body. The constitution commonly sets forth the name and object of the organization, the qualifications and mode of electing members and officers, and the regulations for meetings. It also contains provision for its amendment through a vote of two-thirds or some other majority, after specified previous notice at a regular meeting. — CONTEMPT. (See *Privilege.*) — CONTESTED SEAT. (See *Elections.*) — CONVENTION, JOINT. A joint convention of the two houses is held only upon occasion of counting the electoral vote for president and vice-president. Formerly this assembly was regulated by a joint rule of the two houses, providing that the president of the senate should be their presiding officer, and prescribing details for counting the vote. This rule, however, was abolished in 1876, and there is now no rule upon the subject. — DAY, LEGISLATIVE. For the purposes of legislation the congressional day begins at 12 o'clock M., or at such earlier hour as either house shall have adjourned to. It does not terminate until an adjournment is had; a recess merely to the next day does not end the legislative day then running. An adjournment does not necessarily take place at the beginning of Sunday; a majority may continue in session after that hour (as has frequently happened), but the journal bears the date of the day preceding (Saturday). — DEADLOCK. This is a common phrase, which designates a stoppage of business in one house through obstructions by the minority; or, a deadlock in legislation may occur between the two houses, through party differences, when the majority in one is of different politics from that controlling the other. The latter are usually compromised by each house yielding something; the former sometimes lasts for days and nights, the party seeking to prevent the enactment of an obnoxious measure exhausting every parliamentary expedient by calls of the

house, motions to adjourn, calling the yeas and nays, etc., on their motions, to defeat or weary out the majority. — DEBATE. In all assemblies for the transaction of business it is essential that there should be rules to regulate and limit discussion. There are some rules which may be regarded as universal; as, 1, No debate is in order unless a motion of some kind is before the assembly; 2, Any one rising to debate must address the presiding officer, not the assembly; 3, By courtesy, the mover of any proposition is first entitled to the floor; 4, Debate must be confined to the question before the assembly. In the house of representatives a member rising must address "Mr. Speaker"; the speaker names the member who is first to speak (as "the gentleman from Maine," etc.). When several rise at once the member who first catches the speaker's eye is to be called upon. A member reporting a measure from a committee opens and closes the debate; no member can speak more than one hour without express leave of the house, or more than once to the same question unless he be the mover of the matter pending, when he may speak in reply after all others choosing to do so have spoken. No debate is allowed after the previous question is ordered, except one speech from the member closing debate: it is common, however, for the member having an hour to close to yield a given amount of his time to several members. In both houses no debate is allowed on motions for adjournment or recess, or to lay any business upon the table, or to consider conference reports, to excuse from voting, or on questions of order arising after a motion for the previous question, or upon reference or priority of business. No member may call another by name in debate, or notice the views of the other house; both of these rules, however, are frequently violated. In the senate debate is without limit, unless a special order is made to curtail the length of speeches. No senator can interrupt another without his consent, or speak more than twice on the same question the same day without leave of the senate. Both houses have a rule that any member transgressing in debate the rules of the house, shall be called to order, when he must sit down, and can not proceed without leave, the exceptionable words being taken down. Senators must stand in their places when debating; but members of the house may speak from their seats, or from any part of the floor, or from the clerk's desk. In the house of lords a peer addresses the lords in general; in the commons the speaker is addressed. The reading of written speeches is not permitted in either house of parliament. A member may read extracts from documents, but must debate questions in the literal sense of that word, without reading manuscript remarks. In both houses of congress written speeches are practically rather the rule, and debate in the true sense the exception. While debating, members of the lords and commons remove their hats, resuming them upon concluding. Debate in the lords depends upon the will of the house; in the commons the speaker recognizes the member who rises first. As several members may frequently rise at once, the one that is first in his eye is called upon. Competition for the floor sometimes leads to a motion that another than the member called by the speaker be first heard. It has been sometimes charged that there was a "speaker's list," by which his recognition of members was governed, but this has never been admitted. The rule of one speech only from any member on the same question is strictly observed. No member can be called by name in either house; in the lords a member is referred to by his rank, as "the noble earl"; in the commons, by the place he represents, as "the honorable gentleman, the member for York." In the French chambers members speak from the tribune, and must first have obtained leave by addressing the president. A list of the deputies who desire to speak at any session is kept, in the order of their demand. In the discussions members speak alternately for and against a measure under consideration; a rule which does not prevail either in England or America. The ministers are to have the floor whenever they claim it, even if it interrupts the order of the regular list, but one of the opposition may always follow the speech of a minister. Disorder or clamor during a discussion is prohibited; if the chamber becomes noisy, and the president can not restore order, he puts on his hat; if the disorder continues he announces the session closed for an hour, at the end of which time the sitting is resumed; if the tumult breaks out again the president must adjourn the chamber to the next day. — DELEGATES. (See *Territories.*) — DIVISION. To call for a division is to test the sense of the assembly on the proposition before it. In the house a division is had by the members on each side of the question rising in their seats and being counted by the speaker, who announces the vote. If dissatisfied with the result, any member may call for tellers, or the yeas and nays may be called for. The division of a question, if demanded by any member, must be made before voting, if it include two or more distinct propositions. In parliament, if the vote by ayes and noes (*vivâ voce*) is not accepted, there is no division by rising and standing to be counted, but the house at once divides, those voting for the measure withdrawing to the lobby on the right of the house, and those opposed entering the left. Two tellers are appointed by the speaker for each party. As members file back into the house they are counted by the tellers, and their names recorded by the clerks. The result is announced from the chair, and alphabetical lists of the names are printed with the "votes and proceedings." No member can vote who was not in the house when the question was put; but a "division bell" is rung by the doorkeeper when the house is about to divide, which is heard through the neighboring rooms, and scattered members hasten to be present at the division before the doors are locked. The time allowed for this notice is two minutes, measured by a sand-glass; and when that has run out,

the doors are closed, and the speaker must again put the question by ayes and noes, as by the rule no absentees on the first call could vote unless the question were again put. If the numbers on a division are equal, the speaker must give the casting vote in the commons; if there is a tie in the house of lords, the measure voted upon is lost. In the French chambers a division must be had on the call of any member. The vote is taken, 1, by rising ; 2, by open ballot; 3, by secret ballot. The first method is in order upon all questions unless twenty members demand an open ballot or fifty a secret ballot; or when the rising vote, having been twice taken, is not decisive of the question; in this case any member may demand the ballot. The open ballot requires each member to be supplied with white tickets signifying a vote in the affirmative, and blue tickets the negative, on all of which his name is printed. Messengers present to each member an urn, in which he deposits his ballot: all the votes being collected, the urns are opened at the tribune; the secretaries count the ballots of each color, and the president announces the result. The secret ballot is taken by white and black balls, the white signifying the affirmative, and the black the negative. The members deposit the balls themselves in an urn; the secretaries turn them out into a basket, count the black and white balls, and the result is proclaimed. — DOORKEEPER. In some assemblies the sergeant-at-arms or his assistants discharge all the duties of a doorkeeper. In the house of representatives the office of doorkeeper is an important one, involving the care and responsibility of the chamber and apartments of the house and the public property therein, the superintendence of the document room and folding room of the house, and the appointment of many messengers, assistant doorkeepers and pages. During the sessions he announces at the door of the house all messages, furnishes members with printed documents, conveys messages, etc. He must enforce strictly the rules as to the privileges of the hall, and be responsible to the house for the conduct of his employés. In the senate the sergeant-at-arms appoints the doorkeeper and his assistants. — ELECTIONS. In public assemblies the first business in order is always the election of officers. At any meeting which is not that of an organized body, it is usual for the assembly to be called to order by some volunteer member, who moves that Mr. —— act as chairman of the meeting. The motion being seconded, the proposer calls for a vote by ayes and noes. If the voice of the former preponderates, he declares the motion carried, and calls Mr. —— to the chair. The chairman, having taken his seat, announces the first business to be the election of a secretary, and calls for nominations, putting the question in the same manner for an expression of the sense of the meeting. Other officers may be elected in like manner, but a president and secretary are all which are usually necessary for a meeting. In the house of representatives the speaker, clerk, sergeant-at-arms, doorkeeper, postmaster and chaplain are elected by *viva voce* vote at the beginning of each congress. The election of members involves questions of the highest privilege, the constitution itself making each house the judge of the elections, returns and qualifications of its own members. The committee on elections in the house, and on privileges and elections in the senate, stand at the head of the list of committees. Contested elections of members, of which there are usually several in each congress, are carefully examined by these committees. The law provides that any contestant of an election of any representative must, within thirty days after the result is declared, notify the member whose seat he contests, of his intention and grounds of contest. The member must within thirty days answer the contestant in writing. Ninety days after this are allowed both sides for taking testimony. Witnesses may be examined or depositions taken at any place with due notice on both sides, the member and contestant appearing, either in person or by attorney, before any judge of a United States court, a state court of record, or a notary public, etc., who are by law competent to issue subpœnas and take record evidence in election cases. The testimony is taken in writing, and transmitted to the clerk of the house, by whose order it is usually printed. Contestants have the privilege of the floor pending a decision of their claim, and are usually heard in their own behalf before the vote is taken. Questions of the right of a member to his seat take precedence of all business. Large sums have frequently been voted to sitting members and to those contesting their seats for expenses incurred in the contest. The Revised Statutes (sec. 130) prohibit such payments to any person, but a subsequent statute of 1879 provides that thereafter no contestant or contestee for a seat in the house shall be paid more than $2,000 for such expenses, and that only upon sworn vouchers or receipts for money actually disbursed. The election of senators in each state must be made by the legislature chosen next preceding the expiration of the term of a senator. On the second Tuesday after organizing, each house must vote separately and *viva voce* for a senator. If any one has a majority in both houses he shall next day be declared duly elected senator in joint assembly of both houses. If no one has a majority the joint assembly must vote for senator (each member having one vote), and if no candidate receives a majority on the first day, the assembly must meet at 12 M. each succeeding day of the session, and take at least one vote, until a senator is elected. In parliament the practice in contested elections prevailing in this country was formerly in vogue, but the trial and determination of contests for seats by the whole house of commons grew into a great abuse through the notorious partisanism which almost invariably decided the case. This was reformed by the Grenville act of 1770, which selected by lot all committees for the trial of election petitions. This non-partisan method of se-

lecting judges of parliamentary elections was maintained until 1868, when the jurisdiction of the house of commons in the trial of controverted elections was transferred by statute to the courts of law. Complaints of fraud in an election, or wrong returns of members, are tried by a judge within the district concerned, who certifies his determination to the speaker, which is final. If he reports that corrupt practices have prevailed at the election, a commission is sometimes appointed thereon. Corrupt constituencies have been repeatedly disfranchised by act of parliament. In France the chamber elects at each new organization a provisional president, and two vice-presidents, by ballot. The chamber is then divided by lot into eleven bureaus, who proceed to examine the election returns of all the members, by committees of five members chosen by lot. Report is then made to the chamber, which pronounces on the validity of the elections, and the president proclaims the list of regularly chosen deputies. By the French constitution each house is the sole judge of the eligibility and returns of its members. After the powers of a quorum or upward of the chamber have been verified, permanent officers are elected by ticket, viz., a president, four vice-presidents, eight secretaries and three questors (who have charge of the parliamentary expenditure), to serve during the entire session. — ENGROSSED BILLS. An engrossed bill is a clean copy of the bill, with its amendments, put in proper form for the action of the house. When a bill has passed through all its stages, and the question is about to be taken on the third reading and passage, any member may call for the reading of the engrossed bill, and this may defeat the bill at that stage unless the motion to suspend the rules and pass the bill can be carried. An *enrolled* bill is a bill which has passed both houses and been enrolled on parchment, the engrossed bill being on paper. — EXCUSE. All members must vote unless excused, and the motion for excuse must be put before roll-call and decided without debate. The excuses of absent members brought in under a call of the house may be accepted or held inadequate, at the pleasure of the house. — EXPULSION. A member may be expelled by a vote of two-thirds in either house of congress. This is a constitutional provision, and has been several times exercised. More frequently resolutions to expel members guilty of grave misconduct have been lost, owing to lack of a two-thirds majority, or forestalled by the resignation of the offending member. The latter occurred in the case of Matteson and others whom the house was about to expel for corruption in railway land grants in 1853. (See LOBBY, vol. ii., p. 781.) In the case of B. F. Whittemore, a member from South Carolina, found guilty, on report of a committee of the house in 1870, of selling an appointment to a West Point cadetship, resolutions of expulsion were introduced, but the member resigned his seat an hour or two before the vote upon them was to be taken, and the resolutions were laid on the table. Whittemore returned to his constituents and was re-elected to the house. Thereupon a resolution was passed declining to allow Whittemore to be sworn in as a member, and returning to him his credentials. In the house of commons the power of expelling a member for grave offenses is undoubted. But though this vacates the seat of a member, it does not create disability to serve again in parliament. The famous case of John Wilkes, who was repeatedly expelled from the commons for libel, and was three times re-elected, the house each time standing on its prerogative and declaring the election void, was a disfranchisement which was palpably illegal; and the house itself, in 1782, reversed its action in the Wilkes case, ordering it expunged from the journals as "subversive of the rights of the whole body of electors of this kingdom." Many expulsions from parliament have occurred for corruption, perjury, conspiracy, fraud, libel, forgery, etc., the last instance having been that of James Sadleir for fraud in 1857. In the French chambers the penalties which are affixed to delinquencies do not go the length of expulsion, but only of censure, with temporary suspension from legislative functions. — EXPUNGING. On various occasions the action of a former legislative body has been rescinded by the passage of a resolution to expunge from the journals a previously adopted order or resolution. The most noted instance of this kind in congress was the passage by the senate, in 1837, of a resolution to expunge from the journal a resolution adopted by the senate in 1834, censuring President Jackson as having assumed power not conferred by the constitution and laws. In parliament entries in the journal have occasionally been ordered to be expunged, the most notable case being that affirming the incapacity of John Wilkes as a member, passed in 1769, and erased in 1782 in the manuscript journal of 1769. The printed journal, however, (though reprinted since), still contains the obnoxious resolution. — FILES. The clerk of the house and the secretary of the senate have responsible charge of all files of papers, public and private, which accumulate in the course of the business of the respective houses. No memorial or other paper presented to either house can be withdrawn from the files without its leave, except for reference to a committee. — FILIBUSTERING. This term has long been applied in America to the obstructive tactics and dilatory motions adopted by a minority to defer action upon a measure obnoxious to them. In the house this is done chiefly by the minority insisting upon the constitutional right to take the yeas and nays on every motion; then, by oft-repeated motions to adjourn, to adjourn to a fixed day, to reconsider, to lay on the table, etc., and by relays of members to raise points of order, parliamentary inquiries, etc., hours and sometimes days are consumed in the hope of wearying out the majority, or compelling them to compromise. In the senate, where there are few or no

checks upon debate, a mild form of filibustering is employed by a well-organized minority taking the floor in succession, and each speaking as long as possible. Measures have been thus defeated by consuming the whole time of a closing session. — FLOOR. To obtain the floor is to be recognized by the presiding officer as having the right to make a motion or a speech. (See *Debate.*) — HOUR RULE. In the house of representatives, by a standing rule first adopted in 1847, no member can occupy more than one hour in debate on any question except the member reporting a measure from a committee, who has an additional hour to close the debate, if it extends beyond one day. No similar rule prevails in the senate or in the British parliament. — IMPEACHMENT. This is a parliamentary power as old as the fourteenth century, and frequently exercised in early history, involving the highest judicial powers. Impeachment by the commons of high crimes beyond the reach of the law, and a trial by the house of lords, were invoked to defend the rights of Englishmen against corruption and oppression in office, whether executive or judicial. In modern times impeachment has been very rare. The direct responsibility of the highest officers to parliament, the limitations of prerogative, the settled administration of the law, and, more than all, the power of public opinion, have restrained those crimes which impeachments were devised to punish. Nevertheless, all persons, whether peers or commoners, may be impeached for high misdemeanors. The last trial of an impeachment in Great Britain, and the only one in the present century, was that of Lord Melvil in 1805. (See, for impeachments in U. S. History, vol. ii., p. 480.) — IMPRISONMENT. (See *Privilege.*) — INSTRUCTIONS. (See INSTRUCTIONS, vol. ii., p. 527.) — JOINT COMMITTEES. (See *Committees.*) — JOINT CONVENTION. (See *Convention.*) — JOINT RESOLUTION. A joint resolution, like a public act or statute, is one which is passed by both houses and signed by the president. (See *Resolution.*) — JOINT RULE. This is a rule adopted by both houses for the conduct of business between them. A series of fifteen joint rules was adopted as far back as 1790–94, and was in force (with occasional slight additions) until the 44th congress. The most important of these was the 22d joint rule, providing for the counting of the votes for president and vice-president in joint convention of the two houses. Jan. 20, 1876, the senate passed and sent to the house a concurrent resolution declaring that these joint rules previously in force, except the 22d, be adopted as the joint rules of the two houses for that session. The house took no action thereon, but, on Aug. 14, 1876, asked the senate to concur in a resolve suspending for the remainder of the session the 16th and 17th joint rules (forbidding the sending of bills from one house to the other in the last three days of the session, and presenting bills to the president on the last day of the session). The senate, in reply, passed a resolution, notifying the house that, as the house had not notified the senate of the adoption of the joint rules as proposed by the senate, there are no joint rules in force. — JOURNAL. The constitution provides that each house shall keep and publish a journal of its proceedings. This is done by the clerk, through one of his assistants, known as the journal clerk, and each day's journal must be read on the meeting of the house on the succeeding legislative day. It records with great fullness the motions, votes, petitions, messages—in short, all proceedings in the house, except the debates. In reading the journal the record of petitions, names of members voting, resolutions and messages, are omitted by unanimous consent; even without these the journal often runs to great length. Errors in the journal may be corrected the next day. — LEGISLATIVE DAY. This begins at 12 M. in congress, unless a different or earlier hour is fixed by either house for its meetings. It terminates with the adjournment, (a mere recess does not end it), but does not always coincide with the day as marked by the calendar. Thus, the legislative day which terminates the session of congress every other year is styled March 3 in the journals and proceedings, although it is actually March 4, from the hour of midnight to noon of this closing day. — LOBBY and LOBBYING. (See LOBBY, vol. ii., p. 770.) — LOG-ROLLING. This is a cant phrase, applied to a combination of members to aid each other's measures. The term comes from the business of securing lumber, or logging, where the loggers unite to help each other in the hard work of rolling the immense logs from the forest, where they are cut, to the water. Thus, one member of the legislative body says to others, "Vote for my bill, and I will vote for your bill," and this is called log-rolling. — MACE. This is the traditional symbol of parliamentary power, as old as the sixteenth century. It is a large block of wood carved and gilt, and is borne before the speaker in the house of commons, when he enters or leaves the house, on the shoulder of the sergeant-at-arms. When he is in the chair, it is laid upon the table. (In the house of representatives the mace is set upright at the table of the sergeant-at-arms, at the speaker's right.) The mace now used in the house of commons is the identical one handed down from the accession of Charles II., 1660. There is no mace in the house of lords or in the senate. It is the time-honored emblem of popular sovereignty, in a legislative sense. The mace now used in the house dates from 1842 (although first introduced in 1789), and represents the Roman fasces, made of ebony sticks with silver bands, and small spears, terminating in a globe of silver, upon which is an eagle with half extended wings: the whole is about three feet in height. When the house is in committee of the whole the mace is removed. — MAJORITY. The majority which carries any measure is held to be half the whole number of members of any assembly, *plus* one. Some constitutions require,

to render an act valid, that it shall have been passed by a majority of those elected; but in both branches of congress a majority of the members present (if a quorum of the whole house) may pass any measure which is in order under the rules. It results that a law may be made by less than one-third of the senators and representatives elected. In fact, twenty senators and eighty-two representatives may, under the rules, pass the most important piece of legislation. The rule that a majority must be had to elect a speaker was suspended in the case of the obstinate struggle of 1855–6, when the house remained unorganized for many weeks, the division of parties being such that no one of three candidates could secure a majority. Finally, the deadlock was ended by the house adopting a resolution that a plurality of votes should elect, and Mr. Banks was chosen speaker. The rule that a majority is required to elect a senator in state legislatures is prescribed by the laws of the United States. In nearly all the states, however, the majority rule which formerly prevailed in the election of representatives in congress, and of state officers, has been supplanted by enactments that a plurality of votes shall elect. — MEMBERS. Those are recognized as members of a parliamentary body whose credentials are regular, or who by unanimous consent are admitted as members without examination of credentials. Each house of congress is the sole judge of the elections, returns and qualifications of its own members. The house consists of 325 members, since March 4, 1883. Members are to be elected on the Tuesday after the first Monday in November of every second year (the even years, 1884, 1886, etc.), except in any state where the constitution would have to be changed to alter its election day. In case of a vacancy in a member's seat, the governor of the state issues a writ of election to fill it. The clerk must put on the roll at the first meeting of any congress only those whose credentials show that they were regularly elected representatives. Members of the house must be twenty-five years of age, and senators must have attained the age of thirty. Members of the house can not be contractors, nor be interested in any government contract, nor be office holders, nor presidential electors, nor practitioners in the court of claims. Any subject is eligible to the house of commons who has reached the age of twenty-one, except clergymen, peers, bankrupts, contractors and certain officials. No member of parliament can be counsel before committees, nor a holder of office, except in the ministry. In France the members of the chamber of deputies may take part in the deliberations and votes before the validity of their elections is established. They wear a badge, consisting of the fasces of the republic, with a hand of justice, and a tri-colored sash. — MEETING. A meeting of an assembly differs from a session. Thus, the house frequently takes a recess to meet at a later hour, and this terminates the meeting, or sitting, but the session is the same, and includes all the adjourned meetings. — MESSAGE. Messages in congress imply either executive communications from the president (those from department officers are called "letters"), or from one branch of congress to the other. The president's annual message is sent in at the beginning of each session after he has been notified that the houses are organized and ready to receive any communication. Messages are usually sent in duplicate to both houses on the same day, unless in response to a call from one branch only, and are published in the journal and record. A message from one house to the other, borne by a clerk, is publicly announced at the door, and sent to the chair, the business or debate being temporarily suspended to have it announced, when it is laid on the table, and the proceedings are resumed. In parliament, messages from the crown are sent to both houses, under the royal sign-manual, by one of the ministers or an officer of the royal household, either of whom is a peer or a commoner. Such messages are always read at length by the lord chancellor or the speaker. — MILEAGE. This allowance for traveling expenses to and from the seat of government prevails in congress, and in all the states except four or five. In congress it is twenty cents a mile each way for the session, or rather for the year. In the states, mileage varies from eight cents to twenty cents per mile. — MONEY BILLS. (See *Revenue Bills*. — MORNING HOUR. In each house of congress an hour is set apart for reports, motions and miscellaneous business. It begins, not at the opening of the session, but after the reading of the journal, and always takes precedence of unfinished business. — MOTION. This term is applied to every proposition submitted by a member of a parliamentary body. In ordinary assemblies, motions made by any one require to be seconded by some other member, before being voted upon: but no second is required in either house of congress. Motions are here treated severally under their respective heads. Every motion must be reduced to writing on the demand of any member. If verbal, the presiding officer states it to the assembly; if in writing, it is read by the clerk. In the house, when a question is pending or under debate, no motion is in order but to adjourn, to fix a day to which the house shall adjourn, to take a recess, to lay on the table, to postpone to a day certain, to postpone indefinitely, to refer, to amend, or for the previous question. In the senate the same rule prevails, except that there is no previous question, and motions are in order to commit, or to proceed to the consideration of executive business. In both houses of parliament one day's notice of a proposed motion is required; but the notice may refer to a future day more remote than the day following. Motions must be seconded in the house of commons; but a seconder is not required in the lords. They must be carefully prepared in writing, and placed in the hands of the chair. — OATH. Members of legislative bodies take an oath of qualification or

of office. In congress all must take an oath (or affirmation, if objecting to being sworn) to support the constitution of the United States. The "iron-clad oath," affirming that no aid has ever been given to rebellion against the United States, is taken by all who are not dispensed from it by sec. 1757 of the Revised Statutes. In parliament a single oath of allegiance to the crown has been substituted for oaths to maintain the Established church, etc., once required. — OBJECTION. As no business can be considered in the house out of the regular order without unanimous consent, the right to object becomes very important, as one member can thus defeat or postpone a measure, unless two-thirds of the house can be had to suspend the rules. When in committee of the whole, if any bill or proposition is objected to, the committee must rise and report the objection to the house, which must decide without debate whether it is to be considered or laid aside. — OFFICERS. The officers usually chosen in a public assembly are a president or chairman, clerk or secretary, and sometimes vice-presidents, and a sergeant-at-arms or doorkeeper. (See under each head.) — OMNIBUS BILL. This term is applied in congress to a bill embracing numerous distinct objects, as in the bill "making appropriations for sundry civil expenses of the government." — ONE-HOUR RULE. (See *Hour Rule.*) — ORDER. This may be said to be the first law of a public assembly, whether legislative or otherwise. The order of business is treated under *Business*. The order of the day is the regular routine prescribed in the rules, in which certain classes of business are to be considered. To call for the regular order, is to demand that the body desist from what may be proposed out of due order, and proceed to the next business prescribed by the rules. A special order is a subject set in advance for a particular time, and thus to be preferred to the established order of business. In both houses of congress this motion requires a two-thirds vote for its adoption, being virtually a suspension of the rules. A special order may be postponed by a majority vote. The unfinished business of the preceding session takes precedence of a special order. To preserve order is the implicit duty of the presiding officer, and he or any member may call to order members transgressing the rules. In case of a call to order, a member must immediately sit down unless permitted to explain; and the house must at once decide the case without debate. If in his favor, he is allowed to proceed, but not otherwise. If called to order for words spoken in debate, they must be taken down in writing, and read to the house. (See *Censure.*) When a point of order of any kind is made, it is the duty of the chair to decide it. This he may do by sustaining the point of order, or by overruling it; and business proceeds in accordance with his decision, unless appealed from. (See *Appeal.*) — ORDERS, STANDING. (See *Rules.*) — PAIRS. The pairing of members in a legislative body is an agreement between two, who would vote on opposite sides of any question, to withhold their votes; such pairs leaving the result unaffected either way. One or both of the members paired may be absent. The rule in both houses of congress requires pairs to be announced after the roll-call, and the names paired published in the record. In parliament pairing prevails to a greater extent than in congress; members of opposite parties pairing with each other not only upon particular questions, but in cases of absenteeism for weeks and even months at a time. The system has never been recognized by parliamentary rules, though so long prevalent; in congress the first rule adopted which countenances pairing was in the 46th congress (1880). — PAPERS. The reading of papers, if objected to, is determined by the house without debate. A member, however, has the right to read any paper as a part of his remarks. Papers of every description once offered can not be withdrawn from the files without special leave of the body. — PERSONAL EXPLANATION. This is a member's request to be heard on some matter touching his personal record as a member, and requires unanimous consent. (See *Privilege.*) — PETITION. Much time was once consumed by members in formally presenting petitions in open house. The rule now is, for members to deliver petitions to the clerk, indorsing their names and the specific reference (to a committee) desired. These minutes are entered upon the journal, and published in the official record. In the senate they are still offered in open session during the morning hour. At the close of a congress, petitions and memorials go from committees to the permanent files, in charge of the clerk. In parliament, petitions must be written, and must have original signatures. They are presented in great numbers, and a standing order refers them without debate to the committee on public petitions. In the French chambers a brief of petitions is printed for the use of members, and they are referred to the committee on petitions, which classifies them, referring some to the minister of any department to whose business they belong, and others to the examination of the chamber. Each petitioner is advised of the disposition made. Any deputy may call for a report in public session upon any petition, and urgency may be demanded (if seconded by the chamber) for the consideration of any one. Every six months ministers distribute a printed report to the members, showing what action they have taken upon the petitions referred to them. — POINT OF ORDER. (See *Order.*) — PREAMBLE. The preamble of a bill or resolution is postponed until the other parts have been considered. When a separate vote on the preamble is not asked for, it is considered as adopted. — PRESIDENT PRO TEM. In organizing a public assembly a temporary chairman is frequently chosen until a committee has reported officers for permanent organization. In the senate the president *pro tempore* is chosen to take the place of the vice-president as presiding officer; but this office is frequently left vacant for

a time. — PREVIOUS QUESTION. In congress this is a technical name for a motion that debate cease, and that the vote be taken immediately on the question under consideration. The motion for the previous question is not debatable, and can not be amended. The previous question was recognized in the first rules of the house in 1789, and could be demanded by five members. The present rules require a majority of the members present (if a quorum) to order the previous question. When a member calls for the previous question, the chair must immediately put the question, "Shall the main question be now put?" If adopted, the chair puts to vote the questions before the house in their order of precedence, till the main question, with all subsidiary ones, is disposed of. The previous question puts it in the power of a majority to close debate at any time. It does not prevail in the senate, where the public business is more at the mercy of individual senators. In parliament the previous question is wholly different in effect. It is an ingenious method of avoiding a vote upon any question proposed. Those who call for the previous question vote against the motion, not for it, as in the house of representatives. If the nays prevail, the speaker is prevented from putting the main question, as the majority have thus refused to allow it to be put. If the previous question is resolved in the affirmative, no further debate or amendment is allowed, and the main question must be voted on at once. In the French chambers the *clôture* of the debate is always in the control of a majority of the chamber. (See *Clôture.*) — PRINTING. In congress all bills and joint resolutions must be printed after being offered; also reports of committees. A list of all reports required to be made to congress must be printed at the beginning of each session. The public printing of congress and the departments is regulated by the statutes in great detail. — PRIVATE BILLS. The distinction between public and private bills is not closely defined, some bills including interests both public and private, and requiring the decision of the chair as to which class they belong. In congress, as in parliament, private bills are such as are for the interest of individuals, corporations or local bodies—as counties or cities. Bills relating to a state are held to be public bills. No private claim is in order upon any appropriation bill. Regular days are set apart to consider private bills reported favorably by committees. In parliament there is a carefully guarded system of maturing private bills, which saves a vast amount of legislative time and prevents abuses. (See LEGISLATION, vol. ii., p. 756.) — PRIVILEGE. The privilege of a member of a legislative body rests upon the prerogative of his constituency to be always represented. The constitution itself provides that members shall not be questioned elsewhere for any speech or debate in either house, and shall be privileged from arrest during sessions, and in going and returning. Questions of privilege, by the rules of the house, have precedence of all others, except of adjournment; but the highest privilege attaches to questions affecting the rights of the house itself, maintaining its dignity, and the integrity of its proceedings. In maintaining what are known as their privileges, both house and senate have resorted to one or more of the following measures: 1, ordering the arrest of offenders; 2, directing the speaker to reprimand the party offending; 3, committing the party to the custody of the sergeant-at-arms within the capitol; 4, ordering a refractory witness or a person assaulting a member to be punished by imprisonment in the jail of the District of Columbia for three months; 5, (in the case of reporters) directing exclusion from the hall. The most frequent cases where either house seeks to protect its privilege by penalties are the refusals of witnesses to testify before its committees; and many recusant witnesses have been held in custody until the congress has expired (and with it the power to punish for contempt of its authority), or until a majority have voted to discharge the prisoner, or until he has consented to answer. When any proposition presents, in the opinion of the speaker, a question of privilege, he must entertain it in preference to other business; but it is well settled that the common plea of a question of privilege based upon a newspaper publication can not be maintained unless the member is assailed in his representative capacity. The fact that imprisonment or other punishment by vote of a legislative body contravenes the maxims of constitutional law, and asserts *quasi*-judicial powers, has rendered it obnoxious to public censure. The argument that the constitution confers no such power is met by the claim that it is inherent in the highest legislative body, essential to its power, dignity and proper functions, and has been repeatedly exercised, not only by both houses of congress, but by local legislatures. The supreme court of the United States, in some earlier cases, has upheld this power in congress, on the ground of right and necessity: but in the recent case of Kilbourne *vs.* Thompson the court held that the imprisonment of the former for refusal to divulge the private accounts of a company in a matter under investigation by the house of representatives, was illegal and unconstitutional. The plaintiff had been imprisoned forty-five days in the District jail as a recusant witness, by order of the house; and the speaker, and the sergeant-at-arms, with the members of the committee who ordered the matter to be brought before the house, were joined as defendants. In the case of the members, the court held that their constitutional privilege was a good defense to the action, as they took no part in the actual arrest and imprisonment. But it was held that the order of the house, declaring the witness guilty of contempt of its authority and ordering his imprisonment by the sergeant-at-arms, was void, and afforded the officer no protection in the suit brought by the witness. There was no power of the house to punish for contempt found in the constitution: and no au-

thority to compel a witness to testify, where the subject-matter of the investigation was judicial, and not legislative, and was proceeding before the proper court. (103 U. S. Reports, 168.) In parliament, while many arbitrary measures have been aimed at persons held guilty of violating the privileges of that body, the right to commit for contempt has long been regarded with increasing jealousy, and has been questioned for more than two centuries, though maintained by the court of king's bench. — QUALIFICATION. A member of congress is qualified to act in his representative capacity when his credentials have admitted him to the floor, and he has taken the oath of office. No man is disqualified from being a representative who is twenty-five years of age, provided that he has been seven years a citizen of the United States, and was an inhabitant of the state in which he has been chosen. The qualifications of a senator are: 1, to have reached the age of thirty; 2, to have been nine years a citizen of the United States; 3, to have been when elected a resident of the state choosing him to represent it. A member of the house of commons need be but twenty-one years of age. (See *Members.*) — QUESTION. Putting the question is one of the most frequent duties of a presiding officer. It is to be put in this form: "As many as are in favor, say Aye"; and after the affirmative vote is heard: "As many as are opposed, say No." The chair must clearly state the question on request of any member, before calling for the vote. Members when anxious for the progress of business, or impatient of debate, frequently cry, "Question! Question!" and this, though technically a violation of the rules of order, is seldom interfered with by a judicious presiding officer. In parliament there is a special practice of propounding questions to members of the ministry, concerning public measures or events. A question may be asked as to the intentions of the government, but not as to their opinions upon general matters of policy. — QUORUM. Unless fixed by constitutional provision or by the law of the body, the quorum of an assembly is a majority of its duly qualified members. In congress less than a quorum may adjourn from day to day, and may compel the attendance of absentees. In the house it requires the presence of at least fifteen members, to authorize a call of the house. The presence of a quorum is frequently assumed, and business proceeds in both house and senate when less than half the number of members are present; but this may be terminated by any member dividing the house, thus disclosing the want of a quorum; whereupon business must stop, and a call of the house (or senate) must be ordered. In parliament forty constitute a quorum in the commons, and three only in the lords. In the French chambers an absolute majority of the whole number of members is required to render any action valid. — READING. The reading of papers called for may be stopped by the objection of any member, unless ordered by a vote of the house; but a member has the right to read a paper as part of his remarks within the limits of his privilege as to time. — RECESS. This is a qualified form of adjournment; to take a recess to a definite hour usually serves the purpose of giving necessary rest and refreshment to the members of the body, without long interruption to their public duties. The motion for this is always in order, and not debatable. The term recess is also applied to the long interval between two annual sessions of congress; and powers are often granted to committees to sit during this recess. — RECOMMITMENT. When committees report bills or resolutions digested by them, for action of the body, it is usual (unless the committee has privilege of immediate consideration) to recommit them to the committee. A rule of the house provides that no bill thus recommitted shall be brought back into the house on a motion to reconsider. — RECONSIDERATION. In the house a motion to reconsider a vote once taken is to be made on the same day or the day after. It can be made only by a member who voted with the majority, if yeas and nays were taken; otherwise any member may move it. It takes precedence of all questions except adjournments and conference reports. The motion to reconsider is one of great importance, since if it prevails, the former action of the body is liable to be reversed. It is to prevent the possibility of this that the usage prevails for the member having charge of any measure, the moment it is passed, to move to reconsider the vote last taken, and also to move that the motion to reconsider be laid on the table; if the latter motion prevails it is deemed a finality, so far as the passage of the measure is concerned. A motion to reconsider can be applied to every question except to adjourn and to suspend the rules. It is debatable only when the question to be reconsidered was debatable, and then it opens up for discussion the entire subject. A reconsideration requires only a majority vote. In parliament a vote once taken can not be reconsidered. — REFERENCE. This term is applied to the referring of bills, petitions, etc., to appropriate committees to be considered and reported upon. — REGULAR ORDER. (See *Order.*) — REPORT. Committees, having finished the consideration of any matter referred to them, must make a report to the body thereon, and this is usually required to be in writing. In congress most reports must be printed, though private bills or measures of pressing moment are sometimes acted upon with merely a written report or recommendation. In the senate, the committees must be called daily for reports, during the morning hour; in the house they are called daily, except on the first and third Mondays of each month. When made, they are usually printed and re-committed, or laid over. Reports from six important committees are in order at any time; others must wait their day, or a two-thirds majority, for consideration. Reports of executive departments are addressed to the speaker, or to the president of the senate, and are invariably referred and printed. Such reports on

resolutions of inquiry must be made within one week. The reports of house and senate committees at each session make several bulky volumes, while the executive reports, both regular and special, make a great many more. In parliament the reports of special committees of the lords or commons are usually published with the evidence taken before them, and carefully indexed. In France committee reports are to be printed twenty-four hours at least before the bill to which they relate is considered. — REPORTERS. The importance of full public information has led to special provision for reporters of the press in all public assemblies. Each house of congress has a corps of five official stenographers to take down the votes, proceedings and debates *verbatim* for publication the next day in the congressional record. Besides this, two reporters of the associated press are admitted on the floor of the house. The reporters' gallery over the chair in both houses is for the general press representatives, under regulations made by the chair. In parliament, according to ancient usage, all strangers, including reporters, might be excluded on the motion of any member, and reporters have been actually excluded as recently as in 1870 and 1878, to avoid publicity being given to debates. In the French chambers reporters are freely admitted to the galleries. — REPRESENTATIVES. (See *Members.*) — RESIGNATION. In congress the resignation of any member is always considered his right; it was never contested until the 41st congress, when the speaker decided that the member had the right to resign, and an appeal from the decision was laid upon the table, thereby affirming it. The resignation of a senator or representative is addressed to the governor of the state; at the same time, it is customary for the member to notify the presiding officer, in writing, of the action he has taken. In parliament it is a professedly settled principle that a member can not relinquish his seat; to evade this restriction, a member wishing to retire accepts office under the crown; this legally vacates his seat, and obliges the house to order a new election. (See PARLIAMENT, THE BRITISH.) In France any member has the right of resignation at any time. — RESOLUTION. A resolution of an assembly is an expression of its opinion with respect to any matter, or a declaration of the purpose of the assembly: thus, the thanks of congress are presented by joint resolution of the two houses. A resolution of inquiry is passed by either house, requesting information from the executive. A simple resolution of one body, whether declaring opinion or otherwise, does not of course bind congress, and is not published in the statutes, but only in the journal and the record. Joint resolutions, on the contrary, have all the force of laws, and frequently contain appropriations of public money. Concurrent resolutions (chiefly providing for the printing of documents, etc.) appear in the statutes, but are not signed by the president. In the senate all resolutions, if objected to, must lie over one day. In parliament a simple resolution of either house has not the force of law. Every resolution reported by a committee may be amended, disagreed to, postponed or recommitted. — REVENUE BILLS. All bills for raising revenue must, by the constitution, originate in the house of representatives, but the senate may amend them. In the house, bills relating to the tariff or internal revenue belong to the committee of ways and means; in the senate, to the committee on finance; and such bills may be reported at any time, the motion to consider them being always in order after morning hour. Notwithstanding the jealousy of the house of its prerogative in matters of revenue, the senate has exercised great powers in changing revenue bills; the latest and most extreme instance of this was in the tariff revision act of 1888, where the senate amended a small internal revenue reduction bill passed by the house, by adding to it a radical revision of the entire tariff system, and this, with some changes, was accepted by the house. In parliament, bills for raising revenue are called money bills, and are amendable by the lords if they do not alter the intention of the commons by increase or reduction, duration, or methods of raising the revenue. — RIDERS. A rider to a bill implies tacking on to it, by motion, or the action of a committee, matters of legislation foreign to the subject of the bill itself. In parliament these riders are called "tacks." It has been a too common practice in congress to attach to regular appropriation bills, which must be passed under penalty of embarrassing the government, riders containing new legislation having nothing to do with the appropriations. This practice is resorted to, 1, to carry through a measure otherwise hopeless of being reached under the rules; 2, to effect the amendment or repeal of existing laws; 3, to force upon the other house, when opposed in political opinion, a measure obnoxious to it, and certain to be defeated by it as a separate bill. So far had this thrusting into appropriation bills of legislation foreign to their objects been carried, that the house adopted a rule that no provision in or amendment to any general appropriation bill shall be in order which changes existing law, except such as is germane and retrenches expenditures. Another rule prohibits the amendment of any bill or resolution by incorporating the substance of any other bill or resolution pending. Rule twenty-nine of the senate forbids amendments to be received which propose general legislation, which provide for a private claim, or which are not germane or relevant to the subject matter of the bill. — RISE. In committee of the whole the motion that the committee rise is equivalent to the adjournment of its functions for the time being. — ROLL. The roll of a public body is the list (in alphabetical order) of the officially qualified members. The roll-call is a clerical calling out of all the members' names, that they may answer either as present or as voting yea or nay. (See *Call, Yeas and Nays.*) — RULES. These are of the first importance as agencies for preserv-

ing order in the conduct of public business. In most assemblies for a temporary purpose it is usual either to adopt the rules of the house of representatives, or to permit the chairman to decide questions of order and precedence according to his understanding of parliamentary law. In permanently organized bodies the constitution and by-laws adopted form the leading rules which control action, though at all meetings appeal to a more comprehensive code of parliamentary law is often necessary. In the house of representatives the latest thorough revision of the rules was in 1880. This revision embraces forty-five separate rules divided into sections, the last of which provides that these shall be the rules of each congress unless otherwise ordered. Thomas Jefferson has the honor of having formulated, while vice-president, the first rules of parliamentary law ever put into systematic form in this country. The rules laid down in his "Manual of Parliamentary Practice" (first published in 1801) are still declared to govern the house where they are applicable, and not inconsistent with the standing rules adopted. Each house having constitutional power to determine the rules of its proceedings, those of the senate and house differ widely. A standing committee on rules exists in each body, of which in the house, the speaker forms one. Several notable struggles over the application or the radical change of the rules have occurred, one of which, in the 47th congress, drew a decision from the speaker that, as the right of the house to determine its rules was a constitutional one, the majority had at all times the power to make or to alter rules independently of the existing ones, and that no dilatory motions to obstruct their adoption or amendment could be entertained. The suspension of the rules is moved so as to make some business in order which would not be regularly so under the rules. This requires a vote of two-thirds of those present, and must be seconded by a majority, counted by tellers if demanded. This motion is debatable for thirty minutes only. It can be made only on the first and third Mondays of each month, or during the last six days of a session. The rules of the senate, as last revised, in 1877, are seventy-eight in number. No motion to modify or suspend a rule is in order except on one day's notice in writing; but any rule except the 18th (regulating the vote by yeas and nays) may be suspended by unanimous consent of the senate. In parliament the rules are called standing orders, which continue from one parliament to another until modified. The "sessional orders" are resolutions renewed from year to year, and are few in number. In the French chamber of deputies the rules are embodied in a code of 154 articles, which the president is required to maintain. Any appeal to the rules or question of order takes precedence of whatever business is in hand, and suspends debate. — SCRUTIN DE LISTE. This signifies a vote by ticket, and is required in the French chambers in the election of vice-presidents, secretaries and questors. — SEATS. Technically, the seat of a member is his function of representative; literally, it is the chair, desk or bench occupied by a member. The seats of senators and representatives in congress are arm-chairs, each provided with a writing desk. In the house they are drawn by lot, at the organization, every two years; in the senate they are "spoken for" or selected in advance when vacancies occur, by individual senators. In both, members of the same party sit together in general, the democrats occupying the seats to the right of the chair, and the republicans those to the left. In parliament and in the French chambers benches are used as seats, and no desks are tolerated. — SECRET SESSION. In the senate, sessions for the consideration of executive business (nominations to office and treaties) are held with closed doors. These executive sessions may be moved at any stage of the open or legislative session, but are more commonly held just before final adjournment for the day. The chamber is then cleared of all persons except the secretary, four clerks, and the sergeant-at-arms and such of his assistants as the president deems necessary, all of whom must be sworn to secrecy. Any senator disclosing confidential proceedings of the senate is liable to expulsion, and any officer to dismissal and punishment for contempt. But though this is the rule, the practice is widely different; and the votes and speeches in secret session become known so speedily and so generally as to lead to the conclusion that an injunction of secrecy is a dead letter. To adopt a treaty laid before the senate by the executive the concurrence of two-thirds of the senators present is necessary. Nominations made by the president in executive session are referred to committees for consideration and report. No nomination to office can be confirmed on the day it is received or reported, except by unanimous consent. No extract from the executive journal (of secret proceedings of the senate) can be furnished, except by special order of the senate. All the sessions of the senate were secret until the 6th congress (1799), when that body voted to give them the publicity ever since maintained. Rule thirty of the house provides for secret sessions to receive confidential communications from the president, or at the instance of the speaker or any member who has communications which he believes ought to be kept secret for the present; but there has been no such instance for many years. In parliament, though the presence of the public is legally ignored, there are always a limited number of spectators in each house, except when (in rare instances) a member moves that strangers be excluded because of some debate which it is deemed expedient to keep secret. — SECRETARY. Next to the presiding officer the most important organ of a public assembly is the secretary or clerk, these two terms being interchangeable, to denote the recording officer. He is to keep the record of proceedings (minutes or journal), and it is usual to have this record read and approved at

the meeting next following that which it covers. This record should embrace every motion or resolution, whether adopted, amended, rejected, or otherwise disposed of. The secretary has the custody of all papers, and should keep an order of business, list of all committees, reports, votes, etc. The secretary of the senate performs the same duties as the clerk of the house of representatives (see *Clerk*), and, in addition, pays the salaries of members of the senate, which is done in the house by the sergeant-at-arms.— SENATORS. (See *Elections*.)—SERGEANT-AT-ARMS. This officer represents the authority of the body to enforce its rules, and protect its dignity. In the house and senate he is an elective officer, and in the former body is charged with paying the salaries of members. He is required in both houses to attend the sittings of the body, to maintain order and decorum, to serve process and make arrests when ordered, to take absentees into custody upon a call of the house, and to make regulations to protect the capitol and public property therein, including (in conjunction with the architect of the capitol) the appointment and control of the capitol police. In parliament the sergeant-at-arms of each house is appointed by the crown and for life. Besides similar duties to those defined above, he is a leading figure on state occasions. — SESSION. This term denotes, 1, the time occupied by a sitting of the body after organizing for the day till adjournment; 2, the time spent in public business (usually several months), from the first convening of the members until their adjournment to the next session. Two annual sessions are usual in congress, although one or more extra sessions have been not infrequent, which are called "special sessions," to distinguish them from the annual. The annual sessions begin on the first Monday in December, and terminate on the fourth of March at noon every alternate year, *i. e.*, the odd years, when the term of a congress expires. In the even years, when this limitation does not exist, the session continues from five to nine months. (See CONGRESS, SESSIONS OF, vol. i., p. 594.) Sessions of parliament usually last from February to August, besides which, special sessions occur when public emergency demands.— SPEAKER. This is the name of the presiding officer in each house of parliament, and in the house of representatives of the American congress. Being, as his title imports, the mouthpiece or organ of the body, the speaker is to express the will of the house. In congress he is elected *viva voce*, on the convening of each new congress, and the completion of the roll-call of members-elect. Upon being chosen, he is usually installed in the chair by the members who were his rival candidates for the office; the oath is administered to him by the oldest member in continuous service, after which he swears in all the other members, before entering on any other business. He receives $8,000 salary; he succeeds to the presidency, in case of the office being vacant through failure to fill it by the president, vice-president or president of the senate. It is his duty to preserve order, state all questions, decide points of order, name members to speak, appoint all standing and select committees, sign all acts, joint resolutions and processes of the house, appoint its official reporters and stenographers of committees, and have control of the hall, etc. The speaker has the right to vote as a member, but is not required to vote except in case of a tie, or when the house votes by ballot. If absent without having appointed a member to perform the duties of the chair (which power is limited to ten days), the house must elect a speaker *pro tempore*. — SPECIAL ORDERS. (See *Orders*.)— STANDING ORDERS. (See *Rules*.) — STRIKING OUT. In the house a motion to strike out part of a bill, if lost, does not preclude a motion to strike out and insert. The motion to strike out and insert can not be divided. A motion to strike out the enacting clause of a bill has the effect to reject the bill; such motion takes precedence of a motion to amend. — SUBSTITUTE. A substitute for an amendment in the second degree is in order, but can not be voted on until the original matter is perfected. Any committee may report a substitute for any bill referred to them, when the substitute alone is considered, and is treated as an original bill. — SUNDAY. Both houses of congress sometimes sit on Sunday, when public business is pressing. In such cases it is usual to continue the journal as of the preceding day's date. In parliament four Sunday meetings of the body are recorded as occasioned by the demise of the crown, and on several other occasions debates have been continued into Sunday morning. — SUPPLY. This is the technical term applied in parliament to all appropriations for the public service. The right of the commons to originate bills of supply is paramount, and the lords may not amend such bills except verbally. Sometimes the commons have tacked to bills of supply measures which by themselves would have been rejected by the lords; but this has been resisted by protest, by conference, and by rejection of the bills, and there is no recent instance of attempts to force the lords by putting "riders" on bills which the lords have no right to amend. (See BUDGET, vol. i., p. 318; also *Appropriations* and *Revenue Bills*.)— SUSPENSION OF RULES. (See *Rules*.)— TABLE. In a public assembly the motion to lay any matter on the table takes precedence of all questions except those of privilege and adjournment. It is not debatable, and can not be amended. It does not imply the defeat of a measure, but simply removes it from consideration until it is voted to take it from the table. But in the house of representatives the usual purpose of the motion to lay on the table is to give a measure its death-blow, and when it prevails it is rarely taken up again during the session. If carried, the effect of the motion to table is to defer the principal question under consideration and all matters connected with it. In congress all business coming from the other house, or communications

from government officers, are laid on the table unless referred to a committee or otherwise disposed of. A motion to lay upon the table is in order on the second and third reading of a bill. When a motion to reconsider is laid on the table the latter vote can not be reconsidered, and if carried, is held in both houses to be a final disposition of the motion. The business on the speaker's table implies, 1, executive communications; 2, messages from the senate, with bills passed or amended by them; 3, engrossed bills. Near the close of a session a great accumulation of bills, etc., in every stage of progress toward enactment, lies on the speaker's table, most of which usually remains undisposed of. In the senate all resolutions, reports of committees, and discharges of committees from the consideration of subjects, must lie on the table one day for consideration, unless otherwise determined by unanimous consent. — TELLERS. By a rule of the house of representatives a vote must be taken by tellers if demanded by one-fifth of a quorum; or the speaker may appoint tellers if in doubt as to the *viva voce* or the rising vote. He must name a member from each side of the question to act as teller; these two meet in the middle aisle and shake hands; the chair requests all members voting in the affirmative to pass between the tellers, who count them, and report to the clerk's desk; those voting in the negative are next called to pass between the tellers; this count being reported, the chair declares the result. It is customary, when on a division less than half the house vote, for the speaker at once to order tellers. In parliament two tellers from each party are appointed to count the members when dividing the house. In the United States senate no vote is ever taken by tellers. (See *Division*, also *Vote*.) — TERRITORIES. The delegates from territories have seats and salaries in the house like other members, with the right to speak and participate in business by offering motions, etc., and (latterly) to be appointed on eight of the standing committees. They have no right to vote. The territories are called every Monday, after the states, for bills, memorials, etc., for reference. — THE VOTE. When the votes are equal in number on each side of any question, the general parliamentary rule is that the question is lost; but in the senate the vice-president has the casting or decisive vote in case of a tie; though in his absence the president *pro tem.*, having already voted as a senator, can not decide the result as presiding officer, and if the votes are equal the question is lost. In the house the speaker is required to vote only when his vote would be decisive if counted; and in all cases of a tie vote the question is lost. In the house of lords the speaker votes as a peer, and has no casting vote as presiding officer. In the house of commons the speaker has the casting vote in case of a tie, but does not vote as a member. — TWO-THIRDS VOTE. A majority of two-thirds is required in the house to suspend the rules, to dispense with the morning hour for call of committees, to dispense with private business on Fridays, or to pass in either house a bill vetoed by the president. The latter majority is construed to mean two-thirds of the members present, not of the whole number of members. — UNANIMOUS CONSENT. (See *Consent*.) — VACANCY. Vacancies in the membership of assemblies can usually be filled in accordance with the vote of the majority of members. In congress senatorial vacancies are notified to the governor of the state, who, in the recess of the legislature, may fill the vacancy by appointment, pending the choice of a senator by the legislature when next convened. A vacancy in the house can be filled only by a new election by the people of the congressional district left without a representative. Vacancies in the house of commons are filled by election pursuant to a writ issued out of chancery by warrant from the speaker. — VETO. In the congress of the United States and in most of the state legislatures any bill passed may be disapproved by the executive for reasons given. This veto may be overruled in congress by a vote of two-thirds of the members of each house present and voting. In parliament, though the crown may legally veto any measure passed, the power has not been exercised for about two centuries (See VETO.) — VOTE. The sense of an assembly is declared by its votes. In most formal or informal meetings the chair is to put all questions to vote after inquiring if the assembly is ready for the question, in case it is a debatable one. There are various forms of taking a vote: 1, *viva voce*, by the chairman calling successively the ayes and the noes, and declaring the question carried or lost according to the preponderance of voices; 2, by a show of hands, each side in succession holding up the right hand and being counted; 3, by rising and standing until counted on either side; 4, by a count of members passing through tellers, those in favor of the measure going first, and those opposed after, the number of each side being reported by the tellers and declared by the chair; 5, by yeas and nays, where each member answers to the call of his name, and is registered in a formal record; 6, by ballot, or secret written vote—this is used chiefly in the election of officers or committees by the assembly itself. In the house a member has the right to change his vote before the result has been announced by the chair. Every member must vote on each question put, unless excused, or directly interested in the event of the question. The result of every vote, and the names voting on every roll-call, with the absentees, are published in the journal and in the congressional record. In parliament the votes and proceedings are printed and distributed daily. (For methods of voting in parliament, see *Division;* see also *Ballot, Division, Tellers, Yeas and Nays.*) — WAYS AND MEANS. This term, borrowed from the British parliament, implies the government revenues and the methods or provisions for collection of the same. A committee of ways and means was first created in the house of representatives in 1789: it originally consisted of seven

members: it became a standing committee in 1795. It has since been gradually increased to thirteen members. To it are referred all matters and proposed legislation relating to the revenue and the bonded debt of the United States. The committee of ways and means, having charge of the entire tariff system and internal revenue taxation, as well as of financial measures and the public debt, is a most important body, and its chairmanship is considered the highest office in the gift of the speaker. As the chancellor of the exchequer is the leader of the house of commons, the chairman of the committee of ways and means was formerly accounted the leader of the house of representatives; but since the withdrawal from that committee (in 1865) of all business relating to the expenditures of the government (which is assigned to the committee on appropriations), the ways and means committee has been shorn of much of its power, and its chairman of his prestige as leader. Still, these two committees engross between them the greater part of the time of congress; and in the alternate years, when the session is limited to three months, little other business has a chance of securing attention. To be a member of the committee of ways and means is regarded as a very high position, and commonly excuses those appointed to it from service on other committees. The committee of the senate having charge of the same subjects is styled the committee of finance, and was first organized in 1816. Measures reported by either of these committees are customarily privileged, *i. e.*, to be considered before any others. In parliament the committee of ways and means is constituted directly after the annual opening, but, unlike the American usage, it is not a select or standing committee lasting through the life of the body, but a committee of the whole house; in other words, it is the house itself, presided over by a chairman instead of by the speaker. This official chairman is designated the chairman of the committee of ways and means, and also presides in the committee of supply, and over other committees of the whole house. Like the speaker, he is a salaried officer. The committee of ways and means determines in what manner the necessary funds shall be raised for the public service, as voted by the committee of supply. The most important occasion for which the committee of ways and means is required to sit, is, to receive the financial statement for the year from the chancellor of the exchequer. This is known as the budget. (See BUDGET, vol. i., p. 318.) — WITHDRAWAL. The right to withdraw a motion or a bill is secured by the rules at any time before a decision or amendment, except after the previous question has been seconded. All incidental questions fall with the withdrawal of the main question. (For withdrawal of papers, see *Papers.*) — WITNESSES. The summoning of witnesses to be examined by a committee requires an order of the house, unless the committee is first clothed with power to send for persons and papers. Witnesses are paid $2 a day, and five cents per mile of travel. Failure or refusal of a witness to appear or to testify is a breach of the privileges of the house; besides which the revised statutes make such refusal a misdemeanor punishable by fine and imprisonment. (R. S., sec. 102.) In parliament witnesses must answer on examination before committees, and are sworn at the bar of either house. Recusant witnesses are generally sent to Newgate. (See *Privilege.*) — WRIT. This is a process of the house signed by the speaker, attested by the clerk under the seal of the house, and served by the sergeant-at-arms. In parliament the writs for the election of new members are issued by the speaker's warrant addressed to the clerk of the crown, and transmitted by him through the postoffice. Writs of summons for a parliament to meet are issued by the crown, under advice of the privy council. These writs must be issued at least thirty-five days before the time fixed for the convening of the new parliament. — YEAS AND NAYS. The constitution requires that the yeas and nays of the members of either house shall be entered on the journals at the desire of one-fifth of those present; also that the vote on any bill vetoed by the president shall be recorded by yeas and nays. It is very common for members to demand a vote by yeas and nays, to make a record, or, when dissatisfied with the result of a division by other methods; but whenever less than one-fifth of the members present rise to second the call, the yeas and nays are refused. This vote can not be taken in committee of the whole house; the roll-call once begun can not be interrupted for any purpose. After the roll-call is completed, the names of members who have failed to answer must be called again; after which the full list of yeas and nays must be read, and errors or omissions announced by members corrected. — In both houses members must answer without debate or reasons assigned for the vote. (See *Vote.*) — BIBLIOGRAPHY. May (Sir T. Erskine), *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 8th ed., Lond., 1879; Cushing (L. S.), *Lex Parliamentaria: The Law and Practice of Legislative Assemblies*, Boston, 1874; McDonald (W. J.), *Constitution of the United States, Rules of the Senate, etc.*, Washington, 1881; *Standing Rules for Conducting Business in the Senate of the United States*, Washington, 1882; *Digest and Manual of the Rules and Practice of the House of Representatives*, compiled by H. H. Smith, 6th ed., Washington, 1883; *Traité pratique du Droit parlementaire*, par J. Poudra et E. Pierre, Paris, 1878; Jefferson (T.), *Manual of Parliamentary Practice*, New York, 1876; Fish (G. T.), *American Manual of Parliamentary Law*, New York, 1880; Göpp (C.), *Leitfaden d. parlam. Geschäfts Ordnung*, New York, 1871; Robinson (W. S.), *Warrington's Manual for the Information of Officers and Members of Legislatures, Conventions, Societies, etc.*, Boston, 1875; Wilson (O. M.), *Digest of Parliamentary Law*, Philadelphia, 1869; Cushing (L. S.), *Rules of Proceeding in Deliberative Assemblies*, Boston, 1877; Barclay (J. M.) *Constitution of the United States*,

Jefferson's Manual, and Barclay's Digest, Washington, 1873; Ferrall (S. A.), *Exposition of the Law of Parliament*, London, 1837; Hatsell (J.), *Precedents of Proceedings in the House of Commons*, 4 vols., London, 1818; Symonds (A.), *Mechanics of Law Making*, London, 1835; Smith (T.), *Chairman and Speaker's Guide*, London, 1840; Clifford & Stephens, *Private Bill Practice in Parliament*, London, 1870; Webster's *Members' Procedure Book in Parliament*, London, 1868; *Règlement de la Chambre des Députés*, Paris, 1880; Robert (H. M.), *Pocket Manual of Rules of Order for Deliberative Assemblies*, Chicago, 1876. A. R. SPOFFORD.

PARTICIPATION IN PROFITS. Among the many schemes for healing the apparent breach between labor and capital, a breach that is due in great part to the fact that these two factors of production are supplied by two distinct classes, termed capitalists and laborers, is that of allowing the laborer to share in the profits of the enterprise. "It would be of great importance," wrote Mr. Babbage in 1832, "if, in every large establishment, the mode of payment could be so arranged that every person employed should derive advantage from the success of the whole; and that the profits of each individual should advance, as the factory itself produced profit, without the necessity of making any change in the wages." And he then describes a system that had long been in use among the Cornish mines, which was somewhat like that he proposes for his "new system of manufacturing." This new system was hardly noticed at the time, but it was one of the earliest attempts to introduce participation in profits by the laborer. Strictly speaking, participation is not a form of co-operation, for in the co-operative principle the capitalist and laborer are combined, the capital necessary to the undertaking being furnished by those who also supply the labor; and as they assume all the risk, all the profit or loss is also theirs. In participation, however, the capital is, as a rule, still furnished by one class, and the labor by another; but the laborer is allowed to share in the profits received over and above a certain share which is set apart as a remuneration for the capital employed and for the supervision and management of the undertaking. If the profits are not sufficient to cover this share which belongs to capital, no distribution is made among the workmen. — In support of participation it is urged that, by stimulating him to make his best endeavors, it increases the efficiency of the workman, this result being attained either by effecting a saving in the material used, or by increasing the absolute product of labor. It influences the moral character of the laborer by making him more industrious (as on this not only depends the total profit but also his share of the profits), more thrifty and provident, and in a measure more independent. By giving him a direct interest in the success of the undertaking it brings him into close relationship with his employer, and differences are less apt to arise between them. On the other hand, it is urged that the laborer is working for a reward that is uncertain, and affected by circumstances beyond his control; that he is likely to become discontented if the profits decrease and his supplementary wages diminish; that in many instances he is forced to become a partner in the undertaking, and his freedom of movement and of contract is to that extent restricted; that he is thus made to share all the risks attending any industrial enterprise, without being allowed any voice in the conduct of the undertaking. — There are many forms of participation, many of them being but modifications of co-operation. Of the real industrial partnerships the following may be mentioned as typical: In 1842 a Paris tradesman, M. Leclaire, finding that high wages did not produce a corresponding increase in the zeal and diligence of his workmen, and being unable to personally supervise all the details of the work, determined to create a common interest between himself and his employés. The surest way of increasing their efficiency was to proportion their remuneration to the results obtained from their labor, and he therefore proposed to divide among such as he should select a portion of any increased profits that might accrue from their exertions. At the end of the year 5 per cent. of the net profits was to be set aside for the capital employed, and a salary for himself as superintendent; all that remained was to be divided among certain of the laborers in proportion to the wages they had received. The result of the first year was remarkable, and his system, somewhat modified in form, has continued till the present day. The first year he distributed 12,200 francs, no laborer who had worked 300 days in the year receiving less than 450 francs as a supplementary income, equal to two-fifths of his regular salary; in the second year the distributive fund exceeded 17,000 francs, and in the third year it was more than 18,000 francs. Encouraged by this success, the business was remodeled and its operations extended. As at present constituted, the net profits are divided into three parts: one-half is distributed among such workmen as M. Leclaire designates, in proportion to the wages earned by each participant; one-fourth is paid to a provident society, of which all the persons in his employment are members; and one-fourth goes to the partner (*patron directeur*). The workmen are divided into two classes, one of which, comprising a third of the total number, are entitled to a share in the distribution of profits, but the second class do not share in the profits, but receive a small addition to their daily pay, and are entitled to all the benefits conferred by the provident society. The minor details of the system do not concern us here. — For many years a large railroad in France (*Chemin de fer d'Orléans*) set apart 15 per cent. of the surplus or net profits to be divided among certain of its employés. During the first years of the experiment the plan worked fairly well; but as the operations of the road were

extended, the number of employés was largely increased, the expenses of management became larger, the fund for distribution became less, and also the share of each participant, so that while in 1853 the company divided 1,966,968 francs among 3,365 persons, in 1868 it divided only 1,775,559 francs among 11,376 employés. The main object to be gained in this case was to insure as far as possible a greater care of the valuable plant on the part of the employés, and this could be better secured in no other way. — The third type is to be found in the plan adopted by Messrs. Henry Briggs, Son & Company in their Yorkshire collieries. Prior to the passage of the limited liability act such an arrangement as M. Leclaire's could not have been adopted in England without making the workmen liable for the losses incurred, in that they shared in the profits of the undertaking. But this barrier being removed, Messrs. Briggs were among the first to take advantage of participation. In 1865 they formed a limited liability joint stock company, retaining two-thirds of the stock in their own hands. The remaining portion they offered to their employés in shares of £10 each, and stipulated at the same time that whenever the profits of the business should exceed 10 per cent. on the capital employed, one-half of this profit was to be divided among the employés. The plan worked with advantage for a number of years, but disputes arising through the fluctuations in the coal market, the arrangement has been annulled. — The distribution of profits may either be made in a cash payment at the end of the year, or the share of profit may be capitalized during a certain period, the interest being drawn by the workman, and the principal, on his death, going where he may wish; or, a part may be paid in cash and a part capitalized. The manner of payment differs widely in the various establishments that have adopted the system. — It is not believed that participation in profits will ever be widely in use, as it can be successfully applied to only a limited number of occupations. "The fund on which participation draws is the surplus profit realized in consequence of the enhanced efficiency of the work done under its stimulating influence. Such extra profit is therefore obtainable wherever workmen have it in their power to increase the quantity, improve the quality, or diminish the cost price, of their staple of production by more effective production, by increased economy in the use of tools and materials, and by a reduction in the cost of superintendence. In other words, the surplus profit realizable will depend on the influence which manual labor is capable of exerting upon production. Evidently, therefore, this influence will be greatest in branches of industry where the skill of the laborer plays the leading part, where the outlay on tools and materials bears a small ratio to the cost of production, and where individual superintendence is difficult and expensive. It will, on the contrary, be least effective in industries where mechanism is the principal agency, where the interest on capital fixed in machinery is the chief element of cost prices, and where the workmen, assembled in large factories, can be easily and effectively superintended." Another limitation lies in the fact that its application depends, in every case, on the will of the employer. "It is not to be expected," says W. T. Thornton, "that employers will often be found entering into special engagements with their laborers, in trades in which such special engagements must necessarily result in pecuniary loss to themselves; even in trades to which the bonus system is best adapted, unless employers choose to adopt it of their own accord, there are, of course, no means of compelling them. In the utmost development, therefore, of which it is susceptible, the partnership or bonus system can never affect more than a portion of the laboring population." Still another objection is named by Thorold Rogers: "that it necessitates the abandonment of that secrecy which it is believed is essential at all times, and particularly in some emergencies, to success. The value of secrecy may be overrated, probably is; but its significance is felt, and will in all likelihood be felt more and more as the principle of limited liability is adopted." It is not known that this policy has been adopted to any extent in the United States. — AUTHORITIES. Böhmert, *Die Gewinnbetheiligung*, 1878; Fougerouse, *Patrons et Ouvriers de Paris*, 1880; Billon, *Participation des Ouvriers aux Bénéfices des Patrons*, 1877; Pare's *Co-operative Agriculture*, 1870; Leroy-Beaulieu, *La Question Ouvrière au XIXe Siècle*, 1872; and Thornton, *On Labor*.

WORTHINGTON C. FORD.

PARTIES, Political. I. *Idea of Parties; Government Party; Opposition.* Throughout all history we find that, wherever an active life of the people and of the state has been developed, political parties have sprung into existence. An absence of political parties is observed only where there prevails a passive indifference to all public concerns, or where tyrannical oppression by the ruling powers prevents all common manifestation of opinion and aspirations by whole groups of the population. In such cases, however, the power and tendency of the people to form parties exist, if they are at all capable of political life; but this power and tendency at one time lie dormant, while at another they lack the air and light necessary to their growth, and the room they require for action. At times the impulse to form political parties, when suppressed in political life, is directed into other channels; it passes into the religious or ecclesiastical domain, and makes existing scientific, artistic and social differences more marked. Between such parties and political parties there exists a certain kind of elective affinity. Thus, a reactionary party in the church will, as a rule, in matters political, sympathize with a party of absolutism, the old traditional theological school with a conservative party, and the critical theological school or party, by way of preference,

with the liberal parties in politics. In this work we have to do exclusively with political parties, and we can notice non-political parties only in so far as they are attracted to or repulsed by political parties. — The most gifted and freest nations politically are precisely those that have the most sharply defined parties; for the most important phenomena in the life of the state are conditioned by party struggles. It is only through the struggle and interaction of opposing forces that all the hidden wealth of a people's powers is made clearly manifest. This proves the necessity and utility of the formation of parties. Parties are not a serious evil to the state, as many narrow and over-anxious minds are inclined to think. It reflects no glory on a statesman to stand aloof from his party, and it is no commendable virtue in the citizen of a state to belong to no party. For parties are, in the very nature of the case, the necessary manifestations of the innermost impulses of the public heart of the nation. — Parties, as implied by the term itself, are always only a *part* of the nation. A party, accordingly, can possess only the *consciousness of one part* of the nation, and must not identify itself with the whole, the people, the state. Hence, one party may combat other parties, but it must not ignore them, nor wish to destroy them. One party can not subsist alone; it owes its existence and development only to the opposing party. — Precisely because the prince in a monarchical country represents in his own person the unity of the state, and hence of all persons in the state, it is exacted of him, and almost exclusively of him, that he shall not espouse the cause of any party, and that he shall tolerate and respect all parties, each according to its character and rights. He may, indeed, choose to rely on any one party, because the latter, at a given time, seems particularly fitted to determine the policy of the state, and he may also have just cause for sharply watching the doings of parties that seem to endanger the public well-being. He may also, without sacrificing that impartiality (and impartiality is always his duty), declare himself in favor of one or as opposed to another party, according to the attitude of such party to the state, and according to that party's importance to the well-being of the state. But he incurs the risk of loading himself with the ugly appearance of being partial when he does this in a manner not perfectly warranted, and when his declaration of preference can be attributed to his personal inclination toward a party or to his personal aversion to the opposing party. A premature declaration of preference will, moreover, expose him to the danger of being compelled to disavow himself if, contrary to his expectation, the party hated or dreaded by him should become so powerful that it could not be refused the exercise of a decisive influence in the government, or if the party which he had approved or recommended at the elections had been rejected by the electors, so that he would be finally compelled to drop it. It is, accordingly, a political principle with wise princes to avoid declaring for or against any party in the state without the most urgent motives. — This, however, does not apply to the case of ministers, nor to any of the other officers of the state, and *just as little does it apply to the government of a republic.* Still, whenever these latter act in their official capacity, they should not act as mere party men, for the office is essentially instinct with the spirit of the whole state, and any official act is at the same time an act of the state. But public law, with its powers and duties, knows nothing of parties, the regular law of the state is the common law fixed for all, the law which imposes a limit to the agitation and struggles of parties. The judge and the administrative officer should disregard all parties, and not perform their duties with the view of helping or hindering any party. Parties play an important rôle only when the stir of fresh, new life is felt; in other words, when political life begins. But the official duty of impartiality does not exclude an official from sharing freely in political life with those who are of the same mind with himself, or from taking whatever side he prefers. Unlike the prince, he is not the personification of the whole. He is, on the one hand, as an official, an organ and a representative of the state; and on the other hand, as a private individual invested with all the political rights of a citizen, he enjoys a position as to party by virtue of which he is entitled to seek his party fellows and to league himself with them. The greatest statesmen of Rome and England were always both impartial magistrates and acknowledged party leaders. Only, as a matter of course, their political action should be limited, conditioned and moderated by the inviolability of the impartial position of the official. As it is incumbent on the historian to be impartial, that he should truthfully describe the condition of all parties, and judge them with fairness, but not that he should be a member of no party, or be a purely passive mirror reflecting with indifference the pictures of a nation's life; so it is incumbent on the statesman and the official, and in a still higher degree, that they should be impartial, but not that they should be non-party men. — For these reasons a so-called *government party* does not deserve the favor which it has frequently received from the ruling powers. Every party, when its leaders have been called into office, becomes, in a certain sense, the government party, for a time at least, and as long as its leaders remain in harmony with the principles and tendencies of the party. Yet, in such a case, the term government party implies no party principle, but only indicates that the party has actually attained to power and influence. The very same party, however, without any change of principles or aims, may become a party of opposition, when its leaders again lose the chief offices of government, or when, remaining in office, they adopt a tendency hostile to, or when they eventually assume an unsatisfactory attitude toward, the party to which they had hitherto adhered. — But by the government party is sometimes understood a party whose principle

consists in adhering at all times to the government, and in supporting the government, of whatever persons it may consist and whatever tendency it may follow; a party which adheres to the government when the latter enacts reactionary measures, and still stands by it when any reformatory change of its system happens to take place. A government party in this sense consists mostly of men whose personal interests make them dependent mainly on the good will of the government, and who support it in the hope of emolument and preferment through the favor of government, while from its disfavor they have a motive to fear for their positions or economical well-being. Under certain circumstances a party of this kind may prove useful to a government, because its votes always possess a certain weight; but woe to the government that in critical moments relies on a government party of this kind, and seeks in it its last and only support. As in such a party there is no inward strength, it can give no support, and as it receives its impulses from the existing government, it must waver when that government itself is shaken; and as, above all, it is always resolved to serve the ministers of the government, who have, it may be, only recently stepped into office, it prepares for a change when there is any prospect of a change, and deserts the banner of its old, defeated leaders, to follow the fife and drum of the new victors. Such a party, accordingly, enjoys no genuine respect, neither that of the ministers, who use it, nor that of the people, who expect nothing good from it. It scarcely deserves the name of political party at all, because it has no political convictions, and no political aspirations. It is merely an appendage to the ruling power, without moral worth or political dignity. It is generally accessible to and inclined to corruption, and usually ready to bargain away its fidelity and its services. Such a party, therefore, is unable to maintain itself in a manly nation, with a highly developed political party life; it is fated to be broken up and thrust aside by other and genuine parties. Yet, in the old monarchies of the European continent, such parties have still a certain importance, sometimes in connection with other old established court parties. — As a contrast to what is known as the government party in this objectionable sense, we have what is known as the party of *opposition;* but by this term we do not mean that other no less objectionable party, whose vital principle consists in opposition to the government, and which does not combat the policy of the government because it regards that policy as unsound or its success as dangerous, but solely because it is the policy of the government. The government party may be simply submissive, and blindly devoted to the government; a party of opposition such as we have here described, on the other hand, is to an excess obstinate and odious. The former always tamely follows in the wake of government, while the latter, at every step, thwarts it by distrust and antagonism. Both, accordingly, are unhealthy phenomena in the public life of a people. At times such a party of opposition may find favor with the people, just as the government party does with the powerful. But its negative qualities have only the appearance of utility to the commonwealth or of care for the interests of the people. The moving principle in it is certainly not egotism, as in the government party, but obstinacy, defiant aggressiveness, obstruction to all political authority; in a word, anarchy. It does not deserve the favor of any nation, any more than a purely government party deserves that of the government. When, between the years 1820 and 1830, the German chambers witnessed such opposition parties at work by the side of government parties, and courting popular favor, it was only the sign of a still unripe and sickly political life, for then the belief was still widely spread among the people, that only the man who opposed the government, and only as long as he opposed it, could be a patriot, and would devote himself heart and soul to the people. From the mere possibility of so dangerous an error, we may readily infer the existing moral rottenness of those governments. — After this brief explanation, we may define political parties as follows: They are the free, social groups within the state, held together for common action by the ties of the same or closely related fundamental political principles, ideas and aspirations. — II. *Political Parties and Factions.* We distinguish *parties* from *factions.* Factions are but the caricature of parties. Parties are necessary to the life of the state, and in so far useful; factions are unnecessary and always injurious. In healthy political life parties must be developed, while factions gain in power under unhealthy conditions. Real development is promoted by parties; corruption and the decay of states show the effects of faction. — On what does this distinction depend? Language here is not as safe and steadfast in its distinguishing powers as science would wish. We speak properly of a political party, when that party represents a political principle, or pursues a political tendency; political, that is, compatible with the existence of the state, and directed to the well-being of society. A political party may, indeed, exhibit great defects of character; it may employ wrong means, and pursue foolish aims. But it should never attack the existence of the state, or consciously pursue tendencies injurious to it. When it does this, it debases itself into a faction. Factions never serve the state; they are above all mindful of self; they pursue egotistic, and not political, aims. In the conflict between the well-being of the state and private interests, they unhesitatingly prefer the latter and sacrifice the former. — A faction can not easily rise to the noble position of a political party, although this may not altogether be impossible; but a political party may easily degenerate into a faction. As soon as self-seeking has become its ruling passion throughout all its actions, as

soon as it becomes heedless of its duties toward the country, and refuses to acknowledge its submission to the whole, it has entered the paths of faction, and we must deny it the honorable name of a political party. As every man is at the same time an individual apart, and a member of a community, of his nation, and, finally, of humanity, so also the various social groups possess this same kind of dualistic existence. They are associations with particular interests, and they are also parts of a larger whole. Political parties are animated and determined by this common spirit, although their egotistic self-love and party interest never become wholly extinct. Factions, on the contrary, are associations in which this self-seeking side has grown so powerful that it aims at subjecting to it the public well-being, and to sacrifice the state to its particular interests; although, as a matter of fact, even in factions the public well-being is seldom completely lost sight of. The contrast between a political party and a faction is, therefore, of a nature such that it manifestly suggests a certain affinity between them. They only follow opposite currents. Accordingly, as public spirit or private interest prevails in either of these groups of men, it may at one time be a political party, and at another a faction. When a party holds its meetings, chooses its leaders, comes to an agreement and passes resolutions; when it founds and supports organs to give expression to its opinions, and combats its adversaries; or when any individual member of the party, as far as is possible without violating higher duties, submits his individual opinion and inclination to his party, and follows the leaders of his party as soldiers follow their general: in all this there is nothing that can be called factious. If the party is to possess power and influence, it must organize itself, and display its activity in public life, at elections and in deliberative councils, as a closely compact body. But when party zeal and party passion preponderate to such a point as to prefer to tear the country to pieces rather than join hands for the sake of the common weal; when one party, upon gaining power, directs public affairs as a party government, using its power in the oppression and persecution of all who profess different opinions; when parties league themselves with the enemies of the state, and deliver the country over to their power: all proceedings of this kind exclude the true idea of a political party, and faction has usurped its place. — III. *Names and Kinds of Parties.* Different names do not always indicate different kinds of parties, and the names as well as the objects concerning which parties contend may frequently be simply accidental. People may quarrel and divide themselves into parties about a garter, or the shape of a hat; and in the case of more than one historical party division it is difficult to tell what was the cause that divided the nation. Even a mere whim, or difference of taste, the partiality to green or red, or *vice versa*, has parted society into hostile groups. Yet parties, in the earnest consciousness of their differences, often select colors only as party symbols, and in such case become known by their colors, as, for instance, the green and blue parties in the old Byzantine empire, the red and white rose in mediæval England, and the red (ultra-revolutionary) and black (clerical) parties of modern times. Parties in general, and factions still more so, love to distinguish themselves from each other and from the indifferent multitude by symbolical badges. Hence, they have their banners, cockades, colored caps, ribbons, and their peculiar costumes. — The more futile the causes that separate parties, or the less any political principles and aims determine their formation, the less also can they be called political parties in the proper sense of the term, and the more readily will such associations degenerate into factions. Political science does not concern itself with these non-political parties; and just as little can it pay any attention to purely *accidental* parties. Although at times they may assert their influence on practical politics, political science is unable to fix them, because they are not determined by political principles. On the other hand, the following kinds of parties deserve mention: 1. *Religio-political parties.* Denominational parties, as such, do not belong to these; but, when starting from different religious or ecclesiastical opinions or tendencies, they divide politically, and seek to influence the life of the state, they in a certain respect become political parties. This species of party division in the middle ages, as, for instance, that between Christians and Mohammedans, had a decided influence on public life, and this party division is even still sufficiently felt. Even in modern European parliaments we still hear of catholic and orthodox Lutheran parties, of ultramontanes and *pietists.* But these are spurious kinds of party, and, therefore, wherever political life is developed, they are banished from the arena of political parties to their own sphere, to wit, the domain of religious and ecclesiastical life. As the cause of the formation of this kind of parties has nothing to do with the state, and as their aims are not political, it must always be considered an abuse, when, in the modern state, they demean themselves as political parties. Religion seldom gains by such demeanor on its part, and politics is always injured by them. — 2. Parties may also, in a temporal, but not purely political sense, be divided according to nations, which, however, does not by any means constitute a normal division (such as Neo-Latins and Germans in the ancient German-Roman states, English, Scots and Irish in Great Britain, and Germans and Czecks in Bohemia; or according to tribes, as Franks, Old-Bavarians, in Bavaria; or according to the social order, as patricians, plebeians, clergy and nobility, nobility and bourgeoisie). Nations, tribes and estates, such as the third estate, possess in fact an importance which is not exclusively political, but above all civil and social. They also form firmly established wholes, and would form a too solid basis for political parties, which must never cease to feel themselves parts sub-

ordinate to the state. When, accordingly, parties are based upon nationalities, or when they are divided into tribes, there is danger that they may destroy the unity of the state. But if the unity of the state is to be preserved, the parties in the state should cross and unite the different nations, tribes and estates that exist within the political body, thus welding the parts into unity. When parties and estates are coincident this danger is not so great, for the estates know that they are only a part of the people, and that they can not form a state of themselves alone. Yet even here, party differences, allied with such mighty constituents of the state organism, differences thus powerful, lasting and bold, may by such alliance seriously threaten the internal peace of the state and public order. — 3. In the middle ages parties had still, for the most part, either a religious, national or an estate character. It is a sign of political progress when parties begin to divide according to definite constitutional principles, for then political ideas, and not merely the tradition of a race or of a particular class or calling, begin to unite those together who are of the same mind, and to separate them from their opponents. Parties of this nature are aristocrats and democrats, royalists and republicans, constitutionalists and feudalists, unionists and federalists, nationalists and particularists, etc. Sometimes these parties continue to rest in part upon a difference of estate or class: thus, the aristocratic and feudal party in Europe usually derives its main support from the nobility, the constitutional party from the third estate, and the democrats from the lower classes. But they are no longer confined within the narrow limits of an estate; the political opinion of one class or estate invades the others, and draws toward it those who are of the same way of thinking. — Yet these are only transitory political parties, which happen to arise during constitutional struggles for the transformation of the existing constitution, and which disappear when that struggle has been brought to a close and a new constitution is introduced and generally acknowledged. The task of the constitution consists in realizing and giving effect to its principles, and there is after this no need of constitutional parties, because all views that could possibly claim any political importance are supposed to have found their expression in the organs of the constitutional system itself, as for instance, the aristocratic elements in an upper house, and the constitutional and democratic elements in a lower house. Such political parties, accordingly, work toward their own destruction, because they invariably perish after obtaining the victory; they desire to die as political parties, that they may rise again as political powers; they desire to become members of the body politic itself. Hence, their principles are not party principles, but constitutional principles. — 4. The highest and purest form of political parties is incontestably that of those which are determined by exclusively political and not religious or social contrasts or differences, and which at the same time permanently accompany the public life. — Wachsmuth, in his *Geschichte der politischen Parteiungen*, 1832, advanced the opinion that, "in the history of the human race it must be accepted as a fundamental law of the universe, that, on the whole, there certainly is a *progress toward the better*, but it must also be admitted that the history of political parties has no share in that progress. Whether good or bad, such as they were from time out of mind, they remain to this very day." I also believe that a "progress toward the better" is perceptible in the history of political parties; although what is fundamental in human nature, on which parties depend, has remained the same, and when human passions have once been aroused, the man of to-day is as far from being exempt from the risk of relapsing into extreme brutality and barbarity as was the man of a thousand or two thousand years ago. The French nation in the eighteenth century claimed to stand at the head of European civilization, and yet this did not save it from the horrors of the reign of terror during the French revolution. Yet as in war, so also have the contentions of parties become, on the whole, less cruel and brutal. In spite of all the horrors that still disgrace our age, civilization has at least somewhat moderated the savage hatred of parties. — Yet I regard these as most manifest symptoms of improvement: that an ever higher form of party seems to have replaced the old one, that parties by degrees have laid aside other differences belonging to the domain of nature and social culture, and that they are more and more determined by purely political principles. The contrasts and differences of liberals and conservatives, of radicals and absolutists, are purely political, pervade all classes of the population, and are in every instance determined by different fundamental political ideas. These parties, and parties of this nature, although they often bear different names, are markedly the fruit of the political culture of modern times. — IV. *Rohmer's Doctrine of Parties.* Friedrich Rohmer's doctrine of parties, which was first announced theoretically and put into practice in 1842, during the party contest in Zürich, was in 1844 expounded by Rohmer in a work, the thoughtful contents and splendor of style of which were acknowledged even by its bitterest enemies. Rohmer's work has unquestionably exercised a great influence in the elucidation of political ideas; many of the thoughts which it contains have since become the common property of men of political culture throughout Europe, and many of its sentences have been plagiarized by well-known writers. Yet the effect of the book was below what might have been expected from the high merits of its principles and style of exposition. There was an obstacle in the way of the unprejudiced examination and acceptance of the new doctrine of parties, in the suspicion, entertained by a large portion of the party of progress, that the book was not the exposition of a scientific conviction, but a party document, written to di-

vide the party of progress by an artificial and skillfully contrived confusion of ideas, to humble the radicals, and to support the power of the Swiss liberal conservatives. This suspicion was wholly unfounded; his doctrine is, on the whole, rather a necessary consequence of Rohmer's psychological views, and it is decidedly favorable to the formation of liberal states. On the other hand, it must be admitted that the circumstances under which the doctrine originated might have suggested a suspicion of this kind, and that at the first formulation of the doctrine the passionate party struggles in which the author was involved, in certain particular points, may have exerted an unfavorable influence in some places. A no smaller hindrance than this wrong suspicion lay in the as yet undeveloped condition of political party life in Germany, people being still unaccustomed there to look at the political spirit from a psychological point of view. If the book had been written in 1849 instead of in 1844, it would have been more easily intelligible to the bulk of the German nation. — The fundamental idea of the doctrine is this: "As the state must be understood in the light of human nature and receive its explanation from the facts of human nature, so also must political parties in their natural causes be explained by the facts of human life. To understand the state as a political body, I must first understand the elements of the human mind: to understand the life of the state, I must investigate the laws of its development." (§ 17.) "This development manifests itself in the age stages of the life of man. The development of the state itself constitutes its history; but parties are the independent groupings of the different age stages of human life, by themselves and side by side with each other." (§ 217.) "As we distinguish four stages in the life of man—the boy, the young man (*adolescens*), the tried man (*juvenis*), and the old man (*senex*)—so may we distinguish four fundamental types of party. At the height of virile life stand the young man and the tried man. In these the *active* powers of mind hold the supremacy; in the former the generative and creative forces of character tand mind, and in he latter the preserving and purifying forces. Liberal principles accord with the mind of the young man, and conservative principles commend themselves to the mind of the tried man. In boyhood and in old age, on the contrary, the *passive* forces of mind are found in the foreground, in the boy in an ascending, but in the old man in a descending, direction. The boy has a vivid intuitive power and imagination, and a sensitive heart, but creative energy is still undeveloped in him. The old man has, in common with woman, susceptibility and impressionableness of nature, dexterity in action, certainty and coolness in calculation, rapidity and clearness of comprehension. The boy is a radical; the old man, absolute. — As in the organic course of nature every man passes through the different age stages, and experiences this change of strength and of impulse, so also does nature impress on individuals, irrespective of their age, as individuals, this diversity of the leading and determining forces of mind. There are men who as individuals are born boys, and who remain boys in mind and character through life. Others have as individuals youthful natures, others are endowed with the spirit and character of the tried man, while still others are as individuals old from childhood. Thus, Pericles was of a youthful nature, Cæsar naturally a man, Alcibiades a boy, and Augustus by nature an old man. Most men in their individual nature are not complete and well balanced, but mixed and defective. Many, for instance, are boyish or old at heart, but manly in spirit; or old in mind, but young at heart. As regards politics, mind is the decisive element. The mass of men do not individually belong to the higher stages. There are but few really liberal or truly conservative individuals. The bulk of men are by nature born old or boyish." (§ 35.) "That is, only in few men, considered as individuals, is the reason that discerns and regulates, or the creative power of speech, the prevailing power of the mind; most men have certainly a sensitive or receptive mind, are eager to learn, have rather a passive than an active mind, with the mental constitution of boys or older people. Parties, accordingly, are not to be compared with the age stages themselves. The differences of their inclinations and faculties are rather traceable to the natural difference of individual disposition, in which the difference of the age stages is permanently stamped and expressed. And because parties thus have their foundation in human nature, they also all have a natural right. Some correspond to the higher, and others to the lower, development of life; and from this correspondence their natural order and sub-order result. Their explanation is their judgment. Only the manly parties, the liberals and conservatives, are called to the government of the state, but not the two extreme parties, the radicals and absolutists. Their doctrine combats the illusion that radicalism should be considered as the only resolute and logical form of liberalism, as also the supposition that conservatism, in its highest power, becomes absolutism. Their doctrine insists, rather, on the distinction between the two parties in the ascending line of development, boyish radicalism, and youthful, manly liberalism, and between the two parties, in the descending line of development, conservatism and absolutism; and it demands the subordination of radicals to liberals, of absolutists to conservatives. Only when liberals and conservatives are at the helm does mind prevail over matter, and force of character over excitability. The struggles of parties are the following: of liberalism against conservatism, *e. g.*, plebeians and patricians in the palmy days of Rome; of radicalism against liberalism, *e. g.*, the English radicals against the whigs; of absolutism against conservatism, *e. g.*, Carlists and moderantists in Spain, high tories and moderates in England; of conservatism against radi-

calism, *e. g.*, the European struggle of the tories under Pitt against the French revolution; of liberalism against absolutism, *e. g.*, Luther against the popes of his time, and O'Connell against orangemen; of radicalism against absolutism, *e. g.*, the struggle of the French revolution against the monarchies of the last century." (§ 16.) — The alliances of parties are also manifold. The most dangerous to the healthy life of the state is the alliance of both the extreme parties, of radicals and absolutists. The alliance of liberals and conservatives is the most favorable to its normal development. If the development of the state requires new institutions, the liberals naturally step to the front, and the alliance will be a *conservative liberal* one; if there be question of preserving the threatened order of things, the conservative element must needs preponderate, and the alliance assumes a *liberal conservative* character. — When Rohmer's doctrine of parties first originated at Zürich in 1842, the preservation of the existing order of things seems to have been the task on hand; a liberal conservative policy was proclaimed, and the attempt was made to found a liberal conservative party. Ideas were at that time expressed with great distinctness and clearness, and these ideas had an influence that can not be denied. But the first attempt at the formation of a party was made under very unfavorable conditions, and attained only an incomplete development. The liberal elements chanced to be too weakly represented, and the young party was unable to keep pace with the stronger movement of the epoch, in which liberal and radical elements had become indissolubly mingled together. Its principle, however, was able to tide over the revolution, and thus passed to a part of its former adversaries, but the party itself, which first had recognized that principle, was dissolved. While Germany at first took but little notice of it, English and French statesmen, on the contrary, took up the principle, yet without altogether understanding the full depth of its significance; they were, moreover, affected by the same false tendency from which the Swiss liberal conservative party had suffered. Guizot attempted to found in France a liberal conservative party, but he ignored the liberal aspirations of the times, and insisted in a doctrinarian manner on preserving the untenable. In England, however, Sir Robert Peel was more fortunate in organizing a liberal conservative policy. Since that time, however, this idea has entered into the party movements of almost all continental states, and without it modern party contentions can nowhere be rightly understood. If the differences of political parties depend on the difference of natural individual disposition, the necessity of parties, and, further still, their legitimateness, follows as a consequence; for anything that has the roots of its existence in nature, has a right to have its existence respected. All laws and public measures, accordingly, that aim at the control of parties, or at the suppression of particular, even of extreme, parties, violate the natural law of creation, which has produced this multiplicity, and which, even through the conflict of differences, creates the highest phenomena of human life. — The choice of a definite party, accordingly, is only in a secondary sense the work of personal insight, and of free will; for every individual in the first place feels the impulse and attraction of nature. The man who is by nature a radical will feel himself drawn toward the radical party. The man who is naturally old will be drawn rather toward the party of absolutists. But, as in all human things, the force of natural instinct is not endowed with an absolutely compulsory power, man possesses a power of mind and character over himself; he is able to overcome his own impulses, when he believes them to be foolish or injurious. Other motives and interests modify the differences which distinguish the natural individual disposition, and sometimes impel those who are naturally radical to submit to the direction of the conservatives, or drive them into the camp of the absolutists. Education, with the power of ideas and habits which it gives, has frequently the most decided influence on the choice of a party. Experience and study may also induce an individual to profess different principles and tendencies, and hence to adhere to a party different from that which we should have expected, from his individual nature, he would ally himself to. — Nature herself has taken care that the dangerous one-sidedness of parties should not completely isolate men from one another, by compelling every individual man in his lifetime to pass through all the different age stages, and thus to experience in himself and in his own near kindred and acquaintances the nature of other parties than the party to which he belongs by his own individual nature. Any attentive and thinking man will hence judge more broadly and fairly of others when he has an eye to the many-sided teachings of nature. Nature has a healing remedy for the arrogance of extreme parties, and gives a warning to individuals to join rather the more manly central parties; and it directs all parties always to submit to the whole by manifesting, as in the organization of the human body, complete human nature, and all the faculties of the soul in the proper relation of order and subordination. It hardly needs to be recalled to mind, that the following characteristics of the four parties are merely typical. Real life scarcely ever expresses altogether completely and purely the typical, fundamental idea, but only approaches it more or less closely. But when science in grand outlines sketches the natural types, it in so doing elucidates and arranges the otherwise unfathomable, chaotic variety of phenomena. — 1. *Radicalism.* Radicalism is illustrated and explained by the nature of the boy. Although the delineation is made with great skill, and is true in the main, the picture is not free from a certain exaggeration, or from polemical bitterness, which can be explained only by the time in which it was drawn. Hence its dark sides have manifestly been painted

with greater relish and more nervous strokes than its bright sides. The author, Theodore Rohmer, in his later years himself admitted this. — He introduces his description by a reference to "the spirit of contradiction, which begins to stir within every man, after the development of consciousness. This spirit, this *opposition for the sake of opposition*, in faith, science, church and state, is the main trait of radicalism." (§ 45.) "Radicalism is very well adapted to oppose when, from the sphere of an inferior criticism, it pursues the sins of absolutism, when it hastens the march of conservatism, and clears the road for liberalism; ever blaming, hurrying, agitating, but incapable of ruling; productive of misfortune and of terrible disturbances as soon as it seizes the reins of government. Hence, it is a frequent occurrence in parliamentary states, that the most brilliant leaders of the opposition betray a complete incapacity when they are called into power. Government and childhood exclude each other." (§§ 50–52.) — "The mobility of the boy is unbounded. Quiet, rest and self-containment are impossible to him. He loves change and variety to a passionate degree, and his ardent nature is continually in search of novelty. To this must be added his unhealthy longing to become a grown man. He sees the adult people around him, and his most powerful wish is to be like them. He imitates them, and plays the man. 'Novelty and progress' are the watch-words of radicalism. But 'novelty' is not reform; it proceeds from the impulse to change, and, like the latter, it is variable in itself; and 'progress' is only the impulse toward progress. He wants to reap before he has well sown; he is given to excess, as was the French revolution, or he is compelled to give himself up, as Joseph II. had to give himself up. Radicalism borrows from liberalism, and imitates it. Radicalism everywhere in Europe, through organic self-deception, *regards itself as liberalism*." (§ 46.) — "If the boy were not altogether by nature incapable of ruling, and relegated to obedience, he certainly would be thus incapable and relegated to a very high degree by his complete lack of experience. Experience can not be learned, but must be acquired in the school of life. The inability to learn from experience accompanies boyish natures through life. It was precisely this inability which so deeply embittered Napoleon against the radical ideologists, and for very good reason. So destitute of meaning and experience is radicalism. When Cola Rienzi believed that he could resuscitate the power of Rome by means of the mere name of the tribunate, and the forms of ancient Rome; or when the German *Burschenschaft* thought to restore the spirit of the empire by restoring the title of German empire, they dreamt like inexperienced boys. If Joseph II. in Austria, Pombal in Portugal, and Struensee in Denmark, had taken counsel of experience, they would have understood that it is impossible by any number of decrees to suddenly extirpate the deeply rooted past." (§§ 53, 54.) — "As the boy is complete neither in his mind, which is in process of development, nor in his sensitive faculties, which can be ripened only through life, it follows that he must learn. To learn is not to know, but only a preparation for knowledge. But the boy, although desirous of learning, at every step which he takes in learning from others, believes himself to be in possession of real knowledge. On the other hand, we all know how difficult it is to overcome the aversion of a boy for methodical learning. His wild disposition carries him away from it, while his instinct demands culture and schooling; between the two he remains in a wavering state. In this manner radicalism has ever displayed either barbaric ignorance or an exaggerated craving for formal culture, schooling and enlightenment. Rousseau, the father of modern radicalism, instead of culture wished to see men in the rude state of nature; our modern radicals, radical in their demand for culture, cry loudly for education and popular culture as only boys cry for schooling." (§§ 56, 57.) — "The powers of the boy are naturally adapted to mental appropriation. His susceptibility is marvelous, his imagination indefatigable; but reason, will-power and all deeper insight are absent. The boy, in a word, is brimful of talent, not of mind. Talent is the characteristic mark of radicals; but talent has no standing in any court for depth of intellect. History affords us a very powerful example of this truth. In the three parliaments of the French revolution, in the constituent assembly, in the legislative assembly and convention, there was a galaxy of men of talent, partly of the most remarkable kind, and of such variety and number combined as the world had but seldom witnessed. The names, which at that time followed one another in rapid succession on the scene, still remain the pride of the French nation. And what became of all these men of talent, when a great spirit, when Napoleon, put in his appearance? It seemed as if the one great mind alone sufficed to fill the vast field which a hundred men of talent had divided among themselves. How even the most renowned among them shrank into insignificance before Napoleon: men like Sieyès, Talleyrand, Cambaceres, and even Carnot! Yet Mirabeau maintained himself; in the midst of all these radical men of talent he was the only intellect." (§§ 59, 60.) — "The boy, like the poet, lives in a world of ideals; he knows the real world only in miniature, and even in miniature he has no thorough knowledge of it. It is perfectly natural that he should build himself a world of poetical and fantastic day-dreams, of castles in the air. Radicalism has also created a world of ideals; it, too, is clothed with a charm which has misled whole nations. A world, full of freedom, happiness and bliss; a world, in which all men embrace one another, and live together like brothers, in which everlasting peace reigns, and in which an everlasting community of all spiritual and corporeal possessions obtains: a world of this kind, such as was proclaimed by the religious visionaries of the middle ages, and by the political dream-

ers of the nineteenth century—how charming it always appears to the senses and to the heart, in spite of the fact that experience and reason have so often told us that it crumbles away in the presence of reality. The attempts of radical world-improvers belong as little to real politics as poetry itself belongs to politics; but for life they possess a truth similar to that of poetry. In fact, what happiness the boy dreams of as in store for him in his manhood; of the freedom that he will one day enjoy, and the pleasure of a thousand circumstances in life! If he reaches manhood, and if fate favors him, he certainly may find happiness and freedom, yet it will be a kind different from what he had dreamed of; he will then smile at the dreams of his boyhood, and instead of these he will try to enjoy the sober reality of the present." (§§ 63, 64.)—"The boy's understanding leads him to the formal branches of knowledge. Even his imagination, when he applies it to scientific questions, guides him into the field of abstraction. All radicalism is at all times formal, mathematical and abstract, when it invades the domain of manhood. Its culture and legislation are full of formalism; its conception of life and history are abstract; the radical state is mechanical without a suspicion even of organism; it is constructed, as Aristotle expresses it, κατ' ἀριθμὸν, instead of κατ' ἀξίαν, for it adds, subtracts, compounds and distributes men and affairs as if they were only arithmetical quantities." (§§ 65, 66.)—"Culture and education, as means substitutive of nature, are the one great idea which has become with modern radicals the most predominant idiosyncrasy. That idea proceeds from the boy's capacity for education. The boy sees in education a substitute for innate gifts, and even considers it the creator of individual nature. He believes that education can make fools clever, and the stupid intelligent; that it is in the power of education to make all men equally learned, equally intelligent; that through the same means of education all classes can be raised to the same height, and that the crowd can be extirpated forever. Of all radical ideas, none has been more widely spread in Germany than this, and partly for the reason that the Germans, of all nations, are endowed with great capacity for comprehensive and genuine culture, and because they love education even too much not to easily over-estimate it. Instead of adapting culture to different natures, character is indiscriminately made to adapt itself to one and the same form of education. Happy age, when all Germans shall be educated and *geistreich*. Stupidity, which hitherto, at times, has been modestly silent, would then reign supreme, while mediocrity has already begun to rule in consequence of that very idiosyncrasy." (§ 71.)—"As in the case of women, the boy only knows one reason for everything. The understanding, which is not as yet developed in the boy, superordinates and subordinates intuition, which he possesses, and conceives objects, notwithstanding their variety, as a complete and undivided whole. How radicalism everywhere, both in the material and the intellectual spheres, is urged by the impulse toward 'leveling,' needs no further examples.—The boy moves with originality on the field of speculation. Man, in childhood, indulges in a number of questions, which he is unable to answer as a man. He thinks about the origin of the world, about the reasons of being. But he does not investigate for the sake of a higher purpose, but merely because investigation is a pleasure to him. Abstraction, as abstraction merely, satisfies him. The two characteristic marks of all radical speculation are: an ideally mingling the reason of the world's existence with the world itself (pantheism); practically, the supremacy of abstraction over life." (§ 74.)—"Radicalism, like childhood, is good and rich in blessings, and when in its right place its effects are unequaled; but it degenerates and becomes worthless when it swerves from the right path, and when placed at the helm becomes a prey to demoniacal powers. From what evils it frees us, from what abuses, from what an oppressive load it unburdens Europe, by its ever-living, stimulating power and active foresight; how much of evil it does away with, how much of what is useless it removes, and how much of what is new it has encouraged—all this is well known in recent times. If it had been able to keep within the bounds of the opposition, if it had surrendered the direction of affairs to liberalism, instead of thwarting it, its effects would surely have been a blessing. The country may be considered fortunate in which radicalism keeps up an opposition without encroaching in public affairs, but keeps its energetic action within the bounds of modesty. Woe to the country in which it rules supreme. Waste of mind and emptiness of heart, the ruin of the past and the decay in the present, are the signs that accompany it." (§ 77.)—"The boy believes that he shows courage when he displays only impudence, and energy when he makes a manifestation of obstinacy. He indeed possesses courage to do many things which the grown man can not attain to, because to such courage belongs a barbaric recklessness toward all existing rights, relations and institutions, or an unparalleled degree of levity. Yet these are precisely the qualities by which radicalism has been able to impart an occasional bold forward movement to the wheels of history, which in certain cases it would have been beyond the power of even the most advanced liberalism to impart. They are also the qualities of which Providence frequently avails itself for the attainment of its designs. Radicalism not only vents itself against old institutions, when they have become rotten; it attacks the past and pulls down everything with relish; the radicalism of the better kind does this, because it carries within it the organic delusion that it can create a new world from the wreck of the old, and the worse kind of radicalism, because it is impelled thereto by its love of destruction. A *tabula rasa* is what both want." (§ 85.)—"Although far from cruel, the

boy commits many cruel acts. His anger when irritated, his revengefulness when offended, his fury when controlled, are simply barbaric. But he nevertheless combines all this with a tenderness, or rather a weakness, of feeling, which easily passes into pusillanimity and exaggeration. The source of these opposite qualities is sentimentality, which is as cruel as it is easily aroused, as easily inclined to evil as it is capable of good. This sentimentality consists in an excessive degree of sensitiveness." (§ 87.)—"By nature the boy has only an abstract sensual conception of the world. He is able to conceive only unity or multiplicity; and these opposites coexist in him as unreconciled with one another as were Judaism and Greek polytheism in the ancient world." (§ 88.)—"Abstraction makes things equal. Thus, the boy looks upon men as equal except in as far as they do not exist outside his own sphere. Boys among themselves are democrats. Their whole mind and heart demand equality. Take a school of thirty or forty boys the moment before the teacher enters. An absolute freedom and equality prevail among them. The instant the teacher appears, all are just as equal in obedience as they were before in anarchy. Boys are fit only for a democratic or a despotic government. To the boy freedom means only following his caprice, and doing what he pleases. His idea of equality is, that nobody should be allowed to enjoy higher privileges than himself. What has been said describes, as we believe, sufficiently the main traits of radicalism, considered as the submission of the organic life of man to the unlimited power of abstraction." (§ 92.)—2. *Liberalism.* Liberalism is the representation of the young man. "The youth enters into the world free. He is no longer hampered by discipline; life and fate henceforth educate him. His first act is to examine the ground on which he stands, the inner and the outer world. His criticism spares nothing; he is bold enough to doubt everything; yet not merely for the sake of doubting. He doubts, in order by his own power to attain to truth. He seeks, in order to find. Intellectual and moral criticism is a main trait of all liberalism. But there is no trace in liberalism of the opposition which is made by the man who is not free. If I were to draw an historical picture of the character of liberalism, and point out wherein it differs from radicalism, I should recall the life of Luther in the religious sphere, and Lessing's labors in the scientific world." (§§ 93, 94.)—"The young man is man in his highest bloom. Replete with life and movement, and at the same time full of sense and consciousness; his mind developed in every direction, at the height of creative power, high-minded and energetic, still undisturbed about fate; the entire man in the fullness of all his impulses, ardently desirous of the future, and yet even now master of the present, unhindered by obstacles, inventive of plans, full of sense in the choice of means, and of genius in execution; a constitution of this kind, or none, is adapted to reform, or rather, born to create and organize, just as the boy is fitted for revolution." (§ 95.)—"Because it alone unites activity with genuine strength, liberalism is the formative principle of all existence, in science and in faith, in the church and in the state; and only that which contains within itself creative germs with a positive core, deserves the name of liberal. Everywhere, under all conditions, and even where it carries destruction before it, liberalism acts as an organizing power, and where it does not directly distribute blessing it is infusive of new life. In German history we have a refreshing picture of an organizing liberal in King Henry I." (§ 96.)—"The opinions of the young man are full of ardor, his assertions are full of acuteness, but he is naturally too modest and too humane not to honor all outside aspirations if nobly harbored. Where the boy is exclusive in his opinions the young man investigates, and where the former is narrow-minded the latter preserves his intellectual sight free and undimmed. He is free from prejudice, and takes things as they are; and this freedom is the mother of the highest kind of toleration, a toleration, however, which never ignobly vacillates between what is good and what is evil, or which meanly wavers between opposite tendencies, but honors what is worthy of honor, even in its bitterest enemy, and from its own steady point of view judges, with impartiality, the points of view of others." (§ 97.)—"As independence is the nerve of manhood, it follows that the man can never find the reasons of his actions in authority; he can find them only in the truth which authority can lay before him. A liberal government will never pay homage to public opinion as such, nor to the spirit of the *age*, the *Zeitgeist* as such; yet it will always respect the spirit of the age, combat its falsities, and take its truths to heart. A liberal opposition will never despise the authority of the throne, nor accept any proposal merely because it comes from the throne, nor, like the radicals, reject it only because it emanates from the throne." (§ 109.)—"The age period of the young man is the highest expression of man. The mightiest ideas and passions, the highest power of his intellect, the richest fullness of his sensitive faculties, and his most perfect bodily development, belong to this age. In this age stage man becomes man complete. In this sense liberalism is humane, it and humanity become one. The greatest and only perfect liberal known to history is Christ. And through what did Christ exert his most powerful influence, and so powerfully that no one among us who knows anything of his individuality can well help loving and revering him? Why has his image been stamped so deeply on the heart of humanity? Not because of the sublimity of his mind, or simply because of the miracles of his life alone; not because of the supernatural in his nature, but because of his *humanity*." (§ 100)—"If it be true that liberalism expresses human nature in that which is most peculiar to it, then of the four parties referred to above, supremacy belongs to it; for only man should rule over men. But as

nature tarries long and in a thousand ways in its lower phases; and as it only seldom, and but for a short time, gives us glimpses of its summits; thus also liberalism, in all nations, has ruled only during their most flourishing epochs, and only for a short period." (§ 102.) — "The education of the young man is the school of life. His teaching goes to the root of things. His culture is the development of pure humanity in its widest sense. Where radicalism only looks at schooling, liberalism looks at the nature of man; the one has an eye only to what has been learned, the other to what is inborn; the former gives us only *state-servants*, the latter *statesmen*. To liberalism also the teaching of the people is sacred. It desires that every one should be brought up a man. But, instead of applying the standard of the highest stages to the lower ones, it aims at an organization of public instruction that may afford the possibility of the highest culture to any one capable of receiving it, even those of the lowest classes, yet without over-educating them." (§§ 102, 103.) — "The direct, fresh-springing creative power that distinguishes the young man, as compared with the talent of the boy, and the calculating wisdom of advanced age, is called genius. Genius knows, where talent only learns; it creates, where talent plays; and thinks where the latter dreams. The true man *knows himself*, and carries his measure within him. To know himself is the fundamental condition, and to measure accurately the highest quality of genius. The boy overrates his own powers, and allows them to disport themselves without control; the man knows them, and uses them with circumspection. Radicalism, in its policy and in the administration of the state, herein acts like the boy; liberalism, like the man. When liberalism is at the helm, all the parts of the state are called into activity proportionately to their importance, but none are overrated, none overstrained. Ancient Rome and England are still patterns in regard to the knowledge of state measures, and in the observation of the proper measure. Liberalism does not perfect anything before maturity, or before the times command it. But then it acts quickly, thoroughly and with energy. Of this nature was the regeneration of Prussia at the time of French supremacy. Even under the administration of Stein decree followed decree; but the national spirit advanced step by step with these decrees. While Stein was laying the foundations of civil freedom, and Scharnhorst those of public defense, the intelligence and heart of the German people had been raised to the level of this freedom, and its active energy had begun to long for the armament of the nation." (§§ 104–110.) — "Clearness of understanding, grandeur and abundance of ideas, logical penetration, perfection of language and power of speech, characterize the period of bloom of the human mind. His entire organization impels the young man into the fields of intellect, in search of organic knowledge, to the study of philosophy and psychology, of the sciences of the state, and of politics. The philosophy of the schools, or mere scholasticism, call it as we may, formulas and technical terms, may suit the boy, but the philosophy of truth and of life belong to the man. Liberalism, above all, thinks with the natural understanding. Its human character tells it that true philosophy, like true religion, must be universally human, and therefore intelligible. Greek philosophy was liberal, so far as its results affected the education, the constitution and the politics of the Greeks; the practical philosophy of the English was also liberal, although only to a limited extent; and the philosophy of the great German thinkers, of Leibnitz, Lessing, Herder, Müller and Frederick the Great, was liberal in a still higher degree. But the German systematic philosophy as such, is not liberal, because the manner and method according to which it seeks truth are formal, and the tendency which it keeps in view is not that of life, but of thought as a business. But, to liberalism, thought and action, theory and practice, are one and the same thing." (§§ 112, 113.) — "The boy applies to the world an abstract, speculative or mathematical, and the young man a psychological, measure. The one seeks and acts according to formulas, the other according to organic laws; the one sets up categories, the other principles. The young man is full of ideals, but his ideals are rooted in ideas. A policy, if it be grand and human, must pursue an ideal; and it only ceases to be a manly policy, when, instead of pursuing this end with a cool, considerate sense of the practical, it pursues it in an idealistic manner. In the highest stage of liberalism the ideal and real become one. Every liberal ideal, even when a failure in the present, leaves seeds behind it in history, from which subsequently either its corporeal form springs, or some other blessing is harvested." (§§ 115–117.) — "The eye of the young man is turned mainly forward into the present and the future. His relation to history is not an immediate one, and yet it is none the less a deep and sacred one. Life leads him into history. Every institution which history has sanctified, is sacred to him, not because that which *was* or that which is of long duration compels his respect, but because he understands its foundation in human nature, its effects on the head and heart, in a word, its psychological character. The liberal knows that no power in history can be destroyed unless the psychical roots which it has shot out are destroyed, or unless a greater power can be put in motion against it. In other words, no historical institution should be tampered with unless there be substituted for its hitherto psychical efficacy a psychical efficacy equally great." (§ 118.) — "There is a distinctive trait which infallibly distinguishes the character of the young man from that of the boy. The boy is vain, the man has only a quiet pride. Let us compare Lafayette with Washington. Although the two were near enough to each other in views and circumstances, the simple and quiet demeanor of Washington contrasts widely enough with Lafayette's vanity,

to warrant us in characterizing the latter as a radical, and Washington as a liberal." (§§ 121, 122.) — "The young man as quickly subordinates himself to another whom he recognizes as his superior, as he classes himself above those whom he feels to be his inferiors. While the boy says: 'There is no higher right than mine,' all the man wishes is that 'every one should have what belongs to him.' The main trait of the young man's character is hatred of all oppression and want of equity and uprightness of mind. When this side of his character is touched, he forthwith reveals all the full life of his soul, and the indomitable energy of his mind. But, as he constantly keeps in view the moral natural law, and sees the contradiction of positive material law with the essential order of things to be more frequent as he grows older, he is liable to abandon or neglect, in disgust, traditional forms, and thus to afford his adversary a weapon, by the skillful handling of which, many a liberal has succumbed in the fight against hypocritical legality, the legality of the scribes and pharisees. In his *Götz von Berlichingen*, Goethe has described a character of this kind." (§ 124.) — "The position of liberalism toward religion may be described by recalling Bacon's well-known principle, that true philosophy should doubt everything; but that through doubt it should return to God. Liberalism, at the start, is always criticism; its end is the taking of a position. The religion of liberalism is free and cheerful, and even its doubts are calm and respectful." (§§ 129–131.) — "The young man sees everywhere the law of superordination and subordination, an immense gradation of forces succeeding one another, not side by side with one another; a gradation of forces different in kind and essence; and he soon perceives that the machinery of creation rests on this diversity. Liberalism knows no measure of primordial rights except that which nature has implanted in each individual; that is, the gradation of freedom or independence is to him the same as the gradation of God-given power. By divine decree all have equal rights, but not the *sum* of rights. Humanity is, he says, by virtue of its organization, that is, by virtue of divine right, a great aggregate individual, endowed with supremacy over the earth. Every member of this aggregate has a share in its rights. This share is greater the more it gives expression to the character of the whole, and smaller the further it is removed from it. Not an equal share for all, but to each one his own, is here also the great principle of liberalism. To liberalism it seems to be the highest problem of science, the foremost task of statesmanship, the fundamental condition of all human well-being, to assign to every capacity its proper sphere, to every virtue its corresponding field of activity, to every individuality its right place." (§§ 132–136.) — "But when, from these principles, that seem so simple, and as it were deduced from nature itself, the young man turns his glance toward the positive condition of things, he beholds another world. He finds that the external hierarchy of the classes of society is not true to its origin, and only too often the reverse of the inward dignity which those classes should express. He finds the crowd in the higher, and nobility in the lower, orders; he discovers stupidity ruling, wealth governing, the weak influential, the bad honored, mind the prey of misery and neglect, force sacrificed to inaction, highmindedness to hatred and intrigue. In nature itself he sees causes provocative of contradiction and difficulty. Not only can he find no way by which to determine dignity of character and the value of men's deserts; he finds an organic confusion in the dualism of the measure itself. The worth of the individual is not determined exclusively by his individual organization, but by another standard, by race. Race is not limited to nationality, but extends its spirit to the province, to the tribe and to the family. It is inseparable from the person; it is a matter preliminary to passing judgment on men; it is the cover in which his real nature is enwrapped, it is the canvas from which the characteristic peculiarity of the individual stands out in relief. As it affords the liberal a second measure of human valuation, his task is to place both measures in their right relation to each other, to consider the race as the substratum, and the individual as the quality, so that the latter may prevail, but with due consideration for the former." (§ 139.) — "From the view of the world above described, it follows that the man considers the state as a direct necessary product of human nature, as the crown of human organization. The man recognizes no public or constitutional law with its origin in contract. Neither does he admit a state of which God, in a mechanical sense, is the originator and governor, except in so far as God has endowed human nature with the instinct to form states, and as he forever remains in close union with man, his creature. The man knows only an organically operating God, a God acting through human freedom. In himself, in his body and in his soul, the man finds the fundamental principles of the organism of the state. Liberalism conceives the state as a body, of which no member is without a connection with the whole, and of which no member is without a share in the whole. But in this organism it conceives each state power in its place freely acting within its sphere, no power so separated from another as to disturb the living connection between them, no one opposed to another, but one all-embracing power at the head of all. The law he considers as the aggregate product of the national will. Hence it wishes that not the head exclusively, but the members also, should share, in due proportion, in the legislative power. It considers every state as the embodiment of a nation, and every nation as a particular individual with indestructible features. The state of the party of liberalism is a state which respects the rights of the mind, as the highest criterion of class, so that the poorest peasant may rise to the highest order of nobility, and the scion of nobility sink to the lowest condition, as complete worth or worthless-

ness characterizes them: a constitution which in everything prefers man to external circumstances, nature to culture, insight to acquired learning, and which affords to mind and virtue the best opportunity to assert their power." (§§ 141–147.) — If, accordingly, we are asked to define the fundamental character of liberalism, as contrasted with radicalism, we must say that the real distinction between them consists in the supremacy of abstraction in the latter, and the supremacy of the individual in the former. — 3. *Conservatism.* Conservatism is explained by the nature of the "older man." The term "older man" is evidently inappropriately applied to the age of man from thirty-two to forty-eight, as Rohmer applied it, because it suggests a still more advanced age. Even the term "tried man" is generally applied to men in the forties, not to those in the thirties. In the absence of an expression corresponding to the Latin *juvenis*, we prefer to use the term "complete," "mature," or simply "the man," because he has reached life's zenith, toward which the young man, striving upward, is still pressing. — "The perfect man has already reached the vantage ground which the young man is still struggling to attain. His affairs are regulated, his home is established, and he has found a field for action. His concern is not coveting anything new, but holding fast to what he has; not acquisition, but increase; not the conquering of an unknown world, but the regulation of the world he knows. He is self-reliant and free, like the young man; to a much higher degree, in so far as the ripeness of age lifts him above the necessity of assistance, but to a lesser degree, in so far as the circumstances of life fetter him. He is fettered by circumstances, surroundings, duties, and a number of considerations of which the young man, generally single, has no idea. His wife and children, his position and property, equally impose on him the duty of preservation; instinct and consciousness impel him to it. Nature has summed up the conditions of all life in two fundamental laws, the law of generation and the law of preservation. Thus, also, the two fundamental tendencies of humanity are characterized by these laws, liberalism by the former, and conservatism by the latter, law." (§ 158.) — "The mature man, of all men, has alone an 'unconditional' claim to govern. The young man, through the earlier half of his career, combines skill and force, but he lacks experience. When we say that liberalism usually guides the world, that conservatism rules it, while radicalism opposes and absolutism intrigues, we briefly characterize the relations of parties to one another as the condition of mankind generally creates them." (§ 154.) — "The man has formed his opinions. His views are fixed, his faith is a definite one. The young man had to acquire truth through doubt; he must through investigation preserve and elevate the truth. The young man criticises in order to acquire; the man, to increase what has been acquired. An inclination to preserve, and skill in improving: such are the man's preponderating traits. Being the master of a household, and settled in all his relations, he avoids all disturbance, and changes nothing, when a pressing need does not render the change necessary. But it is equally natural to him to give an ever firmer foundation to his home and family, and to perfect his condition more and more. His position not only does not prevent him from making, but it impels him to make, all such improvements in his situation on the largest possible scale, and by all means in his power. — In this he is just as indefatigable and active as the young man in his endeavor to acquire a fortune. Without being indifferent or narrow minded, he takes the world as it is, with its perfections and defects; and his way of making it more endurable consists rather in developing the good elements that are in it, and in preserving them, than in building new creations from them, creations the success of which he does not feel certain of. As the young man not only feels himself impelled to positive, new creations, but at the same time to the removal of abuses, and of that which has been outlived, so also the conservative man, besides increasing present stores, feels always inclined to the restoration of those institutions which a thankless or a narrow-minded age had unjustly allowed to decay. From the first of these dispositions reform proceeds; from the latter, restoration." (§ 158.) — "The supremacy of the mature man depends on the esteem which he commands, on the confidence which he inspires, and on the firmness of his whole nature. His education, in point of genuine solidity, comprehensiveness of knowledge and command of details, is as superior to the education of the young man as it is inferior to it in ideal human nature. The ideal force of liberalism may prove wholesome in opposition to the state: the life experience of conservatism belongs directly to affairs." (§ 161.) — "We have summed up the intellectual constitution of the perfect man in the term wisdom. Wisdom can not vie with genius in productiveness, but it is equal to the latter in wealth of conception, and superior to it in elaboration. Wisdom is inferior to genius in penetration, but surpasses it in circumspection; wisdom, by its fullness of knowledge, makes up for the advantage genius has over it in keenness of perception, and it supplies, by its comprehension of details, the ease with which genius grasps the whole; experience imparts to wisdom a solidity and knowledge of men which for substance may well compete with splendor of ideas. If genius carries measure within it because it watches over itself, the having such measure within one's self is to wisdom a second nature: to keep within measure and to be wise are one. The young man is genius in motion, the mature man is genius at rest. The former may be called active, the latter passive, genius. If, in poetry, we compare Shakespeare and Goethe, we have an approximate picture of this latter difference." (§ 162.) — "Wisdom investigates and forecasts: it tracks out what

is hidden, it understands the past, and preserves the germs of the future; sagacity and power of memory are inborn in the perfect man. As we regard language as the highest power of the young man, so we may consider intellectual discernment as the faculty most peculiar to the mature man. In these, language and intellectual discernment, the highest faculties of man, lies the difference between liberal and conservative politics, when once intelligence rules. The science of mind here becomes the science of the conditions into which the mind has settled, the law of nature becomes historic right, and psychology becomes history. Hence, what conservatism produces is not essentially new; it is only the same truth, the same creation that liberalism already had created, only in another light." (§ 163.)—"Liberalism struggles for principles, and it only is able to give birth to the highest principle. Yet if it lights on a false principle, it falls into errors, which the mature man can never share, because he never opposes principles to positive life, but always moderates them through law and history. He also desires that external law should be a mirror of the inner law, but he never sacrifices it for the sake of the latter, because experience makes him recoil from the danger of such attempts. The inviolability of property, and of private rights in general, is hence one of the principal features of conservatism." (§ 165.)—"The power of resistance preserves man externally, and inwardly he is guided by the principle of fidelity. This fidelity has given rise to the German proverb: *Ein wort, ein mann;* the keeping of one's word is so peculiarly the mark of conservative minds." (§ 167.)—"Practical life is the natural field of the mature man. The government of the family, marriage, the relation of master and servant, are best understood and managed by the mature man. The young, as well as the mature, man, founds marriage on the divine sanction, that is, on the divine natural law, which has willed the duality of the sexes, and therewith the organic union of two individuals fitted for each other; but while the young man founds the mutual supplementing of the two sexes on the psychical similarity of their natures, the latter measures it by similarity of their situation in actual life, and of the conditions necessary to the secure existence of a family. Both views, however, are misused, the former by radicalism, the latter by absolutism. In the former, the inner inclination degenerates into a weakly, fickle feeling, and we have modern marriage, which has rightly been called sentimental marriage. Absolutism, on the other hand, makes marriage merely a matter of convenience, inasmuch as, without any regard to nature, it pays attention only to the external circumstances, such as birth, money, etc." (§ 168.)—"In the case of the mature man the government of a family is closely connected with the direction of his household and the management of his property. To possess is a craving of his nature. From being thus bound to property and family, it follows that conservatism, as a party, is more difficult to organize and direct than other parties. The conservative party is usually inactive and phlegmatic; everybody attends to his own business; matters are allowed to go, and men are aroused only when there is actual danger; in England, for instance, it is not the party of moderation, but the high tories, who keep alive the violent agitation of parties." (§ 169.)—"Experience, and the wants that necessarily accompany it, lead the mature man more directly to religion than does criticism the young man. If the mature man is preponderantly religious, he may be severe, and to a certain degree anxious; but never unfree or unfriendly disposed toward manly criticism. He will accordingly treat the church with sincere regard and love. But he is the most pronounced enemy of any falling off in the discipline of the church, of worldliness in the members of the church, of abuse of its sacred character." (§§ 171–173.)—"As in mature age, there is substituted a sense of obligation for the extreme freedom in which youth delighted, so the sense of order is found in the man, side by side with the notion of liberty; and it governs. Freedom desires that every one should attain the highest of which he is capable; order, that no one should aspire higher than becomes him.—Race, to which youth only pays secondary consideration, has for the father of a family an entirely new importance. An unintentional, irrepressible instinct impels the mature man to attribute to it a higher importance, and only to give it up when the individual is completely useless. Liberalism and conservatism value the organic powers of man; liberalism with a preponderating appreciation of the organically peculiar, and conservatism of the organically inherited. The "peculiar" powers build up society; the "hereditary" preserve it. In the former lies the prototype, without which nothing can come into existence; in the latter, tradition, without which nothing can endure. As greatness of individuality, combined with a corresponding exterior, confers precedence on the person who is possessed of both, a precedence which men are wont unconsciously, and by virtue of an original instinct, to acknowledge, so also a superior race, in combination with wealth of material and intellectual possessions, commands a consideration which nobody thinks of withholding from it. Heredity is accordingly immediately founded in conservatism, while liberalism knows it only in as far as it respects race as the *foil*, so to speak. But there is not only a congenital transmission, in which race consists, there is also an acquired one, a second, more spiritual transmission, which has the former for a foundation. The first is the inheritance of blood, which man receives at his entrance into the world; the second, the inheritance of all that which in the course of his life has to such a degree become naturally assimilated with his character that it becomes his second nature, the sum total of all the impressions which circumstances and intercourse with men and fortune have left

upon him, permanently and with determining power." (§§ 174–177.)—"In the liberal state, persons with their substratum of lineage, rule; in the conservative state, lineage, brought out into relief by persons, rules. In the former, ideas prevail, in connection with the existing state of things; in the latter, tradition, with the continuing influence of ideas. 'In the liberal state,' as Montesquieu expresses it, 'virtue' rules, and 'moderation' in the conservative state. In the former, public law is more developed; in the latter, private. In the former, political freedom prevails, on the basis of personal freedom; in the latter, personal freedom, with the corresponding addition of political freedom. Liberalism considers the object of the state to be preponderantly active, and that it consists in the highest development of man as man; conservatism looks upon it as preponderantly passive, and that it consists in securing to the furthest extent the existing legal order of things." (§ 180.)—4. *Absolutism.* In order correctly to understand the comparison of absolutism with the "old man," we must again call to mind that the age stages of human life seem fixed in parties, that is, that the different energies of the soul, which alternately appear and disappear in the life of the individual man, determine in a permanent manner the nature of parties. The individual who is by nature liberal or conservative, will continue liberal or conservative in his advanced years; the individual who is by nature old inclines even in boyhood toward absolutism. Not the qualities that have been developed at an early age, and which have attained to complete maturity, but only the qualities which appear for the first time in later years, and which nobody, not even the old man himself, considers better than the instincts and powers of youth and ripe manhood, determine the spirit of absolutism. The absolutist party, therefore, is compared to a man who is *only* old, and who is not, at the same time, a man in the sense of liberalism or conservatism.—"The old man has left the greater part of his years behind him. He enjoys the past in reminiscences; the future, in his children; the present no longer belongs to him. The sum of his experiences is fixed. The convictions which he has derived from them are unchangeable. This result, bought with the toil and labor of a life, with its roots in his head and heart, a result to which the sweat of his brow and the blood of his hand still cling—this result, and this only, must be the true one. In old age we have no conditional, no relative views (?); near to the end we crave the absolute. The age stage, which has had more experience than the others, has no peer among the other stages. It withdraws into itself, and the world goes on, while old age believes it is overlooking it. This isolation, this inclination toward the absolute, combined with the weakness of nature, deprives old age of the ruling position to which by its very nature it seemed to be called preferably to all others. Age possesses a great fund of experience, but its experience is at an end. For only the man who without prejudice comes in contact with the world learns anything from the world. The organic position of absolutism, that in which the state (as nature requires) makes use of the experience of age, without sacrificing itself to its exclusiveness, is the consultative one." (§ 182.)—"The old man hates novelty in the same degree as the boy loves it. Old age fetters his elasticity; his whole being revolts against it; for with every innovation a new portion of the edifice that it had reared with such immense toil is shattered. The world is changing about him; other opinions, other institutions, other customs, arise. Every day, so to speak, declares war against him. He is overcome with grief and disgust. Self-love, man's foremost quality, manifests reaction. The old man has passed through all the stages of life; he can understand them all, he exacts obedience from all. But while he lifts himself above them, while he makes his own phase of life the last product of all the others, and considers it the only true one, without, however, taking any part in the process of life either in the way of production or transformation, life slips from his grasp at the moment he believes he has finally grasped it. He is beset, on the one hand, by the indestructible instinct of old age to assert its importance, and on the other, by the impossibility of harmonizing with other men. Reaction is unavoidable. It lies in the innermost nature of absolutism." (§ 183.)—"Intolerance and despotism are the natural consequences of this position. The principle of absolutism is the principle outside the adhesion to which there is no salvation. With it doubt is a sin, and resistance a crime. The narrowness of absolutism is less a lack of understanding than an instinctive unwillingness to understand anything in nature. It is this which imparts to the despotism of absolutism a much harsher, more injurious, character than to radical despotism. Absolutism frequently understands the demands of the peoples whom it maltreats; but it will not yield to these demands. When want comes, it knows how to appeal to higher ideas; it then accommodates itself to the times, it yields, capitulates—a clear proof that it *can* understand—yet only to go back to its old ways as soon as possible." (§ 184.)—"As the boy plays the young man, so does the old man assume the demeanor of the mature man; in other words, as the radical takes upon himself the ways of the liberal, so does the absolutist desire to pass for a conservative. Radicalism rides heedlessly over old established rights, when they are an obstruction to innovation; reaction, regardless of consequences, destroys all the hard-earned results of a grand present, that it may rule again. Both are equally ignorant of the laws of intellectual, and of the limits of historical, rights; both equally trample history and private rights under foot; both believe themselves able, by their 'fiat' of omnipotence, and by decrees on paper, to establish institutions in conflict with the spirit of the times, of nations and of the soil; both

are equally destructive. 'The world is growing worse, the world was better in the past,' has, since Nestor's time, been the motto of the old man; as radicalism by its optimistic dreams, and the old man by his passiveness, undermine the quietude of nations." (§ 185.)—"Reaction is naturally fixed in its retrogression, just as naturally as revolution raises its progress into law, and repels all contradiction. Reaction goes back only to a certain stage of the past, but not as the restoration goes back to the past, as an intellectual development. This constitutes the essential difference between reaction and restoration. * *"—"The boy approaches the world with intuition and imagination, but the old man with reflection and combination. * * The one abounds in whims and ideals, the other with *aperçus* and rules; and at last the old man reaches the point the child had reached—at abstraction on the one hand, and at sensuous perception on the other. The deductive rules on which the old man relies without intellectually mastering them, inspire him with that infallible confidence, that strange self-deception, by which absolutism runs toward ruin, without perceiving the abyss, until the ground begins to quake under its feet. In this manner age collapses into a spiritless empiricism, which ignores all higher points of view, and at last degenerates into a materialism, which drags what is highest and holiest down into the dust." (§ 192.)—"Where combination is so preponderantly developed as in the old man, the principle of numbers very naturally asserts itself. Mathematics and the entire series of the exact sciences are the field on which the mind of the old man finds its highest satisfaction. The boy applies himself to mathematics because its abstract generality satisfies his mind and sharpens his faculties, and the old man seeks refuge in it because it alone affords him that absolute yet sensibly real certainty in which his mind finds rest. But it seems rather strange that this empirical certainty should tempt him into shallows, from which even ideal contemplation remains exempt. In its train follow cabala, alchemy, magic and necromancy. The sober clearness of mathematical laws seems irreconcilable with the enigmatical plays of the cabala; and so does it seem incredible to reflecting reason, that dry rationalism, for which everything is too high which can not be made as plainly evident as that twice two makes four, should still pair itself with the nebulous mysticism of the theurgic and magic arts; and yet both are to be found united in absolutism." (§ 193.)—"Old age is thus formal in history. If the boy is formal because he is unable to see through form, the old man resolves essence into form to shape it as he wants. Right sinks into a treaty. Loyalty becomes a narrow *legalism*, and the more the idea of right contracts, the more obstinately does the old man cling to separate provisions. The most sacred interests are sacrificed to the letter of an agreement, and the application of the law, under the veil of the *summum jus*, becomes a permanent exercise of the *summa injuria*. From the point of view of such *legalism* the condemnation of Christ was not judicial murder, but an act of justice. In legislation, also, absolutism applies this mechanical, arithmetical measure. History, with free-thinking absolutists, becomes a collection of maxims, *aperçus*, remarks and analogies, as it was with the men of the world trained in the French school of the last century; to the absolutists of a positive opinion, history is but the treasure house of his own opinions. The 'historical basis,' the 'deep ideas of the past,' the 'organic articulation of the state,' the 'good old law': absolutism frequently employs all these conservative phrases, just as its counterpart (radicalism) uses the words freedom and equality, and ignores them with the same ease." (§ 194.)—"The heart of man feels the effect of years as heavily as his mind. Old age is as far removed from the equanimity of mature age. Its rest is but the quietism of exhaustion. The great passions have subsided; only the little ones remain. The old man is irritable in the highest degree, his moods are whimsical and changeable. His passive sensibility sometimes causes his mind to accept indiscriminately all impressions, and sometimes to display that dull indifference (*laisser aller*) which characterizes the staid man (*philister*), that inferior embodiment of absolutism." (§ 195.)—"The boy, to become powerful, must remain under training; old age, on the contrary, must have pupils, and wishes to be surrounded by persons who obey. The old man may be mild, gentle, and careful of his pupils; but he wants no free man around him. An absolute government may be well meaning and paternal, but the air of freedom, the highest good of life, is never breathed under it." (§ 197.)—"The weakness of old age reveals itself in a remarkable manner in this, that its virtue, like that of the boy, needs support from without. In the case of the boy this support is the law; in the case of the old man it is tradition, convention, maxims, reflective virtue, the morals of principles. If we wish to get a notion of the conventional morality of absolutism, we should read Kotzebue's plays. It was this morality that prevailed in the upper classes in the past century. Here there are no maxims of law and custom, but social considerations." (§ 198.)—"If we reflect on the above it is obvious that there must enter into the efforts of old age, to attain moral perfection, an artificial element. As what is noble does not spring spontaneously from nature, incapacity calls forth a violent effort, and this again betrays 'the power of weakness.' Hence comes the demand for 'unconditional obedience' in absolute states. When the weakness of nature breaks through the bounds of principle, the vices of old age develop into unnatural tyranny, of which history affords so many instances. Philip II. is the most striking instance of wicked old age: another illustration is the hideous Tiberius, who, more than any other ruler, combined in his nature womanly weakness and diabolical strength, weakness of charac-

ter and baseness. It is the custom to consider all the Roman emperors as absolutists; but Caligula, Nero and Commodus were only depraved boys; genuine tyrants are found only in old age.—Modern Machiavelism walks about in a stately garb, gentle, pleasant and winning. It understands the art of appearance, and under paternal mildness conceals machination. It shakes hands with the proletarian, and surrounds itself with the severity of majesty, according to the times. Cruel when cruelty, kind when kindness, leads to its end, it ignores everything but its own aims, and the arithmetical weighing of the means. Such a man was Augustus, a man endowed with the greatest intellectual gifts, and who might well say of himself, that he had cleverly played his part." (§ 200.)—"Old age is also characterized by weakness in private life, chiefly in the management of its household. As woman, both in childhood and old age, is superior to man, the interference of women in radical and absolute homes or states is almost unavoidable. If the times are favorable, woman becomes permanently preponderant. The government of mistresses in the eighteenth century is well known." (§ 201.)—"Old age in matters of faith knows either only mechanical obedience or complete dissolution of beliefs, literal orthodoxy or atheism. Voltaire, La Mettrie and Shaftesbury were far from radical; they were profound, logical absolutists." (§ 201.)—"When a reasoning absolutist wishes to understand the origin of the state, he is, by his very nature, forced to seek refuge in the idea of formal covenant, of an artificial contract. This famous theory, which is nothing but a distortion peculiar to old age, of natural right into arbitrary convention, owes its origin to the absolutist period of the seventeenth and eighteenth centuries. The radicals have adopted it because it is in keeping with their intellectual constitution; but to the provisions of the social contract, following their bent, they have added the doctrine of equality. According to virile notions, public authority has the right in itself, and subjects their rights in themselves. But only the free man can understand this; the man who is not free is compelled to seek the source of his condition, the title to his rights, outside himself. The man who is not free subjects himself to another, because, as the theory itself puts it, he alienates his rights to another, and the latter commands because the former has alienated his rights to him; or, according to orthodox ideas, because God has given the latter command over him." (§ 204.)—"There is no right in absolute monarchy except that which emanates from the ruler; he alone is what he is by the grace of God; all the others are what they are only through the grace of the absolute monarch. The most perfect embodiment of this system is the constitution of the order of Jesuits, and the Roman curia, according to the Jesuitic conception of it. The company of Jesus subjects body, soul, actions and thoughts to the omnipotence of the general of the society, in whose hands the members are but unconscious tools. According to the curia, the whole church rests in the papal chair." (§ 205.)—"Old age, however, besides despotism, has also its democratic features. Absolute power may be attributed to the people as well as to the ruler. Europe has witnessed not only a great radical, but also an absolutist, revolution, the English. That revolution was the embodiment of fanatical belief, as the French revolution was of fanatical abstraction. When the radical proletarian rises, he wishes to be put on an equal footing with others; when the *lazzarone* is aroused, he remains what he is, in order, as a *lazzarone*, to avenge himself on others." (§ 206.)—"Because age carries the germ of dissolution in itself, it can only be kept together through the most rigid observance of forms. This is the essence of legitimist monarchy. Its characteristic trait is, that instead of striving to do the state service, it makes such service itself its purpose. In other words, it does not administer except for the sake of administering. Birth, not merit; money, not mind; routine and mannerism, are the conditions of appointment to place. Form becomes essence; essence, form. The external policy of absolutism knows only combinations, not ideas. Without any regard for the inborn tendencies of peoples, but simply to round out the national boundaries, it huddles provinces together at hap-hazard, as they have been acquired through conquest or marriage. Instead of natural equilibrium, it seeks an artificial balance, which may be disturbed by the merest breath; instead of treaties, it is satisfied with agreements for the moment; instead of a proper diplomacy, it pursues a diplomacy of intrigue, with a gorgeous representation, but without statesmanlike substance. Its foreign policy is either strictly orthodox (legitimist), or materialistic. Form everywhere rules.—5. *Mutual Relations of Parties.* Liberalism and conservatism, the two virile parties, may combat each other, for although one in aim, their methods are different, but in spite of their differences they should never forget their close relationship. They are indeed nearer to each other than either of them is to any other party, and than the other parties are to each other. They may be opponents, but only opponents who respect each other." (§ 209.)—"Between liberalism and absolutism, as also between conservatism and radicalism, there is no point of contact. They are even as different in what they do as in how they do it. On the other hand, liberalism and radicalism have a common line of action, while conservatism and absolutism have the feature of preservation in common; but in spirit and character, liberalism and conservatism are superior to the extreme parties. Radicalism and absolutism, finally, have many resemblances in their bearing. Sometimes they act together friendly; more frequently they combat each other, very much as boys refuse to longer submit to the rule of the older. The true relation of parties is found when the extreme parties share

in the national struggles only mediately, and are led by their corresponding manly parties. Politics is ruined when the extreme parties obtain supremacy." (§§ 210–212.) — 6. *Psychological Contrasts in Politics in General.* Since Rohmer's doctrine of parties psychologically determines and describes the fundamental types of parties in accordance with the age stages of man, and thus discovers four types, peculiar both in spirit and character, it goes beyond the task of explaining political parties themselves, and thus, from being a theory of political character and mind in their natural chief kinds and forms, it becomes a new psychological science of politics in general. This theory throws new light on political facts and individual character. Even where there are no political parties, there are still to be found radical, liberal, conservative, absolutist, individuals whose way of thinking and acting finds its explanation in that theory, just as much as if such individuals had formed themselves into a party, and as such, tried to influence public life. Those fundamental types may also more clearly and easily be illustrated in individuals than in parties, for on the formation of parties many things exercise an influence besides the natural disposition of the individuals who unite to form a party. It not unfrequently happens that the leaders of the parties individually belong to another type than the party itself. The liberal Mirabeau was the head of a radical party; the liberal Pitt was the leader of the absolutist conservative tories; in the revolution of the Netherlands, the conservative William the Silent led the radical-liberal party. In Switzerland the absolutist parties, in Germany the ultramontane parties, are often led by radicals; and so, on the other hand, the radical-revolutionary parties confide their cause to the expert skill of absolutist generals. — Above parties stand the people. But in nations also we often perceive the same chief tendencies that distinguish individuals and parties. In the French national character the absolutist character, and in the French spirit the radical trait, is very prominent; and this explains the violent changes in French political history. On the contrary, in the Russian nation the absolutist spirit seems to be combined with a radical disposition. The English are manifestly liberal in character and conservative in spirit; the ideal of the Germans is a liberal government, maintained and supported by the conservative people. — From the four fundamental tendencies of humanity, Rohmer derives four general characters of political constitutions, as distinguished from forms of the state. "Radicalism, as the supremacy of abstraction, engenders the idol state; liberalism, as the supremacy of individual personality, the individual state; conservatism, which pays homage above all things to the power of history and the rights of races, the race state; and finally, absolutism, the form state." (§§ 220–226.) — The history of nations, and, on the whole, in its grand outlines, the history of humanity, follows these changing impulses in their different periods. The period of childhood is devoted to the service of abstraction; in old age, traditional forms obtain a decisive authority. At the height of life the manly tendencies prevail. Humanity has not as yet reached its climax, but it is manifestly approaching it. Its development on the whole is, therefore, liberal; the modern era is intellectually freer and more self-conscious than any previous one. But, within modern times, history, in different ages and phases of development, has already repeatedly made the circuit of the age stages of man, and of their respective tendencies. On this necessary movement rests, in part, the divine education of nations; on this also rests their highest expression, the changing phases of the spirit of the times, the breath of which every one feels, but the correct understanding of which constitutes the art of the statesman. J. C. BLUNTSCHLI.

PARTY GOVERNMENT IN THE UNITED STATES. The first recorded party contest in New York state, in 1789, ended in a total poll of 12,458; the total vote in 1880 was 1,102,945, and the number of voters over 1,200,000. This advance in the voting and the possible votes of nearly one hundred fold, or six times larger than the growth of population, aptly measures at once the needs, the conditions and the development of party government in the United States. Meetings at "Martling's" in New York, and the "Long Room" in Boston, were sufficient for the conduct of party affairs, while the voters of one city numbered less than 3,000, and the poll list of the other fell short of this number by one-half; but the enormous increase of the voting voter, due, first, to the spread of political privileges by law, second, to the growth of political interests by party contests, and third, to the increase of population—has rendered the earlier methods obsolete, and developed an intricate system of party government, the product of the last sixty years, whose working is most vigorously attacked by those least aware of the tremendous difficulties presented by the quadrennial mobilization of 9,000,000 voters. The development of party government has, therefore, been along the inevitable lines of increasing organization and delegated powers, whose development in the state is the familiar story of representative government. Burke's definition, "Party is a body of men united in promoting by their joint endeavors the national interest upon some particular principle in which they are all agreed," was accurately applicable to the small and coherent body of electors which he represented. While remaining true in spirit, it has ceased to apply in detail to the two great political camps into which the United States has been substantially divided for thirty years. In these two parties a bare fraction of voters, not a tenth at most, carrying on the active work of party government, constitute the standing army of political life, which in periodical struggles exhausts its efforts in the endeavor "to poll the last man";

in a word, to mobilize the great mass of inert voters with constantly increasing success. Beginning in 1820 with a polled vote in New York state (where the records are most complete), with one voter in five (12,458 in 1789, out of 57,606 voters in 1790), the proportion steadily rose to 81.12 per cent. in 1826, increased rapidly during the next six years, in which the foundations of party government were laid, to an average of 60 per cent., or very nearly the average now obtaining in Great Britain, rising in the ten years ending in 1865 to 77, reaching in the presidential year 1876 to 88 per cent., and in 1880 to 90 per cent. How largely keen political interest and high intelligence are needed to increase this per cent. is made best apparent by the fact that the highest percentage of voting voters in those states has been for years in the counties whose percentage of American-born population is largest. This growth in the percentage of voters exercising the right of voters, no less than the widening of suffrage, has increased the complexity of party management during the last century upon a scale rather one of kind than of degree. — At the organization of the federal government the number of voters in each political division was still small enough to permit the management of parties by the simple and rudimentary methods long in use among English-speaking peoples. These were, self-nomination for the candidate, the caucus or meeting to express the desire of the voter, and in addition, as a dormant political power in the state, there existed the convention, which the traditions rather than the usage of the English constitution made the form in which the general body politic took original and initiatory action. Except in the southern states, which retain many archaic forms in their political life, self-nomination has disappeared in this country, the public meeting has become the caucus or primary, and is treated elsewhere (see CAUCUS); while the convention, developing along two distinct and independent lines, has become in its constitutional form the body to which is committed the composition of organic law, while in its political form it has come to be the body which in county, district, state and national affairs acts under a loosely defined body of usage and party regulation for the party as an organic whole, in theory drawing its power from the primaries, in practice acting independently, regulating their action and determining their constitution. — These two widely divergent forms of the convention originated in the same stem; but while one attained full development and power in the constitution-making period of the revolution, the other only reached its development in the party-making period, which began in 1820, and ended in 1840, with the party organization now (1883) in existence in full operation, although the development of its details is still in progress. The convention, as a primal political force in the body politic, appeared early in American history. "They had no doubt," says Hutchinson of the action of the Massachusetts colonists when the old council had taken possession of the government from which a mob had driven Gov. Andross, "received advice of the *convention* called by the prince of Orange, and, in imitation of it, they recommended (May 2, 1689) to the several towns of the colony to meet and depute persons," who assembled, and assumed the right to decide what constituted the government of the colony, as the convention parliament of 1688, assembled without a writ, had decided upon the constituent powers of the English government. The whig lawyers who managed the revolution in the thirteen colonies, itself essentially a political struggle, were mindful of the organic character which precedent attached to a convention, and termed the meeting of commissioners from the colonies a congress. Meanwhile, the radical changes in progress through the colonies were conducted by conventions, the work being at length completed by a federal constitutional convention, while the political government of the day was carried on by meetings in the large cities, supplemented by the collective action taken by the members of colonial assemblies. The latter, as well as the former, bridged over the period between their sessions and their assembly through the appointment of committees of correspondence, a body which is the lineal predecessor of the "state central committee" of the present day, and which remained for over fifty years after the revolution the stated political authority in deciding upon the executive conduct of campaigns. These public meetings and committees of correspondence, in the post-revolutionary period, conducted normal political action; the convention was employed when extraordinary steps were proposed. Shay's rebellion was preceded by one which met at Springfield, and embraced delegates from the counties about; the alarm created by the Hartford convention was in part due to the selection of this term in summoning it, and, without much regard to whether the body was made up of delegates, any mass meeting of more than usual importance was termed a convention; *e. g.*, the New York meeting nominating George Clinton in 1811, the mass meeting led by Daniel Webster in New Hampshire in 1812, or even the early "conventions" in Maryland and Pennsylvania which nominated Jackson and Harrison. — The initiative in local and state party government, which rested at the opening of the revolutionary war with city meetings, societies and their committees of correspondence, was transferred in the period succeeding this struggle to state and federal legislatures, by whom it continued to be exercised until 1830 in all parts of the country, and in some southern states until 1860. The change in New York state, a closely divided political body, whose politics early reached, and has since maintained, a high degree of organization, which makes its development typical, was distinct and definite in this direction. George Clinton had been the chief executive of the state through the war of independence, by

unopposed election. The first serious step toward the organization of an opposition was by a meeting of Clinton's opponents Feb. 11, 1789, which nominated Robert Yates, and appointed a committee of correspondence to promote his election, while a letter soliciting his candidacy was addressed to him from Albany. Three years later the nomination of John Jay was made by a called meeting of his special supporters, and confirmed by a larger body held later; Clinton, representing the more popular organization, received his nomination from a general meeting "composed, as was alleged, of gentlemen from various parts of the state," followed by meetings in each county. Here was the early germ of the convention, as now known; but it withered from the practical difficulty and the vast expense of travel, which made it impossible to bring political delegates together, except as they were already assembled in state legislatures. It is highly significant that each step in the higher organization of our parties has been at a time when internal transportation was developed. The state convention reached its development in New York state in the decade which saw the Erie canal opened; the national convention first became complete in the period of railroad expansion from 1850 to 1860, and the management of a national campaign from a single party centre only became possible from 1870 to 1880, when the telegraph system of the United States was first extended over our territory. These are the real conditions which have made possible the development, and determined the character, of party government. Tocqueville early pointed out the extraordinary freedom of political association enjoyed in this country, but this would have continued dependent on cliques and caucuses at state capitals and at the seat of federal power, if it had not been supplemented by a freedom and facility in travel and communication inconceivable when he wrote. By 1795 an unprecedented advance in population had extended the base of political action in New York state beyond the scope of any meeting, large or select, on Manhattan island, and John Jay was nominated by a quasi legislative caucus held at Albany, which was, for a quarter of a century after, the centre of political action. To the close of the century, the action of the Albany caucus was still shared by citizens of the state capital; but the tendency was to recognize only legislators as its members, and in 1804 Aaron Burr and Morgan Lewis were nominated by fully organized legislative caucuses. Even then the Burrite ticket was completed by a public meeting at Albany, which nominated Oliver Phelps as lieutenant governor; but for Burrites and "Quids" the Albany caucus of legislators was the controlling body, its "address" the party platform, and its "committee of correspondence" the governing body of the campaign. A "regular" party organization now first appeared in New York politics, which has never since been without a political organization claiming "regularity" by virtue of its unbroken political succession from the body which in 1805 nominated D. D. Tompkins. For twenty years afterward the business of carrying on party government was conducted at Albany, and the struggle against the "Albany regency" was in fact the struggle of the counties and their political action against power which out of the necessity of the post road had gravitated to Albany. The same development of party government was in progress at all the state capitals, at least as far south as Virginia and as far north as Massachusetts. In New Hampshire the "Rockingham convention," Aug. 5, 1812, a mass meeting of 1,500 voters, adopted a platform, nominated a full ticket, state, electoral and congressional, and joined in a vigorous address to President Madison. In Vermont "conventions of free men" and the legislative caucus acted indiscriminately, sometimes reaching the same nominations. The public meeting preserved its place as the origin of political action much later at the south, and the extent of the states west and south of Virginia left a political initiative to the county, which has long survived, although the legislatures were in all these states centres of political action. Inevitably, however, the condition of society on the frontier rendered impossible methodical political action. Nominations in Kentucky, in 1799, for a constitutional convention and state legislature, were "agreed upon" in many counties by "committees of two from each religious society and from each militia company"; a combination of religious and secular affairs in political organization which had its analogue in Philadelphia at a recent period in the cant political question, "Are you a presbyterian or democrat?" whose answer opened more than one election fight. — In Virginia a periodical Richmond caucus early in the century decided on state nominations, and appointed a committee of correspondence, which acted with like committees in the counties. The action of this legislative caucus was so strictly a matter of state party government that in a presidential year, as in 1812, it did not go beyond the nomination of electors, and passed no resolutions expressing a preference as to a candidate for president, or enunciating a national platform, the "only test laid down" in the selection of electors being "Will he vote for Mr. Madison?" In Pennsylvania nominations were made at this time in the same way, and party management vested in members of the legislature. In Massachusetts, even as late as 1826, the Jackson "corresponding committee," appointed by a meeting in Boston, deferred meeting "until the legislature met, and a state convention could be assembled," steps in this direction still hinging on the legislature. To party management the members of the legislature naturally added the declaration of party policy and party principles. The sphere which has been occupied during the half century closing in 1880–90 by the party platforms and the letters of candidates, was earlier filled by addresses from state legislatures on federal and state topics, taking a range and

appearing with a frequency since unnkown. For nearly fifty years after the revolutionary war these addresses summed up the opposing political doctrines of the day, and the members who signed them managed the party organizations. Nor, in comparisons between the personal character of state legislatures at an earlier and later date, is it fair to forget that membership in these bodies fifty years ago gave the political control of party nominations and party policy which has since become vested in the party convention and its "central committee." Ability will always gravitate where real power is exerted. This is exercised to-day upon the floor of conventions, whose members are quite as often hindered in their influence as aided in their authority by a seat at Washington or in a state capital. The control exercised by the legislative caucus found its natural analogue in a like control over federal affairs in the congressional caucus at Washington, whose power was first challenged, not by the national convention which succeeded it, but by the state legislative caucus, which envied both the power of the body at Washington and the preponderating influence enjoyed in the councils of the meeting at Washington by the Richmond caucus. Aaron Burr's nomination as vice-president was the first formal action taken by a caucus at Washington—Jefferson's selection being a foregone conclusion—and Burr was nominated at the suggestion of an Albany conference. By 1808 seventeen members of the "republican" caucus at Washington bolted its action on another suggestion from Albany. State legislatures had begun, each on its own account, to make presidential nominations, but holding their action subordinate to final determination at Washington, precisely as in the convention period state conventions present their "favorite sons" to national conventions. The objection to the congressional caucus as the manager of national politics had become so serious in 1812 that the call that year laid stress upon the regular character of the assembly, while the resolutions passed disclaimed any power in its members to act except in a personal capacity. Albany was, as usual, the first to break ground in a new direction, and the republican legislative caucus at Albany nominated De Witt Clinton ten days (May 29, 1812) after Madison's nomination at Washington. "One nomination," said "Niles' Register," in commenting upon their action, "is just as legitimate as the other." The convention which met at New York in September of the same year, with a representation from eleven states included in its membership, and which is sometimes cited as the first nominating convention, was in fact a mass meeting held to approve, or, in modern phrase, "indorse," the nomination made at Albany. Four years earlier a like assemblage held at "Martling's" styled itself a "general meeting," and, while approving by name state nominations, in the address which it instructed its committee of correspondence to "forward to republicans of the United States," exhorted them to "support such candidates for offices in the general government as are regularly selected and recommended by a republican majority of the Union"; meaning, of course, the congressional caucus.—Party government had now reached a stage in which the congressional caucus, whose power, though questioned, was supreme, carried on the loose national organization of the day through its standing committee of correspondence; state legislatures did the same for state contests; while an inchoate representative political body did the like in the cities. The "general meeting" had already become too cumbrous to carry on party affairs in cities like New York, Philadelphia and Baltimore; Boston was still a town whose inhabitants enjoyed right of pasturage on the common for thirty years later. Secret societies had been an earlier substitute for the mass meeting, of which "Tammany, a society of the Columbian order," is the last lingering representative. The "democratic society," organized in Philadelphia during Washington's second term, had its affiliated branches over Pennsylvania and the neighboring states, extending to the outer bounds of the Kentucky wilderness. Federal politics in western Massachusetts and the region about were for nearly a generation at this period powerfully influenced, if not controlled, by a secret society which had affiliated branches in New England and the middle states, and more transient organizations existed elsewhere; all circumstances which played an important part in giving edge to the anti-masonic movement. None of these societies offered a basis for popular action during a time when the number of voters was yearly augmenting, quintupling in New York state in thirty years; 57,606 in 1790, 259,387 in 1821. The committee of correspondence, which each "general meeting" left to continue political action until another met, was gradually supplanted by ward organizations, first temporary, then permanent. The great "general meeting" which met, 12,000 strong, to approve Madison's nomination and the prosecution of the war, in Philadelphia, May, 1812, called ward caucuses to appoint five delegates to a "general committee," which sat apparently for no other purpose than a more formal and weighty declaration than was possible in a tumultuous mass meeting. A similar appeal to the primary was taken in Baltimore; but the usual course with these large city meetings—of which a number were held in these stormy war times—was to approve existing nominations made by state legislatures, and to appoint the customary committee of correspondence. From cities, counties and single districts representative party government spread rapidly to the state, while the term convention began to be employed for any "general meeting" which included members of more than one place. The last nomination of the congressional caucus in 1824 made plain the disappearance of its political power, which had received a fatal blow eight years before. Eight years later the Albany caucus, which

had dealt this blow, alarmed at the growth of a new political engine in the convention, called for a revival of the congressional caucus as an escape from the dangers of separate state nominations for the presidency. The committee of correspondence of the congressional caucus has survived in unbroken succession as the "congressional campaign committee" of to-day, appointed biennially in the joint caucuses of the senators and representatives of each political party. The influence of this body varies greatly with the strength of the national committee and the ability of its secretary and members. In a presidential year the congressional campaign committee can do little but distribute documents, the party in power in either wing of the capitol using its facilities, folding rooms, employés and what not, for this purpose. In the intercalary congressional election the powers of this committee are considerable. It makes, or has made, the assessment on officers, organizes the congressional campaign where the party is weak, sometimes assumes to decide between conflicting claimants for a regular nomination, and furnishes doubtful districts with their speakers and supplies; but in the practical work of politics all this proves of less advantage to party success than in furthering conflicting intrigues within the party for the places in its gift, in particular those which depend upon the action of the party caucus in the house when deciding upon its candidates for speaker and other officers in the organization of the lower chamber of the federal legislature. — The state legislative caucus remained in full sway upon the disappearance of its Washington rival; but it was near its end. Presidential nominations by state legislatures as a formal official act were becoming more frequent, and paved the way for a broader representation than a party legislative caucus, in which the voters of the party living in districts where it was in a minority had no representation. The "convention" of the day was steadily widening its base and increasing its influence, and what was of nearly equal importance, ceased to be regarded as a dangerous or revolutionary political tool. It is a familiar fact that the legislature of Pennsylvania early lost the high relative importance attached to state legislatures and service in them in the post-revolutionary period, and it was in this state that the nominating convention first appeared in full action. A fruitless proposal for a national convention to make an anti-slavery nomination against Monroe was made in Philadelphia in 1820; in the previous four years the nomination of state officers through a convention consisting of delegates chosen by public meetings had become familiar. In the decade opening in 1820 this became the practice in Pennsylvania, beginning five years before the like innovation in New York state, ten years before it was rooted in Massachusetts, and fifteen years before the legislative caucus had disappeared in Virginia, while in some western and southwestern states it survived the first highly organized national campaign of our history in 1840. A convention held in Carlisle, Pa., in February, 1821, made up of county delegates, which nominated Heister in opposition to Gov. Findlay, was one of the first state conventions on the modern plan, if not the earliest. Six years earlier, Feb. 27, 1815, when a "meeting of citizens from every part of the state" was "holden at Boston," it confined itself to an address to the independent electors of Massachusetts, and only "confirmed" the nomination of Caleb Strong and William Phillips, already reached by a legislative caucus.— In general terms, it may be said that, up to the slack-water politics of Monroe's second election, the general meeting in the centres of population, while it had been widened by the presence of voters from other parts of the state, assumed no strict representative capacity, and left the initiative in politics to the legislative caucus; but in the decade beginning with 1820 two changes took place: state conventions, embracing representatives from most of the counties of the state, began to make state and national nominations, and conventions for a special purpose, embracing quasi delegates from many states, began to formulate opinion on questions of national politics, and out of these separate threads was spun the national convention. So slowly did this take place that, reckoning from the earliest state convention of a representative character, it was fifteen years before all the counties of a large state were represented in a convention, and forty-eight years before all the states were represented by national conventions. These early bodies were, as was natural, most loosely organized. The Hartford convention, in spite of its official character, received from New Hampshire delegates elected by county meetings, and carelessness of form or credential was still more characteristic of the bodies which met at a later period to represent some particular form of national opinion. Early as these bodies assumed a representative character, their systematic organization came more slowly, and important political gatherings which exerted a serious influence upon current party policy were in fact nothing but voluntary assemblages of men chosen by no formal constituency. This was the case even with the protection convention which met at Harrisburg, upon the call of the Pennsylvania legislature, July 30, 1827, delegates to which were elected by counties in Pennsylvania. The address of the free trade convention which met in Philadelphia Sept. 30, 1831, was accepted by Mr. Justice Story, in his Commentaries, as an authoritative exposition of the political views of the party denying congress the right to levy protective duties; but the convention itself met pursuant to a call issued at the suggestion of the "New York Evening Post"; the delegates, who voted singly and with equal powers, represented states, cities, counties, mass meetings and themselves; Mississippi being "represented" by a single delegate, Mr. Pinckney, a member of congress, and the proceedings throughout point to a loose structure only possible

while the functions and methods of a political convention were still unformed. The like was true of the protectionist convention which met in the same year in New York, of the convention of the friends of American industry held in Harrisburg in 1824, and of most interstate conventions of the day. In the first of the long series of conventions dealing with the needs of the Mississippi valley, which met at Memphis, Nov. 12, 1845, upon a call issued by the Tennessee state legislature, with John C. Calhoun as its presiding officer, delegates from eleven states, one territory, Texas, an independent power, St. Louis, and a number of counties, all met and voted on a common basis. In fact, the many interstate conventions which met for a quarter of a century after the Hartford convention, bore the same relation to the strictly organized national conventions of the post-rebellion period, that early parliaments sustain to the completely organized body now at St. Stephens.—In most states the convention had reached a complete organization long before its representative capacity was recognized. In 1820 the "republican" legislative caucus at Albany, whose address put Tompkins and Mooers in nomination in accordance with the "settled and approved ways" of the party, was met by a bolting caucus, whose address dealt freely in the current charges of fraud against Gov. Tompkins. In the ensuing four years the constitution of 1821 added largely to the voters of the state, and the popular convention sprang into being under the control of the young leaders in the central counties "by the lakes," who were beginning, first as anti-masons, and later as whigs, their struggle against the control of politics from Albany. In ten years, the new and facile instrument of political action had driven the legislative caucus out of existence. The first conspicuous, but by no means the earliest, convention of the new order was an anti-masonic body, which met in 1826, with Thurlow Weed as its influential manager. It still took longer to go from New York to Buffalo than in 1883 to go from New York to San Francisco; and, in the loose practice of the day, any man with interest enough to take a week's journey to a political convention was accepted as a representative, with little scrutiny of his credentials, if any were required. Progress, however, toward a different procedure, was rapid. Originating in a local call in local newspapers to the "young men's republican clubs" through the state, the "republican young men's convention," which met at Utica Aug. 12, 1828, and chose W. H. Seward as its presiding officer, was a full-fledged political convention, whose neat and rapid working shows how early the hand of Thurlow Weed learned its cunning. Its record presents delegates elected and ranged by counties, a temporary and permanent organization, committees on credentials, organization and resolutions, appointed on the instant by the chairman by congressional districts, and its close presents a complete working machine. Central corresponding committees of three were named from each county, and these were instructed to complete the county organization by a committee of five in each town, while the general conduct of affairs was intrusted to a "state central corresponding committee" of twelve "to be taken from the town of Utica and vicinity," a necessary concession to the practical difficulty of bringing together a committee including members scattered over a wider area. This convention adopted a modern platform, tacking on a tariff plank as an afterthought; but it made no nominations; approving those already made of Smith Thompson and Francis Granger on the state, and Adams and Rush on the federal ticket. Resolutions were passed, but they did not as yet constitute a comprehensive platform, and action upon nominations was reached through the adoption of a resolution—a practice which still survives in many states in the apparently useless form of adding to the platform an additional resolution giving the names of the candidates who have been put in nomination by the *viva voce* choice of the convention between several candidates. The new form of party rule was already in full operation in Pennsylvania, where by 1828 the nomination of J. Andrew Shulye was reached in a convention (March 4, 1828) only after five ballots; but so loose was party organization that the state committee appointed by the convention was at this period in the habit of meeting only to call another convention, interconvention political control vesting, as it had for so many years in "committees of correspondence" appointed by general meetings in the larger cities. In Massachusetts, at the same period (Jan. 23, 1823), the first step was taken toward a convention by adding to the "mass meeting of republican members of both branches," delegates from "republican towns not represented in the legislature." Five years later the Jackson republicans in the state had fully organized on the convention plan, and both parties in 1832. In Virginia, where, as in New York, the opposition seized on the convention in 1828, the ruling legislative caucus extended its numbers in the same method by adding representatives of counties where the party being in a minority had no representatives in the legislature. Without entering into unnecessary detail, like changes took place elsewhere, and by 1840 the legislative caucus was everywhere confined to legislative issues. "Conventions appointed by the people," said "Niles' Register," in 1827, of the coming change, "appointed by the people for a specific purpose, are not liable to the objections which apply to legislative caucuses." The result has not justified the hope. —The national convention grew by the same slow degrees. The disappearance of the congressional caucus was not felt in the eight apathetic years of Monroe's administration. The nominations of state legislative caucuses, by dividing the electoral vote, led to the serious and dangerous struggle of 1824, in which national politics sank to its lowest personal plane. A remedy was plainly necessary. A congressional

caucus had been considered a "republican tenet," and the powerful caucus at Albany in 1823, as in 1831, urged that one be held, while the Massachusetts caucus convention, which put forward John Quincy Adams, deprecated the necessity of "nominating a candidate for the presidency by assemblies in the states." By 1827–8 it became plain that no other course was open, and the combined action of legislative caucuses and state conventions, held in general on Jan. 8, 1828, placed Jackson in the field, usually but not always, with J. C. Calhoun as candidate for vice-president. In Virginia this was done by a convention made up of fourteen senators, 157 members of the house of delegates, and twenty-three special deputies, representing in all ninety-six counties out of 109. In North Carolina and New Jersey the counties elected delegates to a nominating convention, as did the anti-Jackson men in Virginia; in Pennsylvania and New York a legislative caucus acted, and in the former a convention filled out the electoral ticket; in Vermont a "convention of freemen" made a presidential nomination, and "certain citizens of Batavia, New York," did the same. The preliminary party struggle presented, in short, every form of party action. Four years later it was clear that the concerted action between the states which had given Jackson's canvass such momentum could best be reached by a national convention. A congressional caucus better suited the Albany regency, and they pleaded for one without effect. All parties adopted the convention; but Jackson's friends in New York, Pennsylvania, Virginia, Ohio, Tennessee, Georgia and South Carolina, endeavored, in the last instance fruitlessly, to secure a nomination from a legislative caucus, while Clay's friends obtained like action in Massachusetts, Connecticut, Louisiana, Kentucky and Maryland. The convention was at this period the favorite device of the opponents of the administration, and their national convention was the best organized, although the selection of its delegates was made by loose methods which early disappeared. The whig convention, which met in Baltimore, Dec. 12, 1831, was called by a caucus of the Maryland legislature. This call proposed a representation for each state equal to that enjoyed in the electoral college, and suggested, but did not require, the election of delegates by congressional districts. In Maine and Pennsylvania this was done; in New Hampshire a legislative caucus chose delegates; in Massachusetts "a convention of 200 members" acted for the state in expressing a presidential choice, besides making state nominations; in Connecticut harmonious action was taken by a legislative caucus and a state convention, the districts, in addition, choosing their own delegates; in New York a state convention chose the entire state delegation of two at large and one for each congressional district; while Maryland and most of the southern states acted through conventions. These irregular elections were order itself compared with the loose election of delegates to the democratic convention which nominated Andrew Jackson and Martin Van Buren, at Baltimore, May 23, 1832, where the vote of Pennsylvania was cast by a group of self-appointed delegates. At these early national conventions each delegate cast one vote, except as a vote by states was required, when the electoral apportionment came into play, and the rule requiring a two-thirds majority in making a nomination was adopted by the democratic convention of 1832. This rule was re-enacted by the democratic convention which met at Baltimore, May 20, 1835, and has become the common law of the party in its national conventions and in many state and county democratic conventions in the south. At the same time the unit rule, giving each state delegation the right to cast its entire state vote as a majority of its members should direct, was also adopted, and, like the other, has gained the sanction of unbroken democratic usage. In whig and republican conventions neither of these rules has obtained, although an effort to enforce the last led to a long and bitter struggle in the republican national convention at Chicago, in June, 1880. — As late as 1852 the call for a democratic national convention treated a congressional caucus of democratic congressmen as one basis for the summons; and the action of the whig Washington caucus, met to nominate a speaker in 1851, was expected to furnish the common grounds on which northern and southern whigs could meet in a "nationalized convention." These were the last traces of congressional influence in the highly organized body which has now, in the practical selection of a president, taken the place of the electoral college, the conventions of the two parties naming the two candidates to whom voters are of necessity restricted. It was forty years, 1831 to 1872, from the first national convention until one met in which all the states and territories were represented; but the work of organization is now completed, and the only change in party organization lies in the direction of greater safeguards about the caucus or primary in which the first delegates are selected, who in successive stages choose delegates to the conventions above. As it is no intention of this article to give a history of American politics, a further account of the working of the convention is unnecessary. It will be sufficient to describe the general working of party government. — Precedent, custom, and the slow, unwritten development of representative party government, render it impossible to make any general exposition of the present system which will not be subject to many exceptions. On the one hand, in the loosely settled south and extreme west, self-nomination is still in use for all subordinate and local offices without the interposition of a convention, and the canvass is conducted by the personal solicitation of candidates, the work of the hustings being unchanged, but spread over wearisome square leagues of territory, instead of being concentrated around a polling booth. State officers are now nominated in all states by conventions,

but where a system of permanent local nominating bodies does not exist, the state convention still partakes largely of the character of a legislative caucus, and the county convention is a meeting of the narrow group which carries on the government of each county at its court house; political action being largely confined to state and county office-holders. On the other hand, in nearly all cities of over 100,000 in population, and in some, like Albany, still smaller, local political action and representation in state conventions are decided by a continuous political organization which in each party holds annual primaries, not to send delegates to a convention, but to choose the members of its governing body, ordinarily known as a "general committee." This body is self-elective under the thinly disguised forms of popular selection in primaries. Highly organized state conventions, like those in New York, find themselves unable, after years of effort, to break through this organization of office-holders and tax-eaters to reach the voters on whom party action should rest. In addition, while the theory of American party government contemplates the convention as coming fresh from the spontaneous initiative of the people, in fact it has become in many states, and is tending to become in all, a body which receives its initiative from the standing state central committee. This body, in New York and several of the larger states, has a member to each congressional district, the delegates to the state convention from these districts meeting apart in groups to select the committeeman from the district. In Pennsylvania and a number of other states the districts electing to the upper state chamber are the basis of membership. As the apportionment of conventions is in general by the party vote, and these districts are laid out by population, in the republican party the allotment of members of the state central committee by these districts gives the centres of population a preponderance in the permanent committee which they do not possess in the convention, and do not contribute in elections to the voting strength of the party. The one exception is in Pennsylvania, where the city vote is republican. The state committee organizes, immediately after its appointment, by the selection of a chairman and secretary, with whom are associated from three to five members as an executive committee. Unless some extraordinary exigency arises, like the resignation of a nominee, vacancies on the ticket being usually filled by the committee, the state committee does not meet until it issues the call for the next convention. The executive committee of five or seven is through the campaign the real centre of party management, and the actual work of party direction devolves on the chairman and secretary. The first is nearly always a man of wealth, with a taste for politics and skill in intrigue; the second attends to the manifold details of the campaign, and is assisted by a corps of clerks in the work of issuing assessments to the office-holders of the party, distributing documents, and conducting the wide and varied correspondence of a political headquarters. The chairman, the secretary and the executive committee constitute, therefore, a quasi party ministry, selected by the party parliament or convention. The delicate work of raising and distributing funds, of making engagements for speakers, of arranging local disputes, of watching over the interests of the state nominees, of arranging the "trades" and "deals" by which great masses of votes are secured in the large cities, or smaller schemes of corruption prepared in the rural districts, is all in the hands of these managers, to whom, if they are fit for their work, run all the threads of political intrigue. In a large state, where hundreds of local officers are chosen, besides state officers and the legislature, the candidates in the field will be between 1,500 and 2,000, and it is the first business of the officers of a state committee to know the strength, the motives, the support and the character of each of these candidates. Aside from a laborious canvass of the voters, school district by school district, which even in large states often accounts for all but 5 or 6 per cent. of the vote, minute information is gleaned in great central states as to the precise political condition of each polling district over a territory a quarter as large as France. Supplemental to the regular party machinery of a state committee, congressional, district, county, city, town and ward committees, an astute manager, like Mr. Tilden, will have from three to five correspondents in each election district of a state, making, in a state like New York, from 12,000 to 15,000 persons whose addresses are registered, and whose standing is known. To the general observer, an American political contest is a seething battle, in which the noise of the captains and their shouting, charges and counter-charges, the din of speakers and the clatter of newspapers, work their way to an unexpected result. To the few managers who attain success in the conduct of a campaign, even a great state like Ohio, New York, Indiana or Pennsylvania lies clearly mapped to its uttermost bounds, and a host of signs indicate from day to day the drift of public feeling and the intentions of voters, the plans of candidates and the purposes of the opposition. — The minute personal acquaintance which makes this knowledge forcible, constitutes the real strength of the "machine" in American politics, which, like all organization that produces real results, is not a venal accident, but the fruit of the patient, continuous work of years. The men who make up the party ministry, intrusted with its direction, are not speakers, for speaking would be wasted on their work; nor political thinkers, for their object is not to carry out a policy, but to win an election. They are generally almost unknown to the public, and they have all the contempt of the professional expert for amateurs in their chosen field. Beginning with the careful management of a ward, they have risen by the rude natural selection of political strife; and con-

ventions, while they often make mistakes in candidates, rarely blunder in their selection of managers. Inevitably, by the time the members of an executive committee, and still more the chairman and secretary, have "run" a campaign, particularly a successful campaign, their influence is felt and their personality known throughout the party organization. The next summer, when the state committee meets, and issues a call for the next convention, which will select its successor, the managers are in a vastly better position to touch the springs of party action and secure a convention to their liking than any one else. Nor does this control of the convention end with the election of delegates. In theory, each convention is still a public meeting which organizes itself; in practice, by unwritten law now almost invariably followed, the chairman of the state committee, acting as its representative, calls the convention to order, and proposes the "temporary" chairman. This chairman, whose election is so much a matter of course that in New York state, for instance, the selection of another chairman has occurred only once in both parties for twenty-five years, appoints the crucial committees on a permanent organization and on credentials; the one decides the officers of the convention, and the other its roll. While formally made by the "temporary" chairman, these committees are actually selected by the state committee, each of its members naming one for his congressional or state senatorial district. To personal influence with the party organization in the selection of delegates, the state committee, and particularly its executive committee, add, therefore, a profound influence in directing the action and determining the character of the convention, while it is still an inchoate body. If state and other conventions sat, as legislatures do, for a term of months, the discovery of debate would disclose other leaders; but conventions very rarely sit over two days, and usually only one. The practical result is, that acquaintance and knowledge of men, acquired beforehand, is everything in the swift canvass and rapid combinations of twenty-four hours. In all this, the campaign manager has an overpowering advantage. He accomplishes his results in the brief and wakeful night, while his amateur opponent is marshaling his forces and ascertaining on whom he can depend. The wonder is, not that the machine wins, but that it is ever beaten.—A comprehensive union of the scattered members of party organization has never yet been successfully attempted. It was proposed in 1880 by the national democratic committee, that in future the chairmen of state committees should be elected to membership in its ranks, that the members of state committees should preside over district committees, and so on down; but this artificial plan collapsed at the start through the natural jealousy of state managers. In both parties each series of committees acts independently in its own sphere. In the presidential election the national executive committee overshadows all the rest, but its immediate efforts are confined to doubtful states; the state executive committee in like manner is most active and exerts the widest influence where party success is most doubtful; and, while least is heard of them by the general public, and least known except by politicians, the little local committees which "run" a ward or township are the most vital and permanent of all. An organization, adopted in 1882 by the democratic party in Pennsylvania, has carried party evolution in a state to its last form in the United States by linking the state committee to these local bodies through a provision that each county organization, with an apportionment based on state senatorial districts, shall elect a member to the state committee. This body has, therefore, become permanent and independent of the state convention, the party having provided itself, by a curious and unconscious imitation of the federal government, with a permanent executive. Add to this the progress made in some rural Pennsylvania counties in bringing 90 to 95 per cent. of the registered party voters to the polls in choosing the county organization, and it will be seen that this state, as in 1820–30, has probably anticipated the inevitable path of party development elsewhere.—I. *The National Convention.* The call for a national convention in all organized parties is issued by the national committee, a body consisting, in the democratic party, of a member from each state, and, in the republican party, of a member from each state and territory. In both cases this member has been selected by the delegation from each state or territory at the preceding national convention. The organization of the committee takes place immediately after the convention, its choice of a chairman and executive committee is usually greatly influenced by the wishes of the presidential candidate, and to this select body is generally committed the immediate conduct of a presidential campaign. After the campaign is over, the committee rarely meets until it assembles to call the next convention. Its membership is generally, not always, made up of men both of wealth and political influence, as a campaign assessment is expected from each member, and a large sum from the chairman; in the two campaigns, 1876 and 1880, $25,000 or more in each party. The call names the time, place and apportionment of the convention. In a republican convention the call provides for a body twice the size of the electoral college, with two delegates from each territory. In a democratic national convention, down to 1880, the number of delegates was an indifferent matter, each state delegation casting a vote equal to its electoral vote; but as the delegates are in general twice this number, and are not always required to act as a unit, half-votes result, being the choice of single delegates. In 1880 each state was directed to send twice its electoral representation. The republican national convention in 1880 directed its national committee to prepare before the next national convention a

plan for the apportionment of representation in future conventions by district representation and upon the party vote. Twice in a republican convention the candidate has been decided by the vote of territorial delegates, whose votes carried R. B. Hayes in 1876, and J. A. Garfield in 1880, across the majority line. The national committee, in whose meetings written proxies are by usage allowed, besides issuing the call, decides the provisional roll of the convention pending organization, and passes in this way upon contests, provides the temporary organization, and has charge of the approaches to the convention—three most important prerogatives. In republican conventions the adoption of a platform precedes the choice of a candidate; in democratic conventions it succeeds the nomination. In both, while the term "ballot" is used, the voting for candidates is *viva voce*, the "chairman" of each delegation announcing the numerical vote of his state. If this is questioned in a republican convention, the roll of the convention can be called by the secretary of the convention. In democratic conventions it is the rule, not without exceptions, to treat the action of a delegation as final; and a majority of one, if the delegation be instructed to vote as a unit, is permitted to direct the entire vote of the largest state. The theory of the republican convention is, that the delegates standing for congressional districts are chosen by those districts, either directly by conventions in them or by the delegates from those districts to the state convention, acting as a separate group; the state convention merely certifying this result, the selection and control of the state convention being limited to the four delegates-at-large apportioned by each state. This theory was questioned by the supporters of ex-President Grant's nomination in 1880; but the convention established district representation as the common law of the party. The democratic national convention is, on the other hand, organized upon the theory that the entire state delegation is appointed and controlled by the state convention, which acts for the party in the state as a whole. Its instructions are therefore mandatory, and are so recognized by the party convention. In both parties the call for the national convention is followed by a call issued by each state committee for a state convention, to choose delegates. In New England, and in some of the western states, each district chooses its pair of delegates, and the state convention chooses the state delegates-at-large; but in a majority of states the work is done at a single convention, the delegates from each district presenting their choice, and the convention passing on the entire list. Inflexible usage requires residence, within a state or district, of their delegates, who are in general a picked body of most able men, averaging above the level of congressmen. The importance of the issue, the size and character of the assemblage, the immense throng of spectators, and the rapidity of its decisions, make a national convention the most imposing and interesting body in American politics. — II. *The State Convention.* State conventions have been held since the war by each party before every general election, for the nomination of state candidates and the adoption of a platform, and, as above stated, once in four years, to choose delegates to a national convention. The call is in all cases issued by the state central committee, originating with the previous convention. The powers of a state committee over the preliminaries of a state convention are like those described above in national affairs. In addition, in New York state, the state committee names the committee which reports a permanent organization. The guard of a state committee over the hall in which a regular convention sits is sometimes insufficient to prevent its forcible capture, as in the New York democratic convention in 1859, and the Massachusetts democratic convention in 1878. The control of a state committee will not convert a minority in a convention into a majority; but it is invaluable in enabling a small and brittle majority to carry out the wishes of skillful leaders by giving it a definite course to pursue. The apportionment of delegates to a state convention is still, in a majority of the states, upon the basis of the lower branch of the state legislature; but in many states, as in Pennsylvania, New Jersey, Massachusetts, Ohio, Illinois, etc., in both parties, and in New York and most other states, in the republican party, an apportionment is based upon the last party vote. The size of state conventions varies from 1,200 to 1,400 in New Jersey to small bodies of between 100 and 200; the average being between 300 and 500. Substitutes are always permitted; and as late as 1883 the state democratic convention in Ohio contained county delegations on the "mass system," a large number of voters coming *en masse* from a county and casting its apportioned vote in the convention. — III. *Local Party Government.* The county convention in rural districts consists of delegates from the towns, and is, in its county committee and general working, a miniature of the state party machinery, and needs no special description. Conventions and committees exist, likewise, for congressional districts, and while conventions meet for every possible nomination, a standing committee is infrequently appointed by these bodies. A sketch of local party machinery in New York city is given in the article on CAUCUS. Primaries for the purpose of providing permanent party machinery, aside from those held to select delegates to nominating conventions, are also held by the republican party in Philadelphia, and by the democratic party in Jersey City, N. J., and in Albany, N. Y., in each case leading to the corrupt control of party machinery, while a party democratic registry exists in South Carolina. In addition to the network of districts thrown over an American city, Philadelphia and New York are, for instance, divided into congressional, state, senatorial and representative, aldermanic and judicial districts, besides electing county and

city officers. Taking both parties together, from fifty to sixty conventions are held in each of these cities on the eve of an important election. None but professional politicians are able either to understand or follow this complicated mill for grinding out candidates, and a permanent local organization relieves the busy citizen of all concern in the matter by providing him with a choice between two equally bad nominations. — As a result, the final evolution of party government in the United States has been the appearance in city politics of self-appointed committees, of which the Philadelphia "committee of 100" is a most conspicuous instance, made up of leading merchants who have assumed political control, "indorsing" party nominations, furnishing tickets and workers at the polls, prosecuting repeaters, conducting long investigations into city offices, and securing the passage of needed legislation. The downfall of Tweed was in great measure due to such a committee, the "committee of 70," and the appearance in American politics of such committees has so far uniformly been for good. They are in general accepted as more closely expressing the popular will than city conventions, and in time such committees are likely to play a wider part. Simple as American party government appears in this outline, it must be remembered that it places the voter at many removes from the exercise of power. In dealing with a presidential nomination, the voter, for instance, shares in choosing delegates to a ward convention, which chooses delegates to a city or county convention, which sends delegates to a state convention, which names the delegates who name the candidate. The surprise is, that the popular will is felt at all through these removes, no one of which has the guarantee of law save the first in some states, and the action of nominating conventions in Ohio, where bribery in such conventions is made a crime. TALCOTT WILLIAMS.

PARTY NAMES IN U. S. HISTORY. (See AMERICAN PARTY, ANTI-FEDERAL PARTY, ANTI-MASONIC PARTY, CONSTITUTIONAL UNION PARTY, DEMOCRATIC-REPUBLICAN PARTY, FEDERAL PARTY, GREENBACK-LABOR PARTY, LIBERAL-REPUBLICAN PARTY, REPUBLICAN PARTY, WHIG PARTY.)

PATENT OFFICE. Although the issue of American patents is nearly coeval with the government of the United States, the first creation of the patent office, with a commissioner of patents, dates from the year 1836. Prior to that date patents were issued directly by the department of state. By act of July 4, 1836, an office denominated the patent office was created, to be attached to the department of state, and a fire-proof building for its use was provided for. The chief officer, styled the commissioner of patents, was required to perform all acts touching the granting of patents for new and useful inventions, with a salary of $3,000, and seven clerks. Patents were to be signed by the secretary of state, and countersigned by the commissioner. The number of patents issued in the earlier years was very small, varying, from 1837 to 1847, from about 400 to 600 per annum; but since 1865 the business has enormously increased, until now the number of patents annually issued is about 16,000, with fees (averaging $35 for each patent) amounting to about $800,000 per annum. The patent office is not only self-supporting, the fees paying all running expenses, with the salaries of some 350 clerks, but it actually pays into the treasury of the United States an annual surplus of about $200,000. It has been urged with some force, that the inventors of the country should not be taxed beyond the actual cost of administering the business connected with the registry of patents, and that a large reduction of patent fees ought in equity to be made. — By the act of 1836 patents were granted for fourteen years, with the right of extension for seven years longer, at the discretion of the commissioner of patents. In 1861 the law now in force was enacted, making the term of original patents seventeen years; and no extension for patents granted since March 2, 1861, is allowed except by special act of congress. A very few patents have been thus renewed, and many more have been asked for, upon the plea of insufficient remuneration to their owners. The last patents extendable by the patent office expired in 1875. — The commissioner of patents is appointed by the president and senate for no definite term of office, with a salary of $4,500. He is aided by an assistant commissioner (salary, $3,000) three examiners-in-chief (salary, $3,000 each), one examiner of interferences (salary, $2,500) and twenty-five examiners (salary, $2,400 each), each of the twenty-five having charge of one of the following distinct classes of inventions: 1, agriculture; 2, agricultural products; 3, metallurgy, brewing and gas; 4, civil engineering; 5, fine arts; 6, chemistry; 7, harvesters; 8, household; 9, hydraulics and pneumatics; 10, carriages, wagons and cars; 11, leather-working machinery and products; 12, mechanical engineering; 13, metal-working, class A; 14, metal-working, class B; 15, plastics; 16, philosophical; 17, printing and paper manufacturing; 18, steam engineering; 19, calorifics, stoves and lamps; 20, builders' hardware, locks and surgery; 21, fabrics and textile machinery; 22, fire-arms, navigation, signals and wood-working; 23, trade marks and labels; 24, designs and sewing machines; 25, milling. Besides these, there are about 300 assistant examiners, clerks, messengers, etc., the annual salaries of the office reaching $537,000 per annum. — The commissioner of patents is required to make an annual report of the business of the office, with a list of patents issued during the year. This valuable series of reports began with 1837, and for a series of years included a report upon arts and manufactures and upon agriculture in one annual volume. With the year 1849 began the issue of the agricultural report in a separate volume, which was continued until 1861, after which the commissioner of patents no longer

issued an agricultural report, the department of agriculture having been created in 1862. The series of patent office reports, issued annually with specifications and [sometimes] drawings, was continued until 1871 (the set, 1837–71, numbering sixty-five volumes on Arts and Manufactures, and thirteen volumes on Agriculture), after which the method of publication of patents was radically changed, the annual reports being succeeded by the following publications: 1. Specifications and Drawings of Patents issued from the United States Patent Office, May 30, 1871, to December, 1883. Of these, 196 volumes in quarto (weekly for the first year, monthly from July, 1872,) have been issued. 2. Official Gazette of the United States Patent Office (weekly) January, 1872, to December, 1883, 24 vols. 8vo. This contains the full list of patents, decisions in patent cases, etc., with drawings in reduced size. 3. Annual Report of the Commissioner of Patents. These contain, since 1872, a bare list or index of patents annually issued, without specifications or drawings, but with references to the Official Gazette and monthly volumes of specifications, and a statement of the aggregate business of the office for the calendar year. Besides these, the office has issued a "Subject-matter Index of Patents for Inventions issued by the U. S. Patent Office from 1790 to 1873," 3 vols., Washington, 1873. There should also be noted as covering the comparatively small record of inventive art from 1790 to 1837, "A List of Patents granted by the U. S. from April 10, 1790, to Dec. 31, 1836, with Appendix of Reports of the Patent Office in 1828, 1830 and 1831," 8vo., Washington, 1872. Pamphlets containing the patent laws, the rules of practice in the patent office, etc., are furnished to all applicants. — The patent office building was burned in December, 1836, with the models accumulated, many of which were replaced by act of congress. Again, in 1877, a part of the office, with several thousand models, was destroyed by fire, but the loss was largely repaired by the manufacture of new models. — On the creation of the department of the interior in 1849, the patent office was transferred to that department, where it now remains, all patents being signed by the secretary of the interior, and countersigned by the commissioner of patents. The patent office, with its vast accumulation of 275,000 models, occupies the larger portion of the great marble building known as the interior department. The arrangement and display of models of patents in its long halls is extensive and interesting, and the heavy additions of each year will soon require much more space than is now at command. — The following is a list of commissioners of patents, with the commencement of the term of service of each:

1.	Henry L. Ellsworth	July	4, 1836
2.	Edmund Burke	May	5, 1845
3.	Thomas Ewbank	May	9, 1849
4.	Silas H. Hodges	Nov.	1, 1852
5.	Charles Mason	March	24, 1853
6.	Joseph Holt	Sept.	9, 1857
7.	William D. Bishop	May	7, 1859
8.	Philip F. Thomas	Feb.	15, 1860
9.	David P. Holloway	March	28, 1861
10.	Thomas C. Theaker	Aug.	15, 1865
11.	Elisha Foote	July	28, 1868
12.	Samuel S. Fisher	May	1, 1869
13.	Mortimer D. Leggett	Jan.	16, 1871
14.	John M. Thacher	Nov.	1, 1874
15.	R. Holland Duell	Oct.	1, 1875
16.	Ellis Spear	Jan.	30, 1877
17.	Halbert E. Paine	Nov.	1, 1878
18.	Edgar M. Marble	May	7, 1880
19.	Benjamin Butterworth	Oct.	26, 1883

A. R. SPOFFORD.

PATENTS, AND THE PATENT SYSTEM.

The patent system has assumed during the nineteenth century an important office in the economy of modern industrial communities. Its development is closely interwoven with the phenomenal material progress and the immense extension of applied science which distinguish that period. Especially has this system been identified with the extraordinary development of the physical resources of the United States. The patent laws have been extended and improved to meet or anticipate the wants of the growing nation, and now, in its more modern form, the patent system may almost be said to be a peculiarly American institution. It is estimated that at present more than two-fifths of the world's important inventions originate in the United States. The records of our patent office are sought for and studied by the inventors and the scientists of every nation, and the wisdom of our advanced patent policy is almost universally admitted. Sir William Thomson said, in 1876: "If Europe does not amend its patent laws * * America will speedily become the nursery of important inventions for the world." No feature of our federal system has been proven of greater economic importance than the patent system. It will be treated, as fully as the limits of this article will permit, under the following heads: I. History of the System in England and America; II. The Existing American Patent Law, and the Procedure under it; III. The General Policy of a System of Patent Laws; IV. Changes in the Existing Law which would be desirable; V. Foreign Patent Laws. — I. HISTORY. 1. *In England.* The origin of the patent system has been remotely traced to the guild monopolies which were a dominant feature of the urban industries of mediæval Europe. In its modern aspect and theory, however, the system bears no resemblance to the exclusive and grasping trades customs which brought the guilds into reproach; and it is generally conceded that the existing practice of letters patent for inventions is distinctively English in its origin. The form of the grant of a patent of invention can be directly traced to the exercise of the ancient prerogative of the English crown in its grants of exclusive privileges. The arbitrary and indiscriminate exercise of this prerogative resulted in the oppressive and galling monopolies which were abolished in the constitutional struggles of the seventeenth century. The grant of monopolies for inventions, on the other hand, seems always to have been regarded as just

and constitutional. These were excepted from the sweeping prohibitions of the great statute of monopolies, enacted in 1624; and upon the provisos of that act there has been reared the modern English patent system, which in its essential features has been extended into nearly every civilized state. — The earliest recorded exercise of the prerogative of the English crown, in a manner analogous to the grant of a patent, was the grant by Edward III. to two aldermen of a patent of privilege that they and their assigns should have the sole making of the philosopher's stone. Privileges of this nature, although rare at this early period, seem not to have been considered anomalous, for it is stated in a case reported in the Year Book, part iv., 40, Edw. III., fol. 17, 18, that arts and sciences which are for the public good are greatly favored in the law, and the king, as chief guardian of the common weal, has power and authority by his prerogative to grant many privileges, although *prima facie* they appear to be clearly against common right. On the other hand, the early popular and judicial disapproval of mere monopolies is shown by the fact, that about the end of the reign of Edward III., John Peechie, of London, was severely punished for procuring a license under the great seal for the exclusive sale of sweet wines in London. (3 Inst., 181.) Two centuries later, grants of patents, as well as of mere monopolies, had become less unusual. The reports of cases decided in the reign of Elizabeth contain dicta from which it appears, that, by the beginning of the seventeenth century, the English lawyers and judges had attained to something approaching the modern conception of patents. In the ninth year of Elizabeth a patent was granted to a Mr. Hastinges of the sole trade for several years of making frisadoes, in consideration that he had brought the method of making them from Amsterdam. This patent was considered valid until it was shown that some clothiers had, before its date, made baize of a similar material. (Noy Rep., 182.) In another case decided in this reign, a patent having been granted for the sole and only use of a sieve, or instrument for melting lead, it was said in the court of exchequer chamber, that the question was, whether it was newly invented by the grantee, whereby he might have the privilege of exclusive power over it, or else used before, in which case they were of opinion that he should not have the sole use of it. (Noy Rep., 183.) But the strongest of these early cases is Darcy *vs.* Allein, decided 44 Elizabeth, which contains the following: "Where any man by his own charge or industry, or by his own wit or invention, brings any new trade into the realm, or any engine tending to the furtherance of a trade, that never was used before; and that for the good of the realm; in such cases the king may grant to him a monopoly patent for some reasonable time, until the subjects may learn the same, in consideration of the good that he doth bring, by his invention, to the commonwealth; otherwise not." — These cases contain the common law germs of our existing systems of patent law. In the next reign was passed (1624) the statute of monopolies, which seems to be the first statutory recognition of patents for inventions, as it is also the final parliamentary denunciation of mere monopolies. The proviso of this statute, which is still the foundation of English patent law, is as follows: "Provided also, and be it enacted, that any declaration before mentioned shall not extend to any letters patent and grants of privileges for the term of fourteen years or under, hereafter to be made, of the sole working and making of any manner of new manufacture within the realm, to the true and first inventor or inventors of such manufacture, which others at the time of making such letters patent shall not use, so as also they be not contrary to law, or hurtful of trade, or generally inconvenient." This statute is regarded as merely declaratory of the common law, and the following essentials of a valid patent are enumerated by Sir Edward Coke in his "Institutes": "First, it must be for the term of fourteen years or under. Secondly, it must be granted to the first and true inventor. Thirdly, it must be of such manufactures, which any other at the making of such letters patents did not use; for albeit it were newly invented, yet if any other did use it at the making of the letters patents, or grant of the priviledge, it is declared and enacted to be void by this act. Fourthly, the priviledge must not be contrary to law: such a priviledge as is consonant to law, must be substantially and essentially newly invented; but if the substance was *in esse* before, and a new addition thereunto, though that addition make the former more profitable, yet is it not a new manufacture in law; and so it was resolved in the exchequer chamber, Pasch, 15 Eliz., in Bircot's case for a priviledge concerning the preparing and melting, etc., of lead ore; for there it was said, that that was to put but a new button to an old coat; and it is much easier to adde then to invent. And there it was also resolved, that if the new manufacture be substantially invented according to law, yet no old manufacture in use can be prohibited. Fifthly, nor mischievous to the state by raising of prices of commodities at home. In every such new manufacture that deserves a priviledge, there must be *urgens necessitas*, and *evidens utilitas*. Sixthly, nor to the hurt of trade. This is very material and evident. Seventhly, nor generally inconvenient. There was a new invention found out heretofore that bonnets and caps might be thickened in a filling mill, by which means more might be thickened and filled in one day then by the labours of fourscore men, who got their livings by it. It was ordained that bonnets and caps should be thickened and fulled by the strength of men, and not in a fulling mill, for it was holden inconvenient to turn so many labouring men to idlenesse. If any of these seven qualities fail, the priviledge is declared and enacted to be void by this act, * * and yet this act maketh them no better then they should have been, if this act had

never been made, but only except and exempt them out of the purvieu and penalty of this law." (Coke, 3 Inst., 184.) — In spite of its crude economic notions, this commentary is an interesting and instructive epitome of the early English patent law. It throws light upon the origin of not a few of the legal doctrines which are the foundation of the patent laws of more modern times. Moreover it may be regarded as embodying nearly all of what continued to be the learning in this branch of jurisprudence for more than a century and a half after Coke's time. The system continued in a comparatively rudimentary condition until near the end of the last century. One or two incidents in its history should, however, be noticed. In 1689 a proclamation was issued, abolishing "all patents for new inventions not put in practice from the date of their respective grants." A still more important change was effected during Queen Anne's reign. Prior to this time the only recorded description of the invention or discovery protected by patent, was contained in a few words, giving merely the name of the process or the purpose of the invention. But about this time the practice was introduced, appearing first in Hill's patent granted in 1713, of requiring a patentee to cause a specification or complete description of his invention "to be inrolled in Her Majestie's High Court of Chancery" within a certain time, generally two or three months, of the date of the patent. This practice ultimately became general; and the theory then arose that the grant of a patent constituted a sort of contract between the patentee and the state, whereby the patentee was protected in the exclusive practice of his invention in consideration of his furnishing in the specification a complete description of his invention for the public benefit after the expiration of his patent. The specifications of some of the earlier patents throw a curious light upon the economic notions of the people. Weisenthal's specification (1755) was for "Working Fine Thread in Needlework, after the Manner of Dresden Needlework, and for erecting a Manufacture of that Sort in this Kingdom so as to be of Public Utility, and enable Poor Girls of Eight Years Old to maintain themselves without being burthensome to the Parish to which they belong." Other patents were granted for the few crude scientific discoveries and inventions of the time. No material progress was made, however, in the further development of the patent system until, at the end of the last century, a series of important discoveries was made which heralded the beginning of a new era in the physical sciences. These inventions were patented, and the patents became the subjects of contests which ended in a series of adjudications, beginning with Arkwright's case in 1785, in the course of which there were discussed and settled many of the fundamental principles of patent law. The inventions of Watt, and Hargreave, and Crompton, and Cartwright, soon directed attention upon the patent laws. Stimulated by the example of these men and by the hope of reward, men began to devote their energies to devising improvements upon the crude methods then employed in the industrial arts. The number of inventions rapidly increased; and while in 1750 the number of English patents granted was only seven, in 1800, ninety-six were issued; in 1825, two hundred and fifty; and the British patent office now issues annually between three and four thousand patents. The last steps in the development of the English system were the passage of the act 5 and 6 Wm. IV., c. 83, in 1835, and the patent law amendment act in 1852, which brought the system into its present condition; and finally, during the present year (1883), there has been passed an "Act to amend and consolidate the law relating to patents for inventions, registration of designs and trademarks." This act makes certain changes in the present law which are to go into effect Jan. 1, 1884. — 2. *In America.* A few of the earlier British patents, as Cumberland's patent (1720), were granted for "Our said Kingdom of Great Britain, called England, our Dominion of Wales, and Town of Berwick-upon-Tweed; our Kingdom of Ireland, and our Colonies and Plantacions in America." Letters patent for inventions appear also to have been granted by the different colonies before the revolution. In 1641, Samuel Winslow, of Massachusetts, obtained from the general court of that colony a patent for his process of making salt; and in 1656 a son of Gov. Winthrop obtained a patent for another salt making process. Patents were similarly granted in Connecticut during the colonial period; but no organized patent system existed here until after the establishment of the federal government. The basis of the American patent system is the clause in the United States constitution which confers upon congress power "To Promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Patents thus became the subject of federal legislation, and in pursuance of the power so delegated, congress has passed a series of patent laws, commencing with the act of 1790. Under this act letters patent were granted upon "any useful art, manufacture, engine, machine or device, or any improvement therein, not before known or used," for "any term not exceeding fourteen years." The application for a patent was made to the secretary of war, the secretary of state and the attorney general, and it required the concurrent action of two of those officials to issue the patent. The specification or description of the invention was certified by the attorney general, and the patent on its issue was sealed with the great seal and signed by the president. No distinction was made in this act between foreigners and citizens, and there was no examination of the novelty or patentability of inventions. In 1793 a second act was passed superseding the former one, and making changes in the system. Patents were issued only to citizens of the United States, and applicants were

required, before United States patents could issue to them, to surrender any patents that might have been granted to them by the different states before the federal government was established. This statute also provided that the application should be made to the secretary of state, and that interferences between applications should be decided by a board of three arbitrators. A government fee of $30 was established, and a penalty of triple damages imposed on infringers. Supplemental acts were passed in 1794 and 1800, the latter of which extended patent privileges to aliens who at the time of making application had been for two years resident in the United States, and required all applications made pursuant to that act to be accompanied by an oath to the effect that, to the best of the applicant's knowledge and belief, the invention "had not been known or used in this or any foreign country." A few years later the constitutional question arose whether a state still had power to grant patents, notwithstanding the provision of the constitution giving power of legislation on patents to congress. In 1798 an act had been passed by the New York legislature granting to Robert R. Livingston "the sole and exclusive right and privilege of constructing, making, using, employing and navigating all and every species or kinds of boats or watercraft, which might be urged or impelled through the water, by the force of fire or steam, in all creeks, rivers, bays and waters whatsoever, within the territory and jurisdiction of this state," for the term of twenty years from the passage of the act, provided that he should, within twelve months, construct a boat of at least twenty tons capacity to be propelled by steam, the mean progress of which, against the current or tide of the Hudson river, should be not less than four miles an hour. Livingston having failed to accomplish this, the same provisions were re-enacted in 1803, and again in 1808, securing like privileges to Livingston and Robert Fulton. Steam navigation having now become an accomplished fact through the efforts of these men, others undertook, without license from them, to use the same motive power in navigating the Hudson. Livingston and Fulton then applied to the state courts for an injunction, which was at first denied on the ground that the act of the New York legislature was contrary to the clause of the United States constitution giving congress power to legislate upon letters patent. But upon appeal, Thompson and Kent, JJ., held that the act was constitutional, on the ground that federal jurisdiction over patents was not exclusive, and the injunction was granted (Livingston *vs.* Van Ingen, 9 Johns, 506.) Similar privileges were then granted in Massachusetts, New Hampshire, Pennsylvania and Tennessee, to citizens of those States. The question of the constitutionality of this legislation was subsequently raised in the United States supreme court, in Gibbons *vs.* Ogden, 9 Wheat., 1. The precise point was not decided, however, the New York act being held to be unconstitutional, because in contravention of the laws of the United States regulating commerce. Since that time, however, notwithstanding the eminent dissenting authority of Chancellor Kent and Judge Tucker, the opinion has prevailed that federal jurisdiction over patents is exclusive, and the question must now be regarded as so settled. — In 1819 a law was enacted by congress, giving the United States circuit courts original jurisdiction of all actions arising under the patent or copyright laws of the United States. The first provision for the "reissue" of defective patents was made in the act of 1832, which also provided for the annual publication of the lists of expired patents, and established a system of renewing or extending patents about to expire upon application to congress. Another statute, passed in 1832, extended patent privileges still further by permitting every resident alien who had duly made a preliminary declaration of his intention to become a citizen, to obtain patents on condition of introducing the inventions into public use in the United States within a year of the date of the patents. — Such was the earlier legislation of congress upon patents; and although many important inventions and discoveries were protected under these laws, the patent system as a whole remained as yet in a comparatively undeveloped state. It is stated that from 1790 till 1803 the whole business of issuing patents was practically done by one of the clerks in the department of state. In 1803 Dr. Thornton was appointed by Jefferson superintendent of this branch, and held the office until 1827. The whole number of patents issued from 1790 to 1836, a period of forty-six years, was only 10,020. The patent office now issues more than that number every year. During this period, however, the elementary principles of law governing patent rights were settled in the courts, and the foundation was laid in the decisions of Marshall and Story for the subsequent development of that branch of jurisprudence. — The year 1836 marks an era in the development of the American system. In that year an act was passed which superseded the earlier legislation, and in an elaborate series of provisions, brought the patent system into something like its present condition. The patent office was established as a branch of the department of state, and a staff of officials created, with the commissioner of patents at the head. The most important feature of the law was the provision requiring a preliminary examination to be made into the novelty and patentability of each invention before issuing the patent. This was a radical innovation, but it has proved a beneficent one. This law also made provision for the decision of interfering applications, and enabled aliens, after a year's residence in the United States, and under the conditions of the former act, to take out patents. The government fee for citizens and resident aliens was fixed at $30, while for subjects of Great Britain it was $500, and for other aliens $300. The reissue practice was confirmed and extended, and provision was

made for the filing of caveats on incompleted inventions. The recovery in suits for infringement was restricted to the actual damage proven, except in cases where exemplary damages were proper, when triple damages were allowed. Exclusive jurisdiction in patent causes was conferred upon the United States circuit courts, and a board, consisting of the commissioner of patents, the secretary of state and the solicitor of the treasury, was constituted for the purpose of hearing and passing upon applications for the extension of patents. In certain cases extensions of seven years were allowed. Provision was also made in this law for the record of assignments of patents, for the establishment of the patent office library, and for the exhibition of the models which had accumulated since the beginning of the system. In that same year (1836), however, the burning of the patent office destroyed the interesting collection of models, as well as many valuable records, of the earlier patent system. A statute passed in the following year established a method of restoring or replacing the more important of the destroyed models and records, and also introduced the practice of filing disclaimers in cases where the original patents were void through inadvertently excessive claims. The act of 1839 provided that the existence of a foreign patent more than six months prior to application here, should not be a bar to obtaining a United States patent, except in cases where the invention had been introduced into common and public use in this country; but the United States patent was made to terminate fourteen years from the date of the foreign patent. A further provision of this act was that "no patent shall be held to be invalid by reason of purchase, sale or use prior to the application for a patent, except on proof of abandonment of such invention to the public, or that such purchase, sale or prior use has been for more than two years prior to such application for a patent." In 1842 provision was made for patenting designs for the term of seven years, and patented articles were required to be stamped "Patented," with the date of patenting, for the neglect of which a penalty was imposed. The system was further extended by the acts of 1848 and 1849, which latter act made the patent office a branch of the department of the interior. Minor changes were made in the succeeding years, and in 1861 an important act was passed empowering the commissioner to establish rules governing procedure in the patent office. The term of patents for inventions was extended to its present length of seventeen years, and the former laws discriminating between citizens and aliens were repealed. A uniform scale of fees was adopted, like that now in force; and in interference cases witnesses were compelled to attend and testify as before a court. A board of examiners in chief was constituted, intermediate between the examiners and the commissioner, to hear appeals from the former. Finally, by the act of 1870, the former legislation was revised and consolidated, and the system brought into its present condition. The provisions of this patent code are contained in some seventy sections, the effect of which will be considered under the statement of existing law. Meanwhile, the number of inventions has enormously increased. In 1837, 435 patents were issued; in 1860, 4,819; and in 1882, 18,467. These figures adequately represent the rate of the growth of the system and its present extent. — II. Existing Law and Procedure. Under the present act of congress "any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the duty required by law and other due proceedings had, obtain a patent therefor." — 1. *Subject Matter.* It will be observed that provision is made in the statute for patenting four classes of inventions or discoveries: arts, machines, manufactures, and compositions of matter. — The statute term "art" is intended and construed to cover cases in which the essence of the invention consists in the mode, process or art of doing a thing or accomplishing a result, and not the particular machinery, apparatus or device employed. A mere abstract principle can not be the subject of a patent, nor is the function or abstract effect of a machine patentable. But the statutory expression covers and protects a comprehensive class of inventions which are combinations of arrangements and processes to work out new and useful results, and which are thus patentable irrespective of the particular forms of the instrumentalities used. — Inventions included within the term "machine" are obviously those which consist of a particular mechanism or device, or a combination of mechanical devices or parts, as distinguished from a tool or instrument. To sustain a patent for a machine it is only necessary that the combination to produce certain effects be new, whether the separate devices or elements be new or old, provided that the combination is of such a nature that the inventive faculty was exercised in devising it; and, generally speaking, "a machine is rightfully the subject of a patent whenever a new or an old effect is produced by mechanism new in its combinations, arrangements or mode of operation." (Curtis' Law of Patents, 20.) — The term "manufacture" is construed in the sense in which it is popularly used, to mean the product or fabric of a machine or of human art or industry. To be properly the subject of a patent as a manufacture, the product must itself be essentially new. Thus, an article in common use can not be patented as a new manufacture merely because it is fabricated by the use of new and improved machinery; nor is a product patentable under this head merely because a machine makes it more perfectly than it can be made with-

out a machine. — The term "composition of matter" includes "patent medicines" and all compounds or mixtures of substances, as articles of food, etc. The resultant article or "composition" must, of course, be new, to be the subject of a patent, but the question is not, whether the ingredients or components are new, but whether there is novelty in the combination, and the novelty may consist in combining, in new proportions, ingredients which have already been in extensive and common use for the purpose of producing a similar composition. — Besides the foregoing classes of the subject matter of patentable inventions, the statute provides for patenting "improvements," and the larger number of patents are issued for improvements. It was early decided that a patent for the improvement of a machine is the same thing as a patent for an improved machine, but of course the patent can only be taken for the new combination. It should be noticed that the patent office does not undertake to determine whether the improvement will infringe an existing patent. But if the improvement is novel, the patent is issued and the question of infringement left to the courts. The test of the validity of a patent for an improvement of an existing machine, is to ascertain whether there has been actual and substantial change, or merely formal alteration requiring no invention. If no substantially new element has been added to the old machine, the patent can not be sustained; but if some really new feature has been introduced into the old mechanism, which causes it to operate differently or produces a new or better effect, then such addition will properly be the subject of a patent as an improvement. Two classes of questions therefore arise in passing upon the validity of a patent for an improvement of a machine. First, where the effects produced are the same, the inquiry is, whether the *modus operandi* of the improved machine is substantially the same as that of the old machine, or whether the difference in operation is sufficient to sustain a patent; second, where the effects produced by the improved and by the old machine are different, then the nature and quality of the effect will be the criterion of the validity of the patent. It should be added, that there is no distinction between an improvement on a patented machine and on one that is not patented. — 2. *Qualities of Patentable Inventions.* The essential qualities of a patentable invention are very broadly indicated in the statute. The terms employed in the act are "invented or discovered," "new and useful art, machine," etc., and the question, what constitutes a patentable invention, is therefore to be answered by referring to the adjudications of English and American courts, which constitute the common law of the patent system. It should be noted first, that "invented" and "discovered" are synonymous in the patent law; "novelty" and "utility," required by our statute, have always been held vitally essential qualities of patentable inventions; and the degree of novelty and utility—the "sufficiency of invention"—necessary to support a patent, has been determined by the courts in the numerous cases which have presented these questions for adjudication. The degree of absolute utility required in an invention is, however, slight. It is only necessary that the invention shall not be positively trivial, nor, on the other hand, noxious to public health or morals. The principal inquiry in patent law is therefore into the novelty of the invention, for the whole theory upon which the patent system rests, is that the patentee offers the world something new in consideration for his exclusive patent privilege. The novelty required by the American law is universal novelty, with the one exception that mere prior knowledge or use abroad will not defeat the rights of a native inventor, if the foreign invention has not been patented or described in any printed publication before the date of the American invention. The general principles governing the essential degree of novelty may be briefly summarized as follows: It is established in the early cases that a new use of an old thing—technically called a "double use"—is not patentable. Merely mechanical changes, or colorable variations, requiring no exercise of the inventive faculty; and, in general, alterations in the form or proportions of an existing device, can not be the subject of a patent. And while the invention itself, and not the mental process by which it was devised, is the real test of its patentability, it must still be observed that to support a patent the law requires it to appear that the invention is of such a nature as not to exclude the possibility of exercise of the inventive faculty in devising it. The terms "invented" and "discovered" mean that the subject of a patent must be a true invention or discovery, and not a mere mechanical improvement or substitution of a known "equivalent" involving mechanical skill or superior workmanship. But if the result, if the invention itself, is properly patentable, the law does not regard the mode of invention or discovery; and an accidental discovery or invention is, in the law, just as meritorious as one which is the result of laborious investigation and experiment. To satisfy the statute requirement of novelty, therefore, an invention must be substantially different from anything that has previously existed; and the criterion of the "sufficiency of invention" is the character of the invention itself, and not the degree of ingenuity or skill employed in devising it. — 3. *Qualifications of Patentees.* The existing law provides for the issue of the patent in every instance to "the original and first inventor." A radical difference between English and American law exists on this point. In England the first importer of an invention is treated as an inventor, and may obtain a patent; but under our system the patent issues only to the inventor. The only discrimination in our law in favor of citizens of the United States, is the provision that mere prior knowledge in a foreign country shall not debar a native inventor from obtaining a patent for an invention devised

independently here, if at the time of making his application he really believes himself to be the first inventor. The foreign invention must have been patented or described in some printed publication prior to the date of invention in this country in order to deprive the native inventor of his patent. — 4. *Designs.* Section 4929 of the Revised Statutes provides that "any person who by his own industry, genius, efforts and expense has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton or other fabrics; any new and original impression, ornament, pattern, print or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the fees prescribed, and other due proceedings had, the same as in cases of inventions or discoveries, obtain a patent therefor." The term for which these patents are issued is either three and a half, seven or fourteen years, and the fees are, respectively, ten, fifteen and thirty dollars. — 5. *Procedure in the Patent Office.* Since 1836 the whole business of issuing patents has been conducted by the patent office at Washington. Applications for patents are made to the commissioner of patents in accordance with a prescribed form, which consists of a petition for the allowance of the patent, and an oath that the applicant believes himself to be the first inventor, and that he does not know or believe that the invention was ever before known or used. These forms accompany the specification or description of the invention, which is by far the most important part of the application. The statute provides that the specification shall describe the invention in such "full, clear, concise and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound and use the same." The object of this provision is to secure to the public the benefit of the invention after the expiration of the patent, which, as we have seen, is part of the compact between the patentee and the state. The specification concludes with the "claims," in which the inventor is required to "particularly point out and distinctly claim the part, improvement or combination which he claims as his invention or discovery." Drawings accompany the specification in all cases which admit of them, and the commissioner may require the applicant to furnish the patent office with a model or specimen, although these are now not often required. — The application, on being filed in the office, is referred to the examiner or officer in charge of the department in which the invention is classed. The examiner then proceeds to make an examination of the invention, and of the patent office records, to ascertain whether it possesses novelty and utility. An examination of the records of foreign patent bureaus and of scientific works is also necessary, to ascertain whether the invention has been anticipated abroad, or whether it has been described in any printed publication. If from any of these sources anything is found which shows the invention claimed, or any feature of it, to be wanting in novelty, the applicant is notified by the examiner, and a report is sent him rejecting the application, stating specifically in what features novelty is lacking, and giving references to such prior patents or records as anticipate the invention. The applicant thus has an opportunity to amend his application so as to make it conform to the state of the art, and to eliminate the features that are not new. If the objection raised by the examiner is deemed groundless, the applicant may attempt, by argument or explanation, to remove it. In case of adverse decision, an appeal will lie from the decision of the primary examiner to an intermediate board, consisting of three examiners-in-chief; and if the applicant is still dissatisfied, he can bring his case before the commissioner of patents. If no objection is raised by the primary examiner, or if all objection is removed by amendment or overcome by argument, the application is allowed. The fee upon filing an application is $15; and upon the issue of the patent, $20. The final fee is required to be paid within six months after the allowance of the patent, and the specification is then printed, and the patent issued for the term of seventeen years from the date of its issue. — 6. *Reissue and Disclaimer.* A further proceeding, of which the patent office has jurisdiction after the issue of the patent, is the "reissue" of patents which are defective on their first issue, "if the error has arisen by inadvertence, accident or mistake." Where the patent is invalid by reason of a defective or insufficient specification, it is surrendered and sent to the patent office with a corrected specification; and in a proper case, on payment of the duty, a new or reissued patent, in accordance with the amended specification, is granted for the unexpired term of the original patent. These reissues were formerly issued with great laxity. But since the decision of the supreme court in Miller *vs.* Brass Co., 104 U. S., 850, the provisions of the statute have been observed, and the practice of repeatedly expanding patents by reissuing them is no longer possible. It should be added, that in cases where the inventor has inadvertently claimed in his original patent more than he is entitled to, the patent may be amended by filing a "disclaimer" of what is excessive, and the patent will then be valid for the residue. — 7. *Interferences.* Where an application is filed which "interferes" with a pending application, or with a patent granted within two years previous to the filing of the application, an "interference" is declared. The parties to the interference are then required to file statements giving

briefly the dates of conception of the invention and of its completion, and the question of priority of invention is then tried by a somewhat cumbersome procedure. Evidence substantiating the allegations of the preliminary statement is taken on behalf of the respective parties, and the matter is then brought on for a hearing before the examiner of interferences. The patent is awarded to the party who successfully establishes priority of invention, and at the same time shows reasonable diligence in reducing the invention to practice. — 8. *Caveats.* Protection is afforded to inventors who have not completed or perfected their inventions, by the practice of filing caveats in the patent office. The caveat is an instrument which recites that the inventor has conceived, but not yet perfected, his invention, and which sets forth in general terms the salient points and characteristics of the invention as far as completed. The caveator then prays protection until he shall have matured the invention. This instrument is filed in the secret archives of the patent office, and protects the caveator for a year, by entitling him to notice in case, within that time, any application is filed in the office which would interfere with the invention indicated in the caveat. In case such notice is given, he has three months' time in which to prepare and file a complete application for a patent. The caveat may be renewed for a year at a time, with the same effect. — 9. *Assignments and Licenses.* The transfer of a patent, or interest in a patent, is by assignment. The transfer may be either an assignment, 1, of the whole patent, 2, of an undivided interest in the patent, or 3, of an exclusive interest in the patent within any specified territory of the United States. The Revised Statutes require the assignment to be in writing, and provide that it "shall be void as against any subsequent purchaser or mortgagee for a valuable consideration without notice unless it is recorded in the patent office within three months from the date thereof." A license is a contract which confers upon the licensee the mere right to use or practice the invention, and is distinguished from an assignment in that it conveys no interest in the patent itself. This contract is not required to be recorded, nor need it be in writing, but may be oral or implied. Part owners of a patent are tenants in common, and are not bound to account to each other for receipts from licenses, and these latter may be granted by any of the co-owners without joining the others. An application for a patent pending in the patent office may be assigned in the same manner as a patent; and the patent will issue to the assignee. So also an agreement to assign a patent for an invention when issued will be effective, and specific performance of it will be enforced in equity. It has recently been held, however, that an assignment of an application, or an agreement to assign a patent for an invention when issued, must describe the application or invention with sufficient distinctness to enable the court to identify it. — 10. *Patent Office Fees.* The patent office fees, other than those already given, are as follows: On filing every caveat, $10; on filing a disclaimer, $10; on filing every application for a reissue, $30; on filing every application for a division of a reissue, $30; on filing every application for an extension, $50; on the grant of every extension, $50; on filing an appeal from a primary examiner to the examiners-in-chief, $10; on filing an appeal to the commissioner from the examiners-in-chief, $20; for certified copies of patents or other instruments, except copies of printed patents sold by the office, for every 100 words, 10 cents; for certified copies of printed patents sold by the office, 10 cents for every 100 words, less the price actually paid for such copies without certification; for certified copies of drawings, the reasonable cost of making them; for recording an assignment of 300 words or less, $1; for recording an assignment of more than 300 and not more than 1,000 words, $2; for recording every assignment of more than 1,000 words, $3; for uncertified copies of the specifications and accompanying drawings of all patents which are in print, single copies 25 cents, and for twenty copies or more, whether of one or several patents, per copy, 10 cents; for uncertified copies of the specifications and drawings of patents not in print, the reasonable cost of making the same; for copies of matter in any foreign language, per 100 words, 20 cents; for translations, per 100 words, 50 cents; for assistance to attorneys in examination of records, one hour or less, 50 cents; each additional hour, 50 cents; for assistance to attorneys in examination of patents and other works in the scientific library, one hour or less, $1, and for each additional hour, $1. — 11. *Procedure in the Courts.* By the Revised Statutes the United States circuit courts have original jurisdiction "of all actions, suits, controversies and cases arising under the patent laws of the United States." All proceedings, therefore, for the protection or enforcement of patent rights, except actions for the breach of contract relating to patents, which are cognizable in the state courts, are brought in the circuit courts or in a district court having circuit court jurisdiction. Under the act of 1870 the remedy of the patentee, where his patent is infringed, is either by action at law, in which the actual damage suffered from the infringement will be recovered, or by suit in equity, in which the complainant may obtain a perpetual injunction restraining further infringement if he establishes his case, and also recover the damages sustained from the infringement, as well as the profits realized by the defendant from the use of the infringement. Where the complainant, at the commencement of the suit, is able to present a strong *prima facie* case, he may also, upon notice, obtain a preliminary injunction restraining infringement *pendente lite.* The equitable remedy is usually adopted as being the most efficacious; but some of the archaic common law procedure is retained in the circuit courts, and the suits are as protracted and slow

as the old English chancery litigation. Suits for infringement are brought in the name of the owners of the patent right for the district where the infringement is committed. The evidence is taken on behalf of the respective parties, supporting the allegations of the bill and answer in respect to the naked question of infringement, or the validity of the complainant's patent, where that is in issue. The cause is then brought on for a hearing before a single judge, who passes upon the issues raised by the pleadings. If his decision sustains the complainant's patent, and holds that it has been infringed by the defendant, an interlocutory decree is entered to that effect, and the cause is sent before a master to take an account of the defendant's profits from the use of the infringement. Upon the master's report the cause is again brought before the circuit judge, and the final decree settled, determining the amount that the complainant is entitled to recover. If the court decides adversely to the complainant, a decree is entered dismissing the bill. From the judgments and final decrees of the circuit court in these causes, a writ of error or appeal will lie to the supreme court of the United States. — 12. *Infringements.* The question, what constitutes infringement, is one of the most difficult questions presented to a court for adjudication; and the legal principles which govern its determination can only be roughly indicated in this article. A patent confers upon the patentee the exclusive right of making, using, and vending to others to be used, the invention protected by patent. The patent is infringed, therefore, whenever the invention so protected is appropriated in either of those ways without the license of the patentee, or whenever a colorable imitation of it, not involving new invention, is so employed. A patent for a machine is infringed whenever the same means or devices are employed, substantially as in the patented machine, to produce the same result; and it has been held, per Taney, C. J., in Browne *vs.* Duchesne (19 How., 183), that the mere making of a patented machine is an infringement. — It is evident that a patent for an art is infringed when that art is used or practiced by another without license of the patentee, and that it is an infringement of a patent for a manufacture, or composition of matter, to either make, use or sell the article claimed in the patent. But the whole difficulty in questions of infringement consists in determining "what degree of resemblance constitutes the identity which the patent law designates as an infringement, and what kind and what degree of difference will relieve from this charge." It is well settled that the substitution of known "equivalents" for the means described in the patent is not sufficient variation to avoid infringement; and, "by equivalents in machinery is usually meant the substitution of merely one mechanical power for another, or one obvious and customary mode for another, of effecting a like result." (Smith *vs* Downing, 1 Fish Pat. Cases, 87.) But the difficulty of applying these principles presents itself anew in every case, and it can best be solved by referring to the great mass of precedents in English and American law. It will be sufficient, therefore, to add, that substantial identity is the test of infringement, and that substantial identity exists wherever the difference between the patented invention and the alleged infringement is mere colorable alteration, and does not involve invention. In the words of Nelson, J., in Blanchard *vs.* Beers (2 Blatch., 418), "There must be mind and inventive genius involved in it (the alteration), and not the mere skill of the workman." But it should be observed, finally, that even if the variation involve sufficient invention to entitle its deviser to a patent, it will not necessarily relieve him from infringement if he still employs substantially the device covered by a prior patent. — 13. *Defenses.* In addition to joining issue on the question of infringement, the statute provides that the defendant may plead the general issue; and, upon notice, may prove on the trial the following matters: first, fraudulently defective or excessive specification of complainant's patent; second, that complainant's patent was surreptitiously obtained; third, earlier patent or publication of the invention claimed; fourth, that the patentee was not the first inventor of any substantial feature claimed; fifth, abandonment or public use two years prior to the patentee's application. In an action at law, the dates and circumstances must be appended to the notice; and in an equity suit, any of the above matters may be pleaded, and like notice may be given in the answer. The defendant is thus enabled to call in question the validity of the complainant's patent; and if he succeeds in impeaching it, the question of infringement is at an end. — III. THE GENERAL POLICY OF A PATENT SYSTEM. Associated in their origin with the oppressions of the Tudors and the Stuarts, patents for inventions have since that time not infrequently been denounced as monopolies. In the earlier cases in which patents were brought before English tribunals for adjudication, the judges were reluctant to recognize the rights of patentees. Lord Kenyon is reported to have said, in the great case of Hornblower *vs.* Boulton (8 T. R., 99), "I confess I am not one of those who greatly favor patents," and Lord Erskine stated that "the ideas of the learned judges had been very different as to the advantages to the public since the statute giving those monopolies." Nor has the criticism of the patent system been confined to expressions of judicial disfavor of a century ago. It is still asserted by a certain school of economists that a patent is a true monopoly which robs the public, and that all systems of patent law are radically and essentially vicious. Within the last fifty years the system has been repeatedly assailed in the English parliament, and in this country the question of its abolition has been broached at Washington. In 1829, in 1851, in 1863, and again in 1871, the policy of the British system was inquired

into by committees from the upper and lower houses of parliament in consequence of the violent attacks made upon the patent laws. At almost every session of the house of commons for the past few years, a bill has been introduced having for its object the unconditional abolition of the present patent system; and the supporters of this measure, led by Sir Roundell Palmer, constituted a faction known as "Abolitionists." Recently the farmers of some of our western states, in consequence of the extortions of the owners of certain important patents, notably the "wire fence" and "driven well" patents, have demanded the repeal of the American patent laws. M. Chevalier, the French economist, writing in 1878, denounced *in toto* all systems of patent law. In 1868, as secretary of the confederation, Bismarck recommended to the North German parliament the abolition of patents, and in Holland a law was enacted in 1869, discontinuing the system in that country from and after Jan. 1, 1870. From this résumé of the opposition to patents it will be seen that the question of the policy of patent laws is by no means settled. A discussion of that question involves an examination of the economic and legal principles upon which the system rests. — The motive which originally inserted in the statute of monopolies the proviso from which later systems of patent law have been derived and developed, was, as its recital shows, to stimulate and encourage inventive genius in England, and thereby foster and develop the young industries of that country. There has since arisen the theory that an inventor has a property, or at least a *quasi* property, in his ideas, which it is both just and expedient to protect by patent laws. The claims of the patent system are thus rested upon the two-fold consideration of, first, a sense of justice to the inventor, and, second, a belief in the sound policy of stimulating inventive genius by holding out to an inventor a material recompense proportionate to his contribution to society.— The soundness of these propositions is controverted by opponents of patent laws. It is urged that there is no right of property in the ideas of inventors which society is bound to recognize, and also that the evils and inconveniences of the patent system are not compensated for by its benefits. The first of these propositions is obviously theoretical. The assertion that there is a right of property in inventions is controverted by the assertion that there can be no property in thought, which is of the essence of all inventions, because it has not the attributes and qualities of material property. The former position is vigorously supported by John Stuart Mill and Herbert Spencer, while the latter is maintained by M. Chevalier and the British "abolitionists." Without pausing to decide this economic controversy, it may be remembered, first, that inventions are the product of most valuable and indirectly wealth-producing labor, and second, that the state can, as observed by Lord Brougham in Jefferys *vs.* Boosey, make inventions "a *quasi* property, or give the author the same kind of right and the same remedies which he would have if the produce of his labor could have been regarded as property." In this practical aspect of the question the theoretical inquiry becomes unimportant, since the legislature can and does endow inventors' rights with all the attributes of other property, just as it sometimes invests with such attributes its own franchises; and it is important to be added, this practice seems to be ethically justifiable. The whole question, therefore, resolves itself into one of expediency and policy. — The most considerable objection urged against the policy of granting patents for inventions is, that they interfere with the principle of "freedom of industry" (*la liberté du travail*). This is the argument of M. Chevalier and the "abolitionists." It is by no means clear, however, as may be gathered from the following considerations, that the practical effect of patent laws is to interfere with freedom of industry in any degree whatever. — Under a well administered code of patent laws it is obvious that nothing can be claimed and protected in a valid patent which is not new, which is not a true invention. The industrial world is not, therefore, deprived by patent of what it previously enjoyed, for by the hypothesis the invention is the discovery of some hitherto unknown agency or appliance. The fallacy of the assertion that freedom of industry is interfered with by patents lies in the assumption either that old devices are allowed to be covered by patent, or that new inventions would come into being in the absence of patent laws. But the first half of this assumption is negatived by the hypothesis that the invention is new, *i. e.*, hitherto unknown. Passing, then, to the consideration of the proposition that new inventions protected by patent would be made without the stimulus of patent laws, we find that it is no less fallacious. A necessity, say the abolitionists, is itself a sufficient incentive to excite invention, and as soon as a want is felt, a hundred minds will be devoted to devising a means of filling it. But the history of industrial communities does not bear out this assertion. Not only is there a tendency among the classes actually engaged in manufacturing and agricultural pursuits to remain apathetically content in the use of already existing appliances, but there has even been evinced, and notably in England, a positive hostility on the part of operatives to the introduction of new, and especially of labor-saving inventions. A hundred years ago mobs destroyed the improved machinery of Arkwright and Hargreaves. Thirty years later, occurred the Luddite riots in consequence of the introduction of power looms. Competition will, of course, in time develop improvements; but the antagonism now existing between capital which most feels the spur of competition, and labor which possesses the skill to create the improvements, renders this agency ineffective to produce the best results. So long as the capitalist is to reap the entire benefit of an improvement,

the inventor will be slow to devise it. There must be some way of appealing directly to inventive genius to obtain its best fruits. This was realized by Edward Bally, one of the Swiss commissioners to the Philadelphia centennial exposition. On his return to Switzerland, which has no patent system, he wrote: "We must introduce the patent system. All our production is more or less a simple copy. The inventor has no profit to expect from his invention, however useful it may be. It is evident that this absolute want of protection will never awaken in a people the spirit of invention * *." And yet the Swiss are reputed as ingenious as any other people.—Still another consideration may be adduced to refute the claims of the "abolitionists," that freedom of industry is interfered with by patents. If the inventor keeps his invention in secrecy and allows his secret to die with him—which was the only protection an inventor had before patent laws became effective—it can not be said that the normal movement of industries is interfered with. In this case, however, he entirely deprives the world of the benefit of his discovery. But by taking out a patent he simply makes a contract with society, whereby his secret is surrendered in return for a certain fraction of the benefit conferred by it for a term of years. If the invention is valuable, the inventor's reward is proportionately rich; if it is of no importance, it can have no effect on industries. An inventor's patent excludes the industrial world from nothing it enjoyed before; it simply offers a novelty as a substitute for older methods. Undoubtedly, the system, because imperfectly administered, has had the effect, in many instances, of depriving the world by patent of old and well-known appliances; and then, as in England and France, the burden is thrown on the community of proving that the patent is robbing it of what it previously enjoyed. But obviously the cause of this is the imperfect administration of an imperfect code of laws. A patent for a true invention can never clog the wheels of an industry, since, if it be a true invention, it leaves the industry free to enjoy all the agencies and appliances known before the new invention was devised. If, however, this latter cheapens or improves an existing process, the inventor asks to share in the enhanced cheapness or improvement, which by the hypothesis his genius is the means of creating.—Similar views have been expressed by so keen an observer as Mr. Herbert Spencer. "They fall into a serious error," he wrote in his "Social Statics," "who suppose that the exclusive right assumed by a discoverer is something taken from the public. He who in any way increases the powers of production, is seen by all, save a few insane Luddites, to be a general benefactor who *gives* rather than *takes*. The successful inventor makes a further conquest over nature. By him the laws of matter are rendered still more subservient to the wants of mankind. He economizes labor; helps to emancipate men from their slavery to the needs of the body; harnesses a new power to the car of human happiness. He can not, if he would, prevent society from largely participating in his good fortune. Before he can realize any benefit from his new process or apparatus, he must first confer a benefit on his fellow-men; must either offer them a better article at the price usually charged, or the same article at a less price. If he fails to do this, his invention is a dead letter; if he does it, he makes society a partner in the new mine of wealth he has opened. For all the exertion he has had in subjugating a previously unknown region of nature, he simply asks an extra proportion of the fruits. The rest of mankind unavoidably come in for the main advantage; will in a short time have the whole. Meanwhile, they can not without injustice disregard his claims."—But the cause of patent laws does not require to be established in a negative, defensive manner. In the United States, at least, the beneficence of the system is so obvious, the claims of inventors are so meritorious, that argument is hardly necessary to make them apparent. —Patents give support to a class of ingenious and talented men whose profession it is to devise improvements and make discoveries, and whose life and training render them especially qualified for such service. It is estimated that there are from five to six thousand professional inventors in the United States. But it is obvious that without a patent code it would hardly be possible to follow invention as a business. Experts might find employment with great manufacturers, but they could not feel the same personal incentive to make inventions which the patent system affords them. So that the first effect of patent laws is to keep these thousands of minds constantly engaged in solving the problems of science and mechanics. —Patents, moreover, facilitate the introduction of inventions. They enable the inventor to give the capitalist something substantial upon which to embark his money; without which there would not be the same inducement to him to engage in the enterprise of introducing novelties if the results of his experiments and ventures could be at once appropriated by others.—Patents give also to the inventor a reward proportioned to the value of the invention. The incentive is thus given to devise labor-saving and cheapening inventions. An inventor realizes that however ingenious his device, it can have no existence commercially unless it either cheapens or improves something for which there is a demand, or unless the invention itself creates and satisfies a new want. Bessemer's invention reduced the cost of cast steel from $200 per ton to about $55; and with all this reduction the royalty was only $10 per ton, or about 7 per cent. of the reduction. It has been estimated that inventions increase the value of human labor in this country 2 per cent. annually. —These benefits will perhaps be still more obvious and impressive if we consider the practical effect of patent laws through inventions upon the industrial system of a community. The real be-

ginning of the patent system was, as we have seen, coeval with the great scientific and inventive movement in the latter half of the eighteenth century. It is not claimed that patent laws originated this movement, but that they at least made it possible and accelerated it. A review of the history of the iron and cotton industries in Great Britain shows this clearly. In the year 1740 the total produce of iron in Great Britain was 17,350 tons. In that year Dudley's invention for using coal in smelting in lieu of timber began to be used, and in less than 50 years (1788) the annual production had increased to 68,300 tons. In 1788 Watt's steam engine was introduced for blowing furnaces, and for the year 1806, the production amounted to 258,206 tons. In 1830 Neilson's hot blast was adopted, and by 1839 the yearly produce of iron had reached 1,248,781 tons, and the annual production now averages more than 6,000,000 tons, of a value of more than £16,000,000. In less than a century and a half the production of iron has increased nearly a thousand fold, and it is the inventions of Dudley, Watt and Neilson which have at least made this increase possible. — Quite as remarkable has been the effect of inventions upon the English cotton industry. At the middle of the eighteenth century the total annual imports of raw cotton into Great Britain were less than 3,000,000 pounds. In 1769 and 1770 were patented Arkwright's and Hargreaves' inventions for spinning, and by 1776 the annual imports of cotton wool amounted to nearly 7,000,000 pounds. In 1779 Crompton's spinning mule was invented, and in 1785 and 1787 Cartwright's loom patents were issued; by 1790 the yearly imports of cotton had reached 31,447,605 pounds. In 1880 the imports of cotton amounted to 1,628,664,576 pounds, and the British cotton factories now employ nearly half a million operatives. The amount of cotton manufactured in Great Britain has thus increased more than five hundred fold, and an industry has been created which gives employment to about one-seventieth of the total population. — The growth of the iron and cotton industries may be regarded as typical of the general industrial progress of Great Britain during the last hundred years. More recent general advance is shown by the fact that the total exports of British produce have increased from £52,000,000 in 1848, to £223,060,446 in 1880; and in the same period the population has increased about 25 per cent.: from about 27,500,000 in 1850, to 34,505,000 in 1880. A comparison of the ratio of production to population at the former period with the similar ratio at the later one, will indicate the degree of increase in productive capacity. It is, therefore, confidently asserted that the most important agency in increasing the productive power of a nation is the invention and introduction of labor-saving devices, and that the invention of such devices alone renders such an increase possible, as is shown in a consideration of the above statistics of the iron and cotton industries.— The history of these inventions, however, indicates that without the protection of patent laws they would not have been developed and introduced. In the case of the steam engine, for example, it was only after spending all his own means, after thirteen years of ceaseless experiment, and after obtaining from parliament the grant of a special patent for twenty-four years, that Watt succeeded in inducing Matthew Bolton to embark his capital in the development and introduction of the invention. It is estimated that £40,000 were expended by Watt and Bolton in developing this invention; and such was the hostility shown to its introduction that the patent had nearly expired before these men began to receive a return for their expenditure of time and money. A recent life of Watt states that the steam power of Great Britain is now equivalent to the power of 400,000,000 men —more than ten times the entire population; and it is primarily Watt's invention and the countless devices of subsequent inventors which utilize the magnificent power he discovered, that have made England's industrial and commercial progress possible. — The history of the steam engine is the history of nearly all great labor-saving discoveries. They have all originated in patent protected communities; and where the patent laws have not directly incited the inventor to make his discovery, they have still facilitated its introduction and development by enabling the inventor to enlist the aid of capital. The manner in which inventors are affected by patent laws is instructively shown by the following evidence of Sir Henry Bessemer before the committee of the house of commons in 1871: "My experience during the whole of this time (the years that he was experimenting) has shown me clearly that if I had had no patent law to fall back upon, I, as an engineer, could never have first spent two and a half years of my time and £4,000 in mere experiments, which if they had failed would have been an entire loss to me. Altogether I made an outlay of about £20,000, but of course I had a large stake to play for. I knew that steel was selling at £50 to £60 per ton, and I knew that if it could be made by my plan, it could with profit be sold at £20 per ton. But had it not been for the law, securing my right in my invention by a patent, I could never have hoped as a simple manufacturer to have recouped myself." Such has been the effect of the British patent system in two conspicuous instances, and such instances might be almost indefinitely multiplied. — Turning now to the industrial history of the United States, the results are no less impressive. Perhaps no one industry has been more closely identified with the national life and growth of the country than cotton raising. It is stated in Smithers' History of Liverpool (p. 124), that in 1784 an American vessel arrived at Liverpool, having on board eight bags of cotton, which were seized by the custom house officers under an impression that cotton was not the produce of the United States. In 1793 Eli Whitney, of Westborough, Mass., invented and patented his saw gin for separating cotton from the seeds. Before this invention cotton could be

cleansed only by hand, or with some rude hand mill. The utmost daily capacity of one of these mills was about sixty-five pounds, and by hand a man could prepare from one to four pounds per diem. With Whitney's cotton gin a single person could prepare in a day about 300 pounds—five times as much as by any prior method; and the daily capacity of modern gins is said to be about 4,000 pounds. The effect of this invention upon cotton raising was marvelous. In 1792 the exports of raw cotton from the United States were 138,328 pounds. By 1794, the year after the introduction of the cotton gin, the exports had increased to 1,601,700 pounds; in 1800 they had reached 17,789,808 pounds—more than one hundred fold in eight years; in 1820 they amounted to 127,860,152 pounds, of a value of $20,000,000, showing an increase in twenty-seven years of nearly a thousand fold. — The story of Whitney's invention and of his almost unsuccessful efforts to obtain recognition of his rights as an inventor, is matter of history. The unscrupulous infringement of his patent brought discredit upon his contemporaries. But the record of the life of this man shows that he labored upon his invention in the hope of obtaining under a patent a share of the wealth it was to create; and had it not been for this hope, rendered possible by our patent laws, he could not have devoted his time and energies to the successful achievement of his great work. — So the effect of our patent laws upon the general agricultural methods of this country is something almost incalculable. Nearly all the inventions which have made western farming possible on its present magnificent scale have originated and been perfected under our patent system; and the history of the development of our agriculture might almost be written from the patent office records of the annual achievements of American inventive genius. A single instance will call to mind the manner in which agriculture has been revolutionized by American inventions. — Down to the beginning of the present century, the only great improvement that had been made upon the harvesting methods of the ancients was the invention of the cradle in 1794, by a Scotchman. In 1834 the first patent was issued in this country upon the McCormick reaper. It took McCormick about twenty years after 1834 to develop and perfect his machine, and it was between 1855 and 1858 that it was practically introduced. Their effect can be estimated by comparing in the following table (from the census of 1870), the agricultural population of the country with the amount of produce in which these machines are used, at the different periods before and after their introduction:

	1850.	1860.	1870.
Population engaged in agriculture	1,801,863	2,024,399	2,641,830
Total bushels wheat, rye, oats and barley	266,425,951	382,675,387	616,582,888

Allowance must, of course, be made for the innumerable other inventions employed in the culture of these products; but the general increase of per capita production can be roughly estimated from these figures; and while the farming population increased about 100 per cent. between 1850 and 1870, the produce of grain increased nearly 200 per cent. — But the inventions to which this increase is due, could not have been devised or perfected without the stimulus and protection of our patent laws. More than 5,000 patents have been issued in this country upon reapers and mowers alone, and the latest machines embody the results of the life work of a hundred inventors whose only hope of recouping themselves for their expenditure of time and fortune was in our patent system, and who could not have labored without it. It is stated that the McCormick company alone has spent more than $1,000,000 in experiments, and it is also stated that this machine saves the country annually the sum of $10,000,000. — Similar effects are to be noticed in our textile industries. In 1860 the number of hands engaged in woolen, cotton and other similar factories, was 181,550; the wages paid amounted to $37,301,710; and the value of the product was $196,416,400. In 1870 the number of operatives had increased to 255,328, about 40 per cent. The wages amounted to $79,401,367, more than 100 per cent. increase, and the product was valued at $395,158,565, more than 100 per cent. advance. — It will be found in nearly every instance that the chief agency in effecting this increased production is the labor-economizing machinery devised by countless inventors, and patented among the myriad American patents. One more table will indicate the rate of increase in our general manufactures :

	Hands.	Wages per Annum.	Material.	Product.
1850....	957,059	$236,765,446	$ 555,123,822	$1,019,106,616
1860....	1,311,264	387,878,996	1,081,605,092	1,885,861,676
1870....	2,053,996	775,584,343	2,448,427,242	4,232,325,442

— But enough has been written to indicate the practical tendency of patent laws; and it may, perhaps, be safe to conclude that the opposition to patents, although directed at the system and demanding its abolition, has in fact been occasioned by the imperfect administration of still more imperfect patent codes. Especially is this true of the British abolitionists. The enormous expense of patent litigation in England, its "glorious uncertainty," and the practice of throwing on the public the burden of impeaching the patent without first officially investigating its validity, have opened the way in that country for great abuses, and have undoubtedly made the system unnecessarily burdensome to British manufacturers. In many instances under the English law, the manufacturer finds it cheaper to acquiesce in the claims of an impostor than to contest the validity of his patent in court. The remedy for these evils, however, and for the evils of the American system, is

in reform of the law and its administration, not abolition of the system; and the fact that enormous benefits can still be traced to these patent laws, however imperfectly administered, furnishes a cogent reason for continuing and extending the benefits by continuing and improving the laws. — IV. CHANGES IN THE LAW. The American patent system is regarded, both here and abroad, as the most progressive and complete existent institution of its kind. Many of the reforms and improvements in patent laws have originated at Washington, and have then been adopted by European governments. The most radical improvement in the system was made in 1836, when the patent office was established, and the practice of making preliminary examinations of inventions instituted. This latter feature is recommended by all economists familiar with the working of patent laws, as a desideratum of every system, and has been incorporated into the law of several other countries. Since 1836 there have been made minor changes and extensions of the American law, which have preserved and developed the general symmetry of the system; but with this development there have appeared certain defects and abuses which call for still further reform of the system, the character of which can here be only briefly indicated. — The most impressive feature of the American system is its extraordinary magnitude. There have now (1883) been issued in this country since 1790, about 285,000 patents. During the year 1882 there were acted upon in the patent office 31,522 applications relating to patents, and in the same time 18,267 patents were issued or reissued. In that year only 6,099 patents expired; so that it appears that the number of patents is now increasing at the rate of 12,000 a year, and the records of the patent office are becoming enormously complicated. Patented inventions are there classified in 167 classes and more than 3,000 sub-classes. To preserve the system in its integrity, it is obviously necessary, first, that a patent should issue only for a new invention, and secondly, that it should be clear in its claims of all prior patents. A thorough preliminary examination of an application for a patent involves a search not only through our patent office records, but also through the records of the various foreign patent bureaus. A still more difficult task is to adjust the claims of a new application so as not to conflict with innumerable prior patents. It is vitally important both to the applicant and to the public that this investigation should be thorough and complete. This is every day becoming more difficult; and it is stated that not a week passes without the allowance of one or more patents at Washington for old inventions. Nor is this strange when we consider the number and complexity of the records to be searched, and the number of patents annually taken out upon certain subjects of invention. During the year 1882, ninety-nine patents were issued at Washington for cultivators and cultivator appliances alone. To remedy the acknowledged defects in the administration of our present system, several reforms have been suggested, the merits of which are obvious. These are: first, the requirement of a higher standard of invention to sustain a patent, rejecting the host of applications for merely obvious and mechanical improvements now indiscriminately allowed, which would relieve the records of the patent office and at the same time secure to the community and the inventor the benefits of all true inventions; second, the establishment of periodical fees as in the European countries, for the non-payment of which the patent should become void. This again would relieve the records by weeding out unsuccessful inventions from the patented list, and at the same time would work no hardship on the inventor, who, of course, derives no benefit from a patented failure. — Another defect in our patent system is the procedure in the patent office through which the question of priority of invention between two or more applications for the same invention is determined. Without the constitution and without the judicial training and experience of a court of law, the examiners of interferences are called upon to decide, after a *quasi* trial, the most difficult questions of fact, in connection with which difficult questions of evidence often arise. And after the question has been litigated and settled in the patent office, it is not regarded as *res adjudicata*, but may have to be tried anew when the question of priority is afterward raised in court. The hardship of this can be realized when it is stated that these interference proceedings often take one, two or even three years before a final decision is reached, and involve the same outlay of money as do similarly protracted legal proceedings. But after all this, the successful party has not an adjudicated patent right, but an ordinary patent, which may be called in question in court. The successful litigant, as the outcome of his long litigation, has merely won a presumption. Moreover, there is no provision under the present system for mulcting the unsuccessful party in the costs of the proceeding; and the way is thus thrown open to any unscrupulous practitioner to debar and hinder an inventor from obtaining his patent, by merely filing a conflicting application, with an oath that he is the inventor; and thus, without exposing himself to any liability beyond prosecution for perjury, he may involve the inventor in long and expensive litigation. So also there is no provision for the application of the doctrine of estoppel. The most obvious remedy for this defect is either to allow the rival inventors to litigate the question in court in the first instance, and issue the patent to the prevailing party; or else to restrict the function of the patent office to the investigation of the question of novelty, to issue the patent to the first applicant, and grant to subsequent applicants certificates of invention which would enable them, if they chose, to call in question in court the rights of the patentee. Unquestionably, however, inventors should be relieved from the possibility of being obliged

to litigate the same questions twice, as is the case under the present practice. — The decision of the supreme court in Miller *vs.* Brass Company (104 U. S., 350), and the later decisions following this case, have had the effect of reforming a great abuse which existed in the practice of indiscriminately reissuing patents. The statute made provision for reissue where the original patent was defective through inadvertence or mistake of the inventor; but in the patent office the practice had grown up of expanding patents by reissue so as to include more than the inventors originally claimed or invented. This practice was denounced as vicious in the above cited case, and is now no longer possible. — A change in the statute law, which has been suggested to congress by commissioners for several years past, is the repeal of the provision which limits the term of a patent, where the invention has first been patented in a foreign country, to the life of the foreign patent having the shortest term to run. The motive which inserted this clause in our patent code was, to secure the patenting of important inventions in this country first, and perhaps also to obviate the supposed difficulty of continuing the American patent after the foreign one had expired, and thereby placing domestic industries at a disadvantage in the competition with foreign trade. In fact, however, this provision operates harshly upon the native inventor, who, if he first takes out his American patent, loses his right to patents in several European countries. The advantages of this law are by no means sufficient to compensate for the inconvenience it causes, and the provision should certainly be expunged from the statute book. — It has also been suggested, that in certain cases there should be established some means of compelling patentees to grant licenses, as has just been done in England by the bill which received the royal assent in August, 1883; but the policy of this measure is at least doubtful. A more politic change would be the insertion in our patent code of a statute of limitations covering claims for infringement. Infringement is in the nature of a tort, and the claim should, therefore, after the analogy of other torts, be barred after a short term of years. — Other and more radical reforms that have been suggested are, the creation of special tribunals to adjudicate the questions of patent law, whose judges should possess the necessary technical and scientific, as well as legal, attainments; and also the establishment of some means of securing to the court the opinions of absolutely unbiased experts upon the problems of science and mechanics which arise in the trial of patent causes. The present use — or, more properly, abuse—of expert testimony in patent litigation, is hopelessly confusing to the court, and renders its decisions uncertain and unreliable, as the conclusions of the court are often based upon the premises established by expert evidence. There should be some way, therefore, of enabling the court to call in the assistance of eminent scientists whose opinions would be uncolored by retainers from either of the litigants. — Finally, it should be mentioned that, upon several occasions, the adoption of an international patent code has been recommended, especially by the patent congress at Vienna in 1873. There are at present no indications that such a universal system will be established, but it may yet be safe to conclude that this will be the final step in the development of the patent system, and that the time is perhaps not very remote when that step will be taken. — V. Foreign Patent Laws. Taking its origin in England, the patent system has now been extended into more than forty states, provinces and principalities. Switzerland and Holland are the only considerable civilized powers at present without a system of patent laws, and in both countries strenuous efforts are being made to have a patent code enacted. Roughly speaking, the foreign patent systems, with one or two exceptions, differ from the American in not requiring an exhaustive preliminary examination of the invention as to novelty and utility before issuing the patent. Other differences may be observed from the following summary of patent laws. — *Great Britain.* Patents are issued for the term of fourteen years from the date of the application, subject, however, to the payment of a tax of £50 at the end of the third year, and £100 at the end of the seventh year. The statute of monopolies provided for the patenting of "new manufactures," but by judicial construction this term had been made to cover the four classes of inventions enumerated in the American act, and the act of 1852 substituted the term "inventions." The patent is issued either to the first inventor or to the "first importer," who is generally the agent of the foreign inventor. The usual procedure in taking out a patent is first to obtain "provisional protection" for six months, after obtaining which "notice to proceed" is given and advertised in the "Commissioners of Patents Journal," with a notification that opposition to the application must be made within twenty-one days from the date of the notice. Three weeks before the expiration of the "provisional protection," application for the law officers' warrant and great seal is made. The final specification is then lodged, and the patent issues for fourteen years from the date of the application. To sustain a patent it is only necessary that the invention should be new within the United Kingdom; and an invention patented elsewhere can be patented in Great Britain at any time during the life of the foreign patent unless a specification or complete description of it exists in the kingdom before the British application is made. The validity of a patent is, however, generally left to be adjudicated by the courts; and it is practically the mere grant of a right to sue for infringement so long as the validity of the patent is unimpeached. Important changes in this law, which were made by parliament during the present year (1883), and are to go into effect Jan. 1, 1884, may be summarized as follows: the cost of patents has been greatly reduced; power

has been given the board of trade to grant compulsory licenses in certain cases; and the provision that the British patent lapsed with the expiry of any foreign patent of anterior date has not been re-enacted. — Canada has a patent system resembling that of the United States, and the various Australian colonies and provinces have systems differing somewhat in detail, but substantially like the English in outline and theory. — *France.* Patents are issued upon substantially the same classes of inventions as in England and the United States, and extend for a term of fifteen years, subject to an annual tax of 100 francs. No preliminary examination of the invention is made, and the applicant is considered to be the first inventor until the contrary is proved. The question of the validity of the patent is thus entirely left to the courts, and in all patent litigation the burden of proof rests upon those who would oppose or impeach the patent. The novelty required is novelty over the entire world, and an invention must therefore be patented in France. at least as early as in any other country, as otherwise the foreign publication of the specification before the issue of the French patent, would invalidate the latter. The specification must give as full a description as is required by the American law, and the invention must be worked in France within two years of the date of the patent, to preserve its validity. — *Germany.* The present patent system dates from July, 1877. Patents are granted for the term of fifteen years upon all new inventions, with some exceptions, such as foods and medicines, and are subject to an annual tax, which increases fifty marks each year of the life of the patent. The patent is issued to the first applicant, except where the application is shown to be made fraudulently. The patent office is situated at Berlin, and an examination of the inventions submitted is made by examiners somewhat as in the United States. Before issuing the patent the specification is published, and opportunity given, for eight weeks, to oppose the grant of the patent on various grounds, as fraud or want of novelty. At the end of that time, if there is no opposition, the patent is granted. As in France, the invention must be worked within the limits of the empire within three years from the grant of the patent, to preserve its validity; and in certain cases the owners of patents are required to grant licenses at reasonable royalties. Willful infringement is, under some circumstances, a crime, punishable by fine, and all infringement may be restrained by civil proceedings. — *Belgium.* All applications for patents are granted without examination as to novelty, if they conform to the prescribed form, and all new inventions, except medical appliances and medicines, can be protected by patent. Patents are of three classes: of invention, of addition, and of importation. A patent of invention issues for the term of twenty years, subject to a tax, which increases ten francs each year of the life of the patent. The patent is void if the invention is not new within Belgium, or if any description has been published or foreign patent taken out upon it before the date of the Belgian application. A patent of addition is taken for an improvement of an invention already patented, and expires with the original patent. A patent of importation issues for the unexpired term of any foreign patent, if the invention has not been commercially worked within Belgium for more than a year prior to the application. The specification must be full and exact, as in the United States, and the remedies for infringement are substantially the same as in other countries. — *Italy.* Patents are granted for the term of fifteen years, or for a shorter term, upon all new inventions except medicines. A peculiarity of the Italian law is the provision that if the invention be patented elsewhere, the Italian patent continues with the foreign patent of the longest term, if within fifteen years. The invention is required to be worked in Italy within two years, and the patent is subject to annual taxes. — *Russia.* Patents are granted for a maximum term of ten years upon all new and useful inventions. An examination of the invention, both as to novelty and utility, is made, and apparently a high standard as to both qualities is required. Patents upon inventions previously patented elsewhere are granted for only six years, or less if any foreign patent expires within that time. — *Sweden.* The duration of patents is fifteen years, or less if any prior foreign patent expires within that time, and the duration is fixed in each case by the chamber of commerce. The patent issues only to the inventor. The patent can not be impeached after it has been issued eight months, but the invention must be worked in Sweden within from one to four years from the date of the patent, to preserve its validity, and yearly proof of such working must be given during the life of the patent. — *Spain.* Four kinds of patents are granted in Spain. A patent of invention is granted for twenty years, and a patent of importation for ten years if the foreign patent is not more than two years old; a third species of patent is granted for five years to any person who will work an invention hitherto unpracticed in Spain, although known there theoretically; finally, patents of addition are granted for improvements, which expire with the patent for the main invention. Each Spanish patent covers Spain, the Balearic Isles, Cuba, Porto Rico and the Philippine Islands. All new inventions, except medicines, may be patented, and the invention must be worked within the Spanish dominions within two years from the date of the patent. — BIBLIOGRAPHY. Coke, 3 Inst., 184; Collier, *Essay on the Law of Patents for New Inventions*, London, 1808; Hands, *The Law and Practice of Patents for Inventions*, London, 1808; Godson, *A Practical Treatise on the Law of Patents for Inventions and of Copyright;* Rankin, *An Analysis of the Law of Patents*, London, 1824; Fessenden, *Essay on the Law of Patents for New Inventions*, Boston, 1822; Renouard, *Traité des Brevets d'Invention*, Paris, 1825; Reg-

nault, *De la Législation et de la Jurisprudence des Brevets d'Invention*, Paris, 1825; Carpmael, *Law of Patents for Inventions*, London, 1836; Edwards, *On Letters Patent for Inventions*, London, 1865; Aston, *A Paper on the Patent Laws;* Dircks, *The Policy of a Patent Law;* Brown, *Popular Treatise on Patent Laws*, London, 1874; Macfie, *Abolition of Patents: Recent Discussions in the United Kingdom and on the Continent*, London, 1869; Macfie, *Copyright and Patents for Inventions*, London, 1883; Chevalier, *Patents for Inventions Examined in their Relations to the Principle of Freedom of Industry;* Thompson, *Handbook of Patent Law*, London, 1882; Curtis, *Law of Patents*, 4th ed., Boston, 1878; Simonds, *Summary of the Law of Patents*, New York, 1883; Kleinschrod, *Die Internationale Patentgesetzgebung nach ihren Prinzipien*, 1855; Loosey, *Collection of the Laws of Patent Privileges*, Vienna, 1849; Gareis, *Patentgesetzgebung*, Berlin, 1879; Phillips, *Law of Patents for Inventions*, N. Y., 1887; Whitman, *Patent Laws and Practice of Obtaining Letters Patent for Inventions*, 2d ed., Washington, 1875; Hindmarch, *A Treatise on the Law relating to Patent Privileges*, Lond., 1846; Webster, *Law and Practice of Letters Patent for Inventions*, Lond., 1841; Johnson, *Patentee's Manual*, 3d ed., Lond., 1866; Walker *on Patents*, N. Y., 1888; Merwin, *Patentability of Inventions*, Boston, 1883. F. W. WHITRIDGE.

PATRONAGE, in the sense in which it comes especially within the scope of this work, is the control of appointments and employments for positions of a public nature. Broadly considered, it extends to all selections of persons for service in corporations, churches, schools and other positions not within the private business of the person to whom the patronage belongs. It may also be regarded as including honors, decorations and pensions, under aristocratic institutions. In law the power of appointment and employment usually, but not always, includes the power of promotion, removal and dismissal. It will be convenient, however, to treat these powers separately. (See PROMOTIONS, REMOVALS FROM OFFICE, SPOILS SYSTEM.)—Patronage of a character more or less peculiar arises out of civil, military and naval administration, respectively. Wherever there is a state church or an ecclesiastical establishment, there is, as a consequence, a kind of patronage unknown under the government of the United States. If we had space for pursuing the subject from the public departments down through the management of landed estates, factories, mines, ships, railroads, banks, insurance companies, and manifold other corporations in which the selection and dismissal of many subordinates is an important part of the duties of superior officials, as well as a prolific source of favoritism, corruption and extravagance, we should find the subject full of interest and importance. We can hardly go beyond its more public relations, and shall especially consider its responsibilities and abuses.—In its primary sense, in politics and the church, patronage was a friendly care exercised by a superior over those who had in some way come under his protection, calling for generosity and disinterestedness on the part of him who possessed it. Works of charity, beneficences and patriotism were said to be placed under the patronage of the great and the good; thus inviting sacrifice and support as a duty. In Rome patronage marked a peculiar social relation between the highest class and that next in order, based upon the reciprocal relation of protection and loyalty. While the more honorable application of the word is not unknown in our day, patronage is now generally accepted as implying a selfish if not a venal relation, or use of authority and influence. The patronage we are most familiar with is that which is used, more or less unscrupulously or corruptly, to aid a party, a church, a faction, a chieftain, or perhaps the official himself who exercises it, his relatives and his favorites. Yet the legal control of selections for office and public employments, when wisely and conscientiously exercised, is patronage in the worthy sense. In refusing any political connection between the government and the organizations and officials of religion, the framers of our system avoided a large amount of the most pernicious patronage by which both the churches and the civil administration of the older nations have been complicated and corrupted. So patronage under our system was still further limited by our rejection of class distinctions, social orders, titles, and a complicated system of discretionary pensions in civil life. It hardly need be pointed out that under despotic and monarchical governments this additional patronage of the crown, in the form of a power to create political distinctions of rank, to fill the high places in the church, to confer decorations, pensions and social precedence, has been no small part of the effective force and coherence of the government, as it has been of the sources of corruption. "Patronage-mongering" is a kind of criminal offense in Great Britain, against which criminal laws contain provisions. It was a maxim of Napoleon that "religion and honors are the two things by which mankind may be governed"; and even in this decade, Arthur Helps, in his "Thoughts on Government," says the conferring of honors is an important function of government. And this is not all; for that form of government which creates a landed aristocracy and a church hierarchy lays the foundation of a vast social patronage on the part of nobles and great officials, while it does not diminish the patronage incident to the ordinary civil, military and naval administration. Hardly more than this latter patronage can exist under our institutions. But it is plain that, as wealth and population increase, making government, business and society alike more complicated, the amount and power of patronage, becoming more and more social and mercenary, must greatly increase.—The civil administration of the federal government was carried on the first year with a revenue of two million dollars, and with probably less than a thousand officials:

it has now a hundred thousand. The federal postal service in the beginning required only seventy-five postmasters. Under Jackson's administration it required 8,000. Now there are more than 45,000 postmasters. The increase of state and municipal officials has been in much the same ratio. In New York city alone there are more than 2,500 civil officials under the federal government. About 10,000 officials serve there in the employment of the state and the city; the latter earning annual salaries amounting to about $10,000,000. To all these, army and navy officers and the great number of federal, state and municipal employés must be added. In order to gain some definite conception of the stupendous potency of patronage in this country, even as a mere political force, we must consider the whole body of its officials and employés, federal, state and municipal, perhaps half a million in all; the vast sums paid to them; the manifold bargains, beggings, intrigues and contentions for these places; the formidable and ever active power of removal and promotion; to say nothing of the constant and vast authority for discipline, regulation and favors on the part of those by whom patronage is wielded. There is not a state, county, city, ward, town or village, if even there be a school district or hamlet, in which patronage is not a constant political and social influence that is courted or feared. In each nomination and election, from those of the president and the governors down to those of trustees, justices and constables, the element of patronage enters as a suspected and efficient element, whether it be the patronage of existing officials who intermeddle, or the patronage—hoped for or feared—of the officer about to be created. In the eyes of political managers patronage is one of the most sure and potent of forces, never lost sight of in campaigns, and almost never recognized as under moral obligations. Candidates are regarded by the politician class as available in the ratio of their adroitness in promising and their unscrupulousness in using patronage to bribe voters, to reward electioneerers, to buy the press, and to conciliate opponents and rivals. Appearing as an element in large measure extraneous to the merits of the candidate and the interests of the voters, the influence of patronage very naturally and easily tends to demoralize and corrupt. This result is helped by the fact that no other great and venal influence in politics is with so much facility exercised in secrecy, or is so readily kept beyond fear of responsibility. Bribery by the use of money may leave some traces in aid of detection, but how can it be proved in court that a hint or hope of a place or of an official favor secured a nomination, a vote, or a supporter? How can it be proved in a court that the fear of removal makes a large proportion of our officials servile henchmen of patronage-mongers, or that hundreds voted for a member of congress, a mayor or a governor, upon some assurance—not of course in a formal promise—that the patronage of the new official would be used for the advantage of venal voters? Unworthy relatives, favorites, henchmen and dependents are appointed or hired in superfluous numbers for the public service by patronage-mongering officials; but how is it possible, except in extreme cases, to prove any wrong beyond the unwise exercise of a large and but loosely defined official discretion? There is, perhaps, no form of abuse in public affairs so easily practiced as that form of patronage prostitution which can secretly take place between a corrupt officer and a venal office seeker. One of the great evils of political life, under all forms of government, has been the abuse of official discretion in the use of patronage corruptly or selfishly. And it hardly need be said that, under the republican system in the United States—greatly as the sphere of patronage has been curtailed—it is yet one of the most potent elements of corruption and extravagance in our politics, the portentous effects of which are arousing the patriotic classes to a great effort for their removal. (See CIVIL SERVICE REFORM.) The pressure for patronage became very strong before any president yielded to it. It was great under Jefferson, and greater still under the last Adams. In 1825–6 the senate, on motion of Mr. Macon, appointed a committee to devise means for its reduction, which made an able report. The committee's report speaks of the "political machine," and urges the necessity of arresting the growing power and corruption of patronage. Five years before, Mr. Crawford, a secretary of the treasury and a candidate for the presidency, had procured the passage of a bill creating a four-years term for collectors, as Mr. Adams says, for the purpose of increasing his patronage. — It should not be overlooked that a part of the power and corruption of patronage grows out of the ability of political managers and the patronage-mongering class to tax the salaries of office holders for the payment of party and election expenses. (See POLITICAL ASSESSMENTS.) The patronage system has yet another great element of strength—the ability of party managers and the lords of patronage to compel those to whom they give offices and employment to work, vote and be obedient to their orders in all political matters. In that feature of the system, which impairs the proper self-respect and independence of the public servant, is the great source alike of the servility of our subordinate officials and of the arrogance and potency of chieftains and party managers. No element adds more than this to the fierceness of these contests for patronage in which victory gives them a following of feudal dependents. (See SPOILS SYSTEM.) The abuse of patronage has not been confined to those upon whom the law confers it, but members of legislatures, of congress and of city councils, have usurped the appointing power of the executive, for the purpose of taking to themselves the patronage for their own advantage. Nothing is more essential to good administration than a real separation, in

practice, of the executive from the legislative department, which is so carefully provided in our constitution and in that of every other enlightened nation. Indeed, the stability and perpetuity of the government depend on the preservation of the counterpoise of these departments. The officers at the head of the administration can be made to feel responsible for its good management directly—discipline can be preserved therein—only when they are able to control the selection and removal of all those below them. When presidents, governors or mayors are disposed to treat the power of selection and removal of their subordinates as so much patronage to be used selfishly in their own interest or that of their party, we know that great evils threaten the public interests. Still, when the authority and duty of selection and removal are, as they should be, left solely in the executive branch, the sense of undivided responsibility to the people is a salutary restraint. But no such sense of responsibility is felt when that power has been usurped by the members of the legislative department. The people do not regard the executive officer, nor does he feel himself responsible for good administration. The two departments secretly unite in foisting their electioneering agents, their favorites and dependents, upon the pay rolls of the treasury. Neither feels responsible for what he helped to do. — Looked at from another point of view, we see it to be most dangerous to allow legislators—who fix salaries and the number to be employed in the executive service, and whose special duty it is to expose and arrest all abuses therein—to acquire a selfish and partisan interest in the increase of the numbers and salaries of these subordinates. They have no longer the courage or independence needed for that duty. The first salary to be reduced may be that of the relative or favorite of a member; the first person that should be dismissed, his electioneering agent. Yet members of congress—and of legislatures only in less degree—have become the greatest patronage-mongers of the country; usurping control over such subordinates in order to gain the patronage of places to be pledged for votes and other support in their elections; thus becoming directly interested, for themselves and their party, in the increase of the members and compensation of such subordinates. In that way, congressmen, in duty bound to aid the high executive officers in the practice of economy, have, through their appeals and solicitations for more patronage, become a cause of extravagance and corruption alike. They go through the departments and besiege secretaries and heads of bureaus for places. Congressional patronage—usurped congressional patronage, for, legally and properly, congressmen have no patronage whatever—has become one of the most corrupting and dangerous influences in our national affairs. In no way perhaps does it appear more threatening than in connection with the power of confirmation by the senate. (See CONFIRMATION.) This congressional usurpation of patronage has not been confined to civil offices, but extends to appointments in the military and naval service likewise. It has also taken from the executive almost exclusive control of the selections of cadets for the military and naval schools at West Point and Annapolis. Many members have unquestionably exercised this usurped control patriotically and honestly. Public opinion has so overawed others that they have, with great advantage to those schools, allowed the cadetships included in their patronage to be freely competed for and to be bestowed upon the most worthy, as shown by the competitive examinations. But in a great majority of cases, the patronage of these cadet selections has been simply added by congressmen to the mass of their civil patronage, which is one of the great forces that determine congressional nominations and elections. Vague hints in various quarters, that support may gain an appointment to one of these schools, may be made to secure many votes. To gain control of as much patronage as possible before the elections, and after the elections to find places for those to whom they have promised appointments and employment as a reward for electioneering, votes and puffing, during elections, absorb no small portion of the time and thoughts of all the more unscrupulous and partisan candidates and members of congress. — The late President Garfield spoke emphatically on these points. In a speech at Williams college, he said: "Congressmen have become the dispensers, sometimes the brokers, of patronage. *One-third* of the working hours of senators and representatives is hardly sufficient to meet the demands made upon them in reference to appointments for office." In an article in the "Atlantic Monthly," for July, 1877, he says: "The present system invades the independence of the executive, and makes him less responsible for the character of his appointments; it impairs the efficiency of the legislator, by diverting him from his proper sphere of duty and involving him in the intrigues of the aspirants for office." In a speech in congress, in 1870, he made it clear that congressional pressure for patronage is as willful on the part of members as it is disastrous to the country. This is his language: "We press such appointments upon the departments; we crowd the doors; senators and representatives throng the bureaus and offices until the public business is obstructed; the patience of officers is worn out, and sometimes for fear of losing their places by our influence, they at last give way and appoint men, *not because they are fit for the position, but because we ask it.*" As a further example of the consequences of the abuse of patronage, it may be stated, upon what seems reliable authority, that at least one-third of the time of President Garfield (before his injury) was absorbed by applicants for office, and that more than six-sevenths of the calls made upon one of his secretaries during a period of three

months were for office seeking. Such are the effects in the higher departments of the government of converting the appointing power into patronage for selfish and partisan purposes. We have no space for tracing the consequences of a similar prostitution of patronage in state legislatures, city councils, or in the various grades of office throughout the country. (For a general statement of the abuses with which this prostitution is connected, see SPOILS SYSTEM.)—So vast and familiar have the evils of patronage become, that some of the American people almost despair of their removal, while many more have come to regard them as original and inevitable under our institutions. It will not, therefore, be unprofitable to refer to the same evils and the manner of their removal in Great Britain, to whose administrative system ours is most analogous. (See Eaton's "Civil Service in Great Britain.")—Wherever government purely despotic exists, offices and places are bestowed absolutely in the discretion of the ruler. Patronage, in its usual sense, can only exist where some degree of obligation to use it for the common benefit is recognized by the appointing power, and that power is, in some measure, held by great officers of state. Under the lowest forms of patronage we find offices and places salable, that is, treated as perquisites and merchandise, with but the faintest recognition of a moral obligation in the matter. We have only to go back a century or two in the history of the leading nations of Europe, to come upon a period when every grade of office and public employment and the patronage of the same were bought and sold, either openly or secretly, by kings, by princes, by nobles and bishops, by generals and admirals, by lords and those of every grade in the social and official scale influential enough to purchase or control a bit of patronage. Even within this century the English government has provided by law for the purchase, by itself, of patronage and offices (for the purpose of making them really public again), which had been for many generations private property, mere merchandise in the hands of patronage-mongers. In the British army the buying and selling of offices and the patronage of the same were openly carried on and were recognized as legal by the government, under the name of "purchase," up to 1871. English army officers generally obtained their commissions by purchasing them at the market price. The patronage of these offices had formerly been in a considerable measure a part of the perquisites of members of parliament. And when, in 1870, the attempt was made to suppress that patronage-merchandise, there were members of parliament who contended that such a system of patronage and purchase was essential to good army administration in Great Britain, just as there are now many members in our congress and many intelligent politicians who contend that civil patronage is essential to the life of parties and the management of our politics. So strongly was that theory supported in Great Britain that the bill for the suppression of patronage and purchase in the army was thrown out in the house of lords in 1871; but the abuse was in the same year suppressed by a royal warrant which superseded the old regulation on which purchase had rested. It was, however, only done on the basis of an allowance by the government to the army patronage-vendees, as having a vested property in what they had purchased. An open competition of merit, determined by examinations, took the place of patronage and purchase for gaining office in the army, and cadetships in the military and naval schools. And promotions have been generally placed on the same basis (with a certain regard for seniority), to the credit and advantage of those parts of the public service. — Almost from the organization of the state church of England, there has been a complicated system of merchantable patronage in its official life, nor is it by any means yet suppressed. Greatly as the public opinion of this country is blinded and blunted by long familiarity with the evils of patronage in our political administration, it can hardly contemplate without a shock the prostitution of patronage which long existed in that church, or even look without surprise upon the part of it which still survives there after patronage has ceased in her civil administration. Many of our party managers, who regard our vicious political patronage as original here, if not as quite defensible, affect astonishment at its counterpart in the church of England; they are too blinded or too ignorant to comprehend the fact that the same form of patronage we tolerate long existed in Great Britain, but has been suppressed there by methods which might be made equally salutary here. — The appointment of archbishops and bishops, until the present century, was there as venal, mercenary and regardless of the public interests as the creation of noblemen, the gift of pensions and the bestowal of franchises, all of which were in large measure bestowed as bribes or as rewards for subserviency to the crown or the aristocracy. George III. made his infant son a bishop. It was the custom for an archbishop on the consecration of a bishop, to name a favorite of his own, whom the bishop was to "take care of," that is, to provide with a place and a salary. The bishop imitated that example in dealing with the rector; and thus through every grade a system of vicious patronage extended, down to the beadle and the chorister. This patronage was protected by law, as in the nature of property; that of the archbishop being known as his "option." Simony and nepotism were but designations of a particular phase of patronage. The right, or privilege, of officiating in a church (as a minister, according to our phraseology) was called a "benefice," or, in popular language, a "living," a name which marks the mercenary view taken of it. The right to hold this benefice, or living, was an "advowson," which was, in other words, the patronage of the rectorship or church. That patronage of a church, the advowson, including the titles and income, was sometimes regularly bought and

sold long after the edifice had gone to decay, and the worshipers had died or scattered. The advowson (or right of filling the benefice) might be bought and many times transferred while an occupying rector was still officiating. The owner of the advowson was the patron of the benefice. This advowson, or patronage, was emphatically property, and was as fully protected by law and as regularly and openly bought and sold as cattle or grain; and with considerable limitations favorable to capacity, character and publicity, advowsons in the church of England are still generally bought and sold. The person presented by the purchaser, or the purchaser himself if he wishes to officiate, must be approved by the bishop before he can enter upon the enjoyment of his living; but the worshipers have no power to keep him out or to put one of their choice in, not even so much power of that kind as have our citizens to secure a good appointment in a city department against the will of the "boss" or the party managers. Many advowsons are at all times in the market for sale. The following is a specimen advertisement (of a very usual form) cut from the "London Times," of September, 1870: "Advowson for Sale (a Rectory), situated close to a good town in an eastern county. Situation most healthy and pleasant. Good society. Income, about £250 a year; and there is a prospect of a very early possession; excellent vicarage house, grounds, etc. Address J. B. Hill, 51 Hollywood Road, West Brompton." — What scandalous consequences followed such a patronage system in more despotic and corrupt times, Mr. Froude tells us (History, vol. v., pp. 255–257) in this language: "In the country the patron of the benefice no longer made distinction between a clergyman and a layman. * * He presented his huntsman, his steward or his game keeper. * * The cathedrals and churches of London became the chosen scenes of riot and profanity, St. Paul's was the stock exchange of the day, where the merchants met for business and the lounge; where gallants gambled and fought, and killed each other." It was the natural result of such a system of church patronage, that he who had bought the office or place in the church was regarded as the owner of it, and under the common law of England even parish clerks and sextons have freeholds in their offices. — Patronage in the church of Scotland was hardly less mercenary and disastrous. It was known as "lay patronage." John Knox in vain attempted to arrest it. It secured recognition by law, and led to scandalous acts of violence. For generations it was a prolific source of venality, favoritism and corruption, not only in the Scotch church, but in the whole civil administration of Scotland. It finally became so intolerable to the better sentiment of the Scotch church that in the first quarter of this century it caused a disruption of the church itself. Dr. Chalmers, leading the party which made a stand against patronage, secured a majority in the general assembly in 1834. A long litigation followed, in which the Scotch church patronage-mongers had the hearty sympathy of the English patronage-mongers. The courts affirmed a right of private property in church patronage. Thereupon Dr. Chalmers left the state church, and carried with him more than one-third of all the clergy of the church of Scotland. "Their once crowded churches were surrendered to others, while they went forth to preach on the hillsides, and in tents, barns and stables." (2 May's Constitutional History, p. 442.) In eighteen years more than $26,000,000 were contributed for the purposes of the new organization, now known as the "Free Church of Scotland." — Supported by such elements of venality and corruption outside of party politics, it is hardly necessary to say that patronage in the civil administration of Great Britain was far worse than any we have yet developed, or that its removal was made far more difficult by reason of the patronage-mongers of the army, of the church and of the civil administration making common cause together. Whatever reform directly threatened one, indirectly threatened all. In her civil administration every grade of office and place centuries ago became patronage in the control of somebody—of the crown, of the princes, of nobles, of bishops, of great landlords, of cabinet officers, of members of parliament, of parties and of party managers. More grossly and boldly than ever with us, unworthy men were given places, and needless numbers were foisted upon the public pay-rolls, in order to increase the amount of patronage. As with us, the public officials and employés neglected their duties in order to serve their patrons; and the most intolerable incompetency, inefficiency and corruption existed in the municipal administration. In the greed for increasing patronage, and for making it valuable to patronage-mongers and parties, the paramount tests for appointments were not fitness, but opinions, and the promise and prospect of work for the party and the patrons. — Until about the beginning of this century parliament had not become so potent in the state as to enable its members to usurp any great share of patronage. But as their influence increased, they used it to increase their patronage. George III. was the last king who was able by direct authority to put limits to that parliamentary usurpation. He used the vast patronage of the crown as relentlessly as Jackson used that of the executive for partisan ends. He also used public money, equally with patronage, to corrupt opponents, to reward supporters, to make presents to favorites, and to bribe members of parliament. Under his immediate successors, members of parliament took to themselves the largest part of all civil patronage, and they continued to hold and to use it in aid of their own elections, their party and their favorites, until the triumph of the reform policy by which it has been suppressed. (See CIVIL SERVICE REFORM.) The patronage of members of parliament finally became the greatest and the most persistent obstacle in the way of reform, just as the patronage of our members of congress is now such an obstacle; in

each country alike blinding the eyes, debauching the conscience and corrupting the morals of the members of the legislature; though such patronage here has by no means yet reached the shameless aggravation which it attained in Great Britain during the first half of this century. But with us it has one pernicious element not known, at least in this century, in Great Britain—that of political assessments, through which the patronage-mongering members of congress are able to coerce the public servants to pay ready money as well as do servile work for carrying congressional elections. In Great Britain the sale of offices in early times prevented the growth of the abuse of assessments; for who would pay a full price for an office, if, like ours, it was subject to an annual rent in the form of an assessment to be fixed at the discretion of members of parliament and party chieftains? Members of parliament were so suspicious of each other, and scrambled so intolerably among themselves for more and more patronage and a greater share of what there was, that, in mere self-protection, an officer was provided, known as the "patronage secretary," who arranged and supervised an equitable apportionment of the spoils; keeping books in which each member was credited with his share, and debited from time to time with the doles of the patronage he received. We have only reached the stage of patronage evolution at which much the same thing is done secretly and in a scramble by our members of congress, with frequent scruples and many protestations of disgust. It only requires time, however, to reach the full stage of the flaunting, shameless British development of fifty years ago. — The experience of Great Britain is especially interesting, not only as showing the results which our evolution is soon likely to reach if not arrested, but as showing how such an evil, buttressed by many elements of strength with which we are not confronted, may be overcome. For patronage, in any other sense than the mere exercise of the appointing power in the public interest alone, has, in the civil administration of Great Britain, been, with very slight exceptions, suppressed. Members of parliament have lost their usurped control over appointments, and are therefore without patronage of any kind. — After the creation of a sounder public opinion, the principal means there used for the suppression of civil patronage was the enforcement of rigid competitive examinations of fitness before appointments, by which the qualifications were tested which were required for holding the places sought. (See CIVIL SERVICE REFORM, *ante*, and "Civil Service in Great Britain," by D. B. Eaton.) Such examinations and conditions are obviously fatal to all partisan and mercenary enjoyment of patronage, and for that reason were opposed by patronage-mongering members of parliament, as they are now opposed by our patronage-mongering members of congress. — The work of patronage suppression in Great Britain was also aided by more effective laws against bribery (known as office brokerage laws) than any in force in this country. (See work last cited, pp. 182 to 189.) Our statutes make bribery to consist in giving or promising "money or something of value" for the doing of the act, as voting, appointing, etc., and they do not extend to the promising of nominations or confirmations, or to influence for procuring them. The English statutes go much further; making it a penal offense to enter into contract for, or to engage in the business of, procuring offices or places for a consideration of a corrupt nature, whether valuable or not. The promise of official influence for votes or appointments is such a consideration. Some of the most comprehensive of our decisions against bribery and the corrupt use of patronage are based solely on English precedents — facts which plainly illustrate the potency of the patronage interest in our legislation. — In the last few years there has been a rapid growth of public opinion, which sternly condemns our patronage system. Never has the levying of political assessments been so vigorously arraigned as during the present year (1888). More and more our statesmen are becoming convinced that the enforcement of that system does not even give strength to a party. Sober reflection and a more careful observance of facts are convincing them that fidelity to principles, the selection of worthy men for office, and honest, efficient administration, and not a venal and proscriptive use of patronage, are the true and sufficient sources of vigor, vitality and power in a party. British experience on the subject is securing the attention of our thinkers in politics. The enforcement of competitive examinations at the postoffice and custom house at New York city, through which the patronage there has been suppressed, by enabling the most worthy to win the places, in utter disregard and defeat of the practices and interests of the old patronage-mongers and chieftains of New York politics, has done much to convince the public that only a practicable and becoming effort is needed to achieve a suppression of patronage in our civil administration, as complete and salutary as that which has been accomplished in that of Great Britain. — In that broad sense in which patronage may be held to include the legal and faithful exercise of the appointing power, it must always exist, and must become greater with the increase of our population and commerce. What is needed is a public opinion which shall be wise, virtuous and patriotic enough to enforce such exercise of that power, when aided by the better practical methods that are available for our use. It is necessary that every official should be educated to accept, and compelled by law and public opinion to act upon, the theory that there can be no proper and legal public patronage in which any officers or citizens can have a pecuniary interest, or, in other words, that there is no more moral or legal right to use the appointing power than there is to use the public money for the private advantage of any citizen, officer or party. We must have a public opinion which treats one of these offenses as being equally

reprehensible with the other. For the legal principles applicable to this part of the subject, see REMOVALS. DORMAN B. EATON.

PATRONS OF HUSBANDRY. (See GRANGERS.)

PAUPERISM. It is not to be supposed that the essence of pauperism is anything else in America than it is now in Europe, or than it was in the states of antiquity. But, just as the conditions of poverty among the Romans, the Greeks, and the Hebrews, were widely different from those of England and France in the eighteenth century, so now the conditions of poverty in a new and advancing industrial republic like the United States, must be very unlike those which have prevailed among the Latin, the Sclavonic, the Teutonic or the Celtic races of Europe; settled as they are under ancient and fixed institutions, where the distinctions of wealth and poverty are comparatively immutable. Where class distinctions have hardened into caste, pauperism must be a different thing from that degree of poverty which prevails among a people of permanent equality, or of ever-changing inequality. The modern city and the manufacturing towns are strong examples of this fluctuating inequality, where the working man of to-day may be the industrial chieftain ten years hence; and where vast fortunes, swiftly accumulated, are suddenly dispersed and scattered throughout a multitude. On the other hand, the villages and rural districts of America, and of some European countries, offer examples of permanent equality, which, of all conditions, is least favorable to pauperism. — M. Baudrillart, in an article published in Block's *Dictionnaire de la Politique*, asserts that it is less than a century since the sphinx of pauperism began to put her destructive questions to the industrial nations of Europe. But this "riddle of the painful earth" is no modern one, though its form may have changed with the last century. The agglomeration of poverty in great manufacturing centres, like Manchester, Lyons, and the vast capital citis of London, Paris, Vienna, etc., undoubtedly accentuates and renders more perceptible the pauperism of the last half century. But is it not also true, as M. Baudrillart says, that great cities have always been sad nurseries of poverty? In Rome, from the earliest period of its urban greatness until it had been twice sacked by the barbarians in the time of St. Augustine, a period of at least five centuries, the relief of the poor was one of the chief functions of the state, and a very embarrassing one. The "corn laws" of Caius Gracchus (B. C. 123) were poor-laws; but the distribution of food under this questionable legislation was not wholly gratuitous, until Clodius the demagogue made it so, in the time of Cæsar's Gallic war. Returning from his victory over Pompey, Cæsar found 320,000 persons (the chronicles say) receiving this kind of out-door relief, in and about Rome; more than a fifth part of the whole population, if the figures were reasonably exact. He reduced them to 150,000, which was still, perhaps, one in eight of the population. The civil wars that brought Augustus to the throne raised this number to 300,000, which Augustus, in turn, reduced to 200,000; but when he gave his subjects an extraordinary donative, says Merivale, "the numbers who partook of his bounty swelled again to 320,000." (History of the Romans under the Empire, chap. xxxiv.) This careful English author supposes that the 200,000 occasional paupers mentioned by Augustus represented the whole poorer sort of citizens; while the 320,000 included those below the senatorial and equestrian rank. In any case, these enormous figures, though swollen by duplications, like the pauper statistics of modern times, show what a cancer pauperism had become in imperial Rome, which devoted a large share of its annual budget to the various methods of relief. Under the Antonines, when philanthropy and population had both increased, the number on the poor-rates of Rome is stated at 500,000. No modern city, except possibly Paris in the famine years of the revolution, or during the siege of 1871, could show so large a proportion of paupers to population. For this the simple reason seems to have been, that the familiar saying of Franklin, "If every man and woman would work four hours each day in something useful, that labor would produce sufficient to procure all the necessaries and comforts of life," was far less descriptive of ancient Rome than of great cities in recent times. — In this view, and looking back over 2,000 years, it can hardly be said, as M. Baudrillart maintains, that "the concentration of pauperism has increased with the progress of industry," except in the restricted sense that the concentration of inhabitants, which industrial progress has produced, is necessarily accompanied by a like concentration of poverty. Indeed, the same writer goes on to say that this very progress of industry has lessened the sufferings of the poor, and increased the number of those who live in comfort. This is certainly the general result, though the crowding of artisans and operatives into manufacturing centres does often produce the sanitary, moral and economic evils which we all recognize from M. Baudrillart's description. In too many cities of manufacturing industry, rents rise and wages fall; the dark and narrow street, the promiscuous lodging house, the damp cellar, become the abode of laborious poverty, as well as of lurking crime; the father of a family drinks, the wife deserts the cheerless home, the son becomes a "loafer," and the daughter a prostitute. This happens often in France, Belgium and England, and is not unknown in America; to which the operatives throng by thousands from those very cities of Europe in which the evils mentioned are most rife. It must not be forgotten, however, that the sharper contrast which cities afford of the extremes of wealth and poverty, and the

attractive force exercised by accumulated wealth in drawing together a corresponding accumulation of poverty, account in part for the startling picture of misery and degradation which manufacturing towns so often furnish. The same crime and misery scattered through a thousand rural neighborhoods would affect the public sensibility less than when it is found concentrated in Birmingham, Mulhausen or the manufacturing regions along the Rhine and its tributaries. — It is further to be noted that, while the ancient cities were capitals of conquest and of commerce, the modern capitals are much more centres of manufacture and of public resort. The present age is migratory, both for the rich and the poor, and even the classes between travel for business or pleasure much more than the rich formerly could. Rome is no longer the seat of empire, but a caravansary for virtuosos and tourists; Paris is the home of pleasure, but also, and still more, the workshop of useful industry; so, too, each in its degree, are Vienna and New York. Migration, on the large scale in which it now takes place in central and western Europe and in America, is both a source of pauperism and a check upon its growth. It is to the immigrants and their children that we look for most of the public poverty that is now seen in the United States; yet the emigration of these very persons, or their fathers, from Europe, has checked the growth of pauperism in the countries they came from. With these preliminary remarks we may come at once to the subject in hand. — In a restricted sense, pauperism is that degree of poverty for which public relief is provided; in a broader definition, it is that condition of body, or temper of mind, in large numbers of people, which makes them easy applicants for public or private relief. In the former sense, the word is a mere definition; in the latter, it points to a distinct and formidable social evil, always to be deplored, though not to be wholly avoided. In neither sense is it new to the world's history, in the earlier chapters of which we find traces that pauperism was known and felt as an evil. But as a recognized and preventable evil, as a social solecism and a public nuisance, it has never attracted so much attention as now, in all parts of the world. In early times slavery replaced pauperism, and prevented its lesser mischiefs from receiving due notice; in the Christian dispensation, until recently, the relief of the poor has been viewed as a religious duty, and these mischiefs of pauperism have sometimes been fostered in the name of religion. For a century past, the saying of Burke, that "the age of sophisters and economists has come," is certainly true as applied to this subject. The religious motive for dispensing charity has been kept in the background, while its economical demerits have been increasingly insisted on. Were human nature other than it is, the religious and philanthropic side of charity might be expected to vanish from consideration, while logic and utility should rule. But the social and spiritual affections of mankind are such that pity will always give ere charity begins, even for objects unworthy, and charity will keep on giving until good sense says "You are creating the evil you mean to cure." It has been a view of this consequence of public charity that, in recent times, has led to so many efforts for the prevention of pauperism, and so much censure on the practice of alms-giving, even for needful relief. Dr. Lieber, writing more than fifty years ago, when the founders of the English school of political economy were still living, and more influential than they are ever likely to be again, said: "In England, where wages are low, compared with the expense of living, an ordinary laborer often can not save anything against the time of decrepitude or sickness; and the children of suffering parents must suffer with them. By what means shall their present distress be relieved? The economists of the *new school*" (this was in 1831), "namely, that of Mr. Malthus, Mr. Ricardo, Mr. M'Culloch, and others, say that they are to be abandoned to starvation. But, says Lieber, "a doctrine so abhorrent to our nature is only a hideous theory, which can not enter into the law or habits of any people, until human nature shall be sunk into brutal hardheartedness. The dictates of religion, conscience and compassion enjoin upon us to give relief." Here is the whole question stated; and its solution must depend upon the wisdom and the daily details of administering those measures by which relief is now given, and in the future is anticipated or prevented. — Among the latter measures M. Baudrillart, with excellent sense, but perhaps in a manner too vague and general, specifies primary and professional instruction, combined with moral education; a better system of housing the poor, too often crowded into unwholesome lodgings, so that better sanitary conditions may permit a better moral atmosphere; the dispersing of manufactories throughout rural districts; and finally, the general progress of civilization and industry, so that increased productive power may enlarge production. In solving the problem of pauperism, he says: "To increase production is the first step; to assist equitable and humane distribution of the products, is the second, which would be useless without the first; for nothing else could insure that, where there is but little, each person should be above want." Another French writer, M. Baron, who in 1881 took the Pereira prize for an elaborate work on French pauperism, entitled *Le Paupérisme, Ses Causes et ses Remèdès*, par A. Baron (Sandoz & Thuillier, Editeurs, Paris, 1882), goes into minute details concerning these general preventives of pauperism, laying stress particularly on the means of inducing the work people of his country to deposit in savings banks, insure their lives, and by other approved economical precautions, raise themselves above the dangerous level of their present poverty, from which it is but a step, in illness, old age or vice, to the abyss of pauperism. No recent work has treated

more fully or ably of these subjects, and there is a degree of practical wisdom (not always found in economical writers) in almost all M. Baron's observations. I may except some petulant remarks which he makes concerning the "People's Banks" of the late Herr Schulze-Delitzsch, a German economist, whose services have been perhaps overrated, but who does not deserve all the scorn which M. Baron pours out upon him. — M. Baron's book is clear in its definitions, and recent in its statistics, and I shall make much use of it in what follows concerning European pauperism. His definition of pauperism in the individual (which the French call *misère*—a word carefully to be distinguished from our English word "misery," by which it is often translated) is striking, and may be quoted. He says: "Poverty, then, is not pauperism; the former is relative, the latter absolute. At Rome, when everybody was poor, there were no paupers; it was the growing luxury of some which disclosed the poverty of others. But pauperism (*misère*) is the minus side of material existence, the foot of the human ladder (*le fond de l'abjection humaine*); the pauper is confronted by this dilemma, to eat the bread of another or to die. A sad choice! either beggary or robbery or death; the degradation of alms, the dishonor of a thief, or death by starvation." — This may describe pauperism in Europe, but with us no such fatal alternative is ordinarily presented. There have been deaths from starvation in America, but they were generally suicides, or the result of mental decay; there have been many thefts for which poverty was the excuse, and there has been much beggary in some of our great cities, but neither starvation, mendicancy nor theft have *naturally* occurred in our new country because of extreme poverty. — The principles of prevention systematically developed by recent authors on the subject may be found concisely stated in Defoe, Adam Smith, and other early writers. That great pupil of Adam Smith, the younger Pitt, in a speech to the house of commons in February, 1796, while discussing a new poor law, said: "These great points of granting relief according to the number of children, preventing removals at the caprice of the parish officer, and making them subscribe to friendly societies, would tend in a very great degree to remove every ground of complaint. * * All this, however, I will confess is not enough, if we do not engraft upon the law resolutions to discourage relief where it is not wanted. * * The extension of schools of industry is also an object of material importance. The suggestion of these schools was originally drawn from Lord Hale and Mr. Locke, and upon such authority I have no hesitation in recommending the plan to the encouragement of the legislature. * * Such a plan would convert the relief granted to the poor into an encouragement for industry, instead of being, as it is by the present poor laws, a premium for idleness and a school for sloth. There are also a number of subordinate circumstances to which it is necessary to attend. The law which prohibits giving relief where any visible property remains, should be abolished. That degrading condition should be withdrawn. No temporary occasion should force a British subject to part with the last shilling of his little capital, and to descend to a state of wretchedness from which he could never recover, merely that he might be entitled to a casual supply." These remarks are all wise, and most of them are practical; but the new poor law proposed by Pitt in 1796 (which may be found printed at length in a valuable but little known work, Sir F. M. Eden's "State of the Poor," London, 1797), was burlesqued by Bentham, and did not find acceptance with parliament. In supporting it Pitt said he conceived, that, to promote the free circulation of labor, and remove the obstacles by which industry is prohibited from availing itself of its own resources, would go far to diminish the necessity of relief from the poor rates. He also recommended that "an annual report should be made to parliament, which should take on itself the duty of tracing the effects of its own system from year to year, till it should be fully matured; that, in short, there should be a yearly poor-law budget, by which the legislature would show that they had a watchful eye upon the interests of the poorest and most neglected part of the community." This suggestion has since been adopted, not only in England, but in many other countries, and in the separate states of our own country, as I shall show presently. — Of the English poor laws in general, Mr. Senior once said that they had their origin, during the reigns of Edward III. and Richard II., "in an attempt substantially to restore the expiring system of slavery." This is a remark profoundly true; and it may further be said that the subsequent legislation, even down to a very recent period, in England, was quite as much in the line of preserving class distinctions as of alleviating the distress of the poor. In this respect the pauper system of England—indeed, of all Europe—and that of the United States, differ radically. Certain unavoidable distinctions do appear in our legislation, notably those arising from immigration in the north, and from the difference of race in the southern states; but the general spirit of the American poor laws has been friendly to the advancement of the poor man. In England and France, on the contrary, the effort for centuries was to keep the poor man "in his place," that is, to keep him still poor, and use him as a prop for the comfort and luxury of the privileged classes above him. An English pamphleteer, of no great fame, but of much good sense (Charles Lamport), made these remarks in 1870 concerning the traditional treatment of the English poor, under the laws of his country: "The poor-law *theory* is, that all occupiers of houses and lands shall contribute to a general fund, localized for better administration, to make provision against the wants and claims of the destitute. Its *practice* is, that no destitute

person, however meritorious, can benefit by this organization without having to pass under something very like the old Roman yoke. On the one side of the Caudine forks, a man stands erect, self-respecting and respected, and with name unstained; on the other side he crouches, a changed and degraded being. He has become a social pariah, hopes destroyed, spirit crushed, reputation gone. Society, before it yields what it dare not refuse, so embitters the morsel by contempt that neither giver nor receiver is blessed in the act. The terms 'pauper,' 'parish,' 'poor relief,' all savor of social reproach. The poor are taught that it is virtuous to shrink from everything appertaining to the whole system. A beggar, even, will unblushingly ask for alms 'to keep himself off the parish'! On the other hand, the rich avoid the whole system as something tainted by social leprosy, and equally shrink from all but enforced contact. From father to son, through many a generation, the unconscious legacy of contempt and hard dealing has descended to us. Nothing testifies so clearly to the prevalent feeling of the upper classes as the persistent rigor of all legislation affecting the poor for 800 years. From Saxon serfdom down to modern pauperism the old key-note of contempt and isolation vibrates unchanged." — Of late years the harshness of the English system has been softened considerably. Mr. Goschen, when president of the old poor-law board in 1870, said: "It can not be denied that the more humane views which have prevailed during the last few years, as to the treatment of the sick poor, have added most materially to poor-law expenditures. Workhouses, originally designed mainly as a test for the able bodied, have, especially in the large towns, been of necessity gradually transferred into infirmaries for the sick; and the higher standard for hospital accommodations has had a material effect upon the expenditures." The process here mentioned by Mr. Goschen has been going on rapidly in Great Britain and Ireland, and, indeed, in almost every European country, since 1870. In America the same thing has happened, and even to a greater extent. Whatever success has followed the attempts to regulate pauperism, either in America or Europe, has been gained by reversing the English practice of suspicion, contempt and abasement; by classifying the poor according to their real character and needs, and treating the money for their relief as an insurance fund, to which they or their representatives had contributed their full share. The poor rate is, properly, an insurance premium; the poor-law system of any country should be what Mr. Lamport desires to make that of England, a "National Friendly Society." That the plague of pauperism has never spread widely in America is due mainly to our institutions, and the opportunity which is offered to the poor man; that it has been controlled and diminished, where a dense population and the varied competitions of industry had given it a foothold, must be ascribed, in part at least, to measures such as Mr. Pitt recommended, enforced in a country where external circumstances have made it easier than it ever has been in England. It was certainly one of the strangest vagaries of the reasoning faculty which led Englishmen, in the early half of the present century, to deny that public charity was a duty, or even an admissible interference with individual duties and the laws of political economy; yet so common was this view, fifty years ago, that Edward Livingston, in the introduction to his "Penal Code for Louisiana," felt called upon to stop and refute it. He pointed out, what everybody admits in practice, that every community owes a social duty to the individuals that compose it, and is bound to guarantee them their lives and property; that the obligation to protect life is greater than any other, since all the rest depends upon it; and that the prevention of death by poverty is as much a public duty as the repression of murder is. From this impregnable position he proceeded to develop his own ingenious and mainly correct system of the administration of public charity. — Josiah Quincy, of Massachusetts, a contemporary of Edward Livingston, gave his attention even more directly to the question of pauperism. In a report to the Massachusetts legislature, in 1821, he recommended "placing the whole subject of the poor in the commonwealth under the regular and annual superintendence of the legislature," thus anticipating, by more than forty years, the course that has since been adopted by all the larger and more important states in the Union, and is likely to become the universal American policy. The creation of boards of charities in Massachusetts in 1863, in New York and Ohio in 1868, in Pennsylvania, Illinois and Rhode Island in 1869, and in Wisconsin and other states in more recent years, is the modern interpretation of the recommendation made by Mr. Quincy to the Massachusetts legislature. The establishment of these boards has resulted in a much fuller knowledge of pauperism in America than could before be obtained. Co-operating with thousands of local officers, and with the general tendency of American ideas and institutions, they have labored to reduce pauperism to its lowest terms, to ameliorate the condition of all the dependent and defective classes, and to prevent the formation or continuance of that permanent caste of the poor which is the curse of European civilizations. The experience of Massachusetts and of other states shows that this is possible to a great extent. In the midst of the activities, generous or base, and the distracting turmoil of American life, it is cheering to find that we are really making progress in this direction; that we have not only abolished slavery and the political distinctions founded thereon, but are steadily advancing toward emancipation from the most hideous forms and consequences of the pauperism that everywhere replaces slavery when first abolished. The so-called "feudalism of capital" —a vague phrase, which yet has a recognized

shade of meaning—does something to perpetuate pauperism, but the material advantages which organized capital gives to the poor, are working, on the whole, against the increase of paupers. This is seen even in English manufacturing towns, and still more in those of America. — Historically speaking, there is a certain connection, though not a very close one, between the American poor laws and the evil with which they deal, and the poor laws of England and pauperism there. Mention has been made of the earliest legislation of England, but the progressive steps of the system now existing there may be more definitely noted. It is less than three centuries since the law of England distinctly made provision for the support of the poor at the public charge. By an act of parliament in 1572 the office of overseer of the poor was established, and by the act of 1601 (43 Elizabeth) a general plan of relief for the poor was adopted and enforced throughout England. But there were laws and customs bearing more or less directly on the condition of the poor, and dating back, according to Sir George Nicholls, to the time of Athelstan, nearly a thousand years ago. It is worth noticing that most of these ancient laws are penal in their character rather than charitable, being aimed at the evils of idleness and vagrancy, and therefore particularly numerous, when, from any great social change, like the emancipation of the serfs in the time of Richard II., or the breaking up of the monasteries under Henry VIII., the tendency to vagrancy had grown stronger. Thus, the insurrection of Wat Tyler in 1381 (which was a servile war, and, like most servile wars, was occasioned by a partial emancipation of the serfs), was followed in 1388 by that oft-cited statute, 12 Richard II., which is sometimes called the origin of the poor laws of England and America. Again, the dissolution of the monasteries in 1536–9 was both preceded and followed by cruel statutes against vagrancy. The statute 22 Henry VIII., cap. 12, in 1531, punished vagabonds with the lash, till they were "bloody by reason of such whipping"; and the still more cruel statute, Edward VI., cap. 3, punished them by branding and by selling into slavery. But these laws were found too extreme, and therefore ineffectual to repress beggary, and they were followed, even during Edward's brief reign, by a more humane law, which provided for the choice of collectors of alms in every parish, whose business it should be on Sundays to "gently ask and demand of every man and woman what they of their charity will give weekly toward the relief of the poor," and to "justly gather and truly distribute the same charitable alms weekly to the said poor and impotent persons." We should prefer to consider this merciful statute, rather than the barbarous enactments of an earlier day, as the origin of our American poor laws. It was continued by special acts in the reigns of Mary, of Philip and Mary, and of Elizabeth. The latter, in the fifth year of her reign (1562), decreed a compulsory tax, "if any person of his froward or willful mind shall obstinately refuse to give weekly to the relief of the poor according to his ability." After a course of gentle exhortations by the parson, the church-wardens, the bishop and the trial justices of his neighborhood, the affair ended in a commitment to jail, if "the said obstinate person" should resist all these blandishments. This is the first instance of a compulsory poor rate; and it was followed, ten years later, by an act authorizing justices, among other things, to appoint *overseers of the poor*, "and if a person so appointed shall refuse to act, he shall forfeit ten shillings." This stand-and-deliver kind of benevolence was carried out more completely toward beggars, whose offense was made a felony, and was visited with whippings, diversified with branding, confiscation and hanging. Sir George Nicholls observes, with simplicity, that "the act is framed with great care, and comprises all the chief points of poor-law legislation suited to the period;" adding, that these points are set forth with a clearness "which *leaves no room for doubt as to the intentions of the legislature in any case.*" Certainly; the provisions against vagrancy were likely to carry conviction to the wayfaring man; and a person locked up in jail till he should show mercy to the poor would soon learn how sacredly charity was regarded in England. — The act of 1601, better known as 43 Elizabeth, is the actual foundation of the English poor laws, and of those in force in the United States. It provides for the employment, either voluntary or compulsory, of poor children and able-bodied adults, and "for the necessary relief of the lame, impotent, old and blind, and such other among them being poor and not able to work." To support the expense of this, a tax was laid on every inhabitant and owner in every parish in England. About sixty years after the death of Elizabeth, when the public relief of the poor had been developed into a system, another important law was passed. This was the settlement act of 1662, giving the power of compulsory removal, from any parish, of poor persons not legally settled therein, and in a certain general way defining what constitutes a pauper settlement. On these two pillars—the 43 Elizabeth and the 14 Charles II.—rests the subsequent legislation on these subjects in England and the United States. But so materially has the course of legislation been modified in America by the great difference existing between our circumstances and those of the mother country, that it is impossible to draw a close parallel between our poor laws and those of England, either in their aim, their details or their results. These laws in England were made necessary by the presence of a great and persistent class of poor persons, many of whom were also vicious characters, needing all the restraints of the law. Hence the severity of the early statutes against vagrants, laws which were at first the germ of the whole poor law system, and have made no inconsiderable part of it. But in America no such pauper class existed at the outset, and our arrange-

ments for relieving the poor have been such as to prevent the creation of such a class. It was, in fact, to make room for the poor cottagers of England, as well as to seek freedom for their religion, that John Winthrop and his followers colonized New England. In a paper written before he set sail for Boston in 1629, Winthrop said: "This land [of England] grows weary of her inhabitants, so as man, who is the most pretious of all creatures, is here more vile and base than the earth we tread upon, and of less price among us than a horse or sheep. Many of our people perish for want of sustenance and employment; many others live miserably, and not to the honour of so bountiful a housekeeper as the Lord of heaven and earth is, through the scarcity of the fruits of the earth. All our towns complain of the burden of poor people, and strive by all means to rid any such as they have, and to keep off such as would come to them. I must tell you that our dear mother finds her family so overcharged as she hath been forced to deny harbor to her own children; witness the statutes against cottages and inmates. And thus it is come to pass that children, servants and neighbors, especially if they be poor, are counted the greatest burthen, which, if things were right, would be the chiefest earthly blessings." To make things "right" in this respect, America was colonized, and for 150 years there was little pauperism in these colonies. But the French war of 1754–63, the revolutionary war, and the disturbed state of Europe from 1788 to 1820, led to a considerable development of pauperism in the new republic of Washington, Adams and Jefferson. Since 1820, though the number of our poor has greatly increased, the proportion of paupers to population has not, on the whole, been greater than it was from 1783 to 1820, if we may trust the meagre statistics available for the earlier period. Of late years there has been much complaint that "the rich were growing richer, and the poor poorer," and, relatively speaking, this is true, as it generally is in civilized communities. But, as compared with the standard of riches and poverty a hundred years ago, in America, and from that time to 1825, the American poor man has been growing generally richer in a remarkable degree. Before 1825, great fortunes were very rare among our people; while the mass of the farmers, mechanics and laborers, north, south, east and west, were pinched and straitened to a degree that would now excite universal discontent, should those good old times return. Whoever has read the biography of Abraham Lincoln, or has learned the habits of life among the country people of Ohio, Pennsylvania or New England, eighty or ninety years ago, will understand what is meant by the common level of poverty among them. Their firewood was cheap, and their liquor was abundant; but their dwellings, their food, their garments, their means of education, travel and amusement, were very inferior to those which the same class of persons now enjoy; and in proportion to the population, pauperism was as common, if not quite so obvious, from 1778 to 1818, or it has ever been since. The researches of Quincy and others in Massachusetts indicate this; and where there has been of late years any relative increase of pauperism, it has been almost wholly in the persons of foreign parentage. That there has been an absolute decrease of native pauperism may be seen by the experience of my own town, which is not unlike that of most country villages in New England. In 1833 Concord, in Massachusetts, had about 2,000 inhabitants, of whom not more than fifty were foreigners. In 1883 it has more than 3,300 free inhabitants (besides 650 prisoners), of whom not less than 900 are either foreign-born or of foreign parentage, chiefly Irish. The number of paupers in Concord was actually greater in 1833 than it is now, when the population has gained 65 per cent.; yet more than half the present pauperism is among that class which has come into the town in the last fifty years; so that the 1,950 native-born inhabitants in 1833 must have furnished twice as many paupers as do the 2,400 native-born in 1883. In fact, two-thirds of the abundant pauperism of Massachusetts, is found among the immigrants of the last thirty years, and their descendants. — The census tables of 1880 do not show this great excess of paupers of foreign parentage in Massachusetts, nor perhaps in any State; because these tables do not, in fact, give even an approximation to the truth concerning American pauperism. In Massachusetts, for example, the census gives the inmates of almshouses, June 1, 1880, as 4,469, and the out-door paupers as only 954; whereas, by authentic official returns, July 1, 1880, there were not less than 12,000 out-door paupers receiving aid on that day. The average number of the out-door poor in Massachusetts is never less than three times the number in poorhouses; and has sometimes, within the past ten years, risen to be more than five times as many. The census of 1880, therefore, in leaving out of view more than nine-tenths of the out-door poor, in Massachusetts and other States, vitiates its own value for any statistical purpose. Indeed, Mr. Wines says in the preface to his meagre table (Compendium of the Tenth Census, p. 1666), "It is almost, if not quite, impossible to obtain the statistics of pauperism. The in-door poor can be found and counted with comparative ease; but how are we to know when we have succeeded in finding the out-door poor? All that has been attempted in the present census, therefore, has been to give as accurate an account as possible of the almshouse population." And this he states in his table (p. 1675) as 67,067; the whole population of the country being then 50,155,783. If we could assume this proportion of almshouse or workhouse population to the whole people, as the true test of comparative pauperism, then Ireland in 1880, with 5,327,100 inhabitants, and an average of 54,946 in workhouses, would have *eight* times as much pauperism as the United States; while England, which in 1880, with a population of

25,323,000, had 180,817 in-door paupers, would have nearly *six* times as much pauperism as the United States. In fact, no combination of figures, in the present state of human knowledge, can show with much exactness what is the relative prevalence of pauperism in countries differing widely in accumulated wealth, in natural plenty or want, in commercial facilities and in political institutions; but if we are to compare the declared paupers of one country with those of another, or of one American state with another, the best standard is not the relative number of either the in-door or the out-door poor, but rather the proportion which the aggregate of both classes bears to the whole population. — Now, the state of Massachusetts in 1880, with a population of 1,783,085, or about one-third that of Ireland, had an average of about 25,000 paupers of both classes; while Ireland had about 114,000 paupers of both classes; so that pauperism in Ireland, thus shown, was less than twice as common as in Massachusetts. In England, with a population of 25,323,000 in 1880, there were 808,030 paupers of both classes; so that pauperism in England would seem to be, to that in Ireland, as 46½ is to 31; and, to pauperism in Massachusetts, as 71 is to 31, or more than twice as common. Yet this comparison is found to be unjust; from the fact that the pauperism of England and Ireland is evidently more habitual and permanent than that of Massachusetts. So that the corrected comparison would perhaps make English pauperism *six* times as frequent and chronic, and Irish pauperism *five* times as frequent and chronic, as pauperism in Massachusetts is, although the density of population in that New England state is now about 220 to the square mile, while in England it is 436, and in Ireland 163 to the square mile. If a dense population and devotion to manufactures are, by themselves, favorable to pauperism, therefore, Ireland ought to have fewer paupers than Massachusetts, in proportion to her people. — In truth, the political institutions of a country, the distribution of its land and its movable property, and the inbred spirit of the people, have more to do with the prevalence of pauperism than the growth of manufactures, or the method of administering relief. French pauperism (though by no means so much less than the English plague of that sort, as is commonly thought) is now less constant and pinching than it was before the revolution; because the land of France is more equally divided, and the political institutions are less favorable to caste and privilege than they were. For a like reason Swiss pauperism has never been so enormous as that of France or England; though the general atmosphere of an old civilization, like that of all Europe, is more likely to breed paupers than is the unbreathed air of a new country like the United States. — If I were to estimate the number of paupers in our whole country, I should not set it at more than 800,000 persons at any one time, and perhaps 1,000,000 different persons during the year, who, in our population of some 55,000,000, are forced to eat the bread of others, as M. Baron says. This would be less than a fiftieth part of our people; while in Ireland the corresponding proportion would be at least a tenth, and in England not much less than a tenth. In France the proportion of the population of 36,000,000 who at some time in the year have received public aid, is perhaps between one-fifteenth and one-twentieth. The mere count of numbers and ratios, however, as I have observed, does not show the true relation, in this respect, between one country and another. A land of high civilization will generally appear to have more paupers than a country like Russia or the states of South America, where the general lack of civilization among the multitude obliterates to a great extent the line between paupers and the respectable poor. It is strictly true that the American pauper who retains his mental faculties, and many of those who do not, are better situated, in almost every respect, than the peasants of Russia, or the semi-barbarous freemen of Mexico, Peru and Brazil. The population of the Tewksbury almshouse, which has of late been industriously held up to public pity as unfortunate beyond any community in the civilized world, is, in truth, so far as wasting disease, decaying age and mental disease will permit, more comfortable than two-thirds of the self-supporting inhabitants of Ireland, and in a better material condition than a large part of the colored, or even the white, people of our southern states. And it must not be forgotten that for a great proportion of our American paupers—who are, more than in most countries, the persons wholly incapacitated, from age and bodily or mental infirmity—the same causes that have made them dependent have deadened their susceptibility to the degradation which pauperism imposes on its victims. "To eat the bread of another or to die," is not a sentence deeply felt by the congenital idiot, the demented lunatic, or the incurable invalid, who compose so large a quota of the inmates of American poorhouses. This is a fact often lost sight of by writers on the subject, who have not much practical acquaintance with the poor. — The real stress of pauperism is in the burdens and penalties it lays on whole classes of industrious people, not so much by the tax which public relief imposes, as by the disqualification and moral discouragement it makes inevitable. "The *destruction* of the poor is their poverty." M. Baron shows in a striking manner, by an ingenious calculation, how unavoidably myriads of the French artisans and laborers must leave their families, or see themselves each year in the slough of pauperism. He says, with an eloquence that rises less from the language than from the pathetic fact signalized, "Sickness, casualty, old age and death are to us but phrases; but the proletary is stung to the heart by fear of them; if he escapes some, he can not avoid the others; and each one of them strikes for him incessantly the fatal hour of pauperism. Death, in particular, leaves behind

it numberless deprivations, of which a simple computation will give us a glimpse. France had in 1876, 36,905,788 people; the number of the married of both sexes being 15,156,170. It is below the truth to estimate half this number as owners, occupants, employers of labor, or persons engaged in trade or the liberal professions; leaving in the second half, operatives, day laborers, artisans, small employers, and domestics, who certainly in the aggregate number more than the first half. This last enumeration, then, contains at least 7,500,000 married people. The general mortality of France ranges from 23.40 in a thousand to 23.16; but for married people it is fair to take the lower average mortality computed by the friendly societies, 15.20. Consequently, each year removes from this aggregate of 7,500,000 not less than 114,000 fathers or mothers. Let us reckon up, then, all the miseries that in a single year accumulate in these poor households, and see whether it is not strictly true to say, with the English economists, 'Death is the mother of pauperism' (*mors miseriæ mater*)." — Nevertheless, as M. Baron points out, these inevitable causes of pauperism, sickness, accidents, old age and death, may be alleviated in some measure by life insurance, by deposits in savings banks, by membership in friendly societies, and by other methods of providing for the future, which are so common in America, and as yet so rare among the workingmen of Europe. He devotes half his book to a consideration of these economic safeguards against pauperism; and it is in this direction, also, that the governments of Europe, as well as philanthropic individuals, are moving at present. The renowned statesman of Prussia, Prince Bismarck, having raised his country into an empire, and secured the military preponderance of Germany in Europe by his favorite prescription of "blood and iron," long continued, is now seeking to guard the poor subjects of the German empire from pauperism, by a series of compulsory and co-operative economies, for which his his administrative subordinates are framing laws. These governmental measures for making the German workingman frugal and sober under legal penalty, and for compelling capital to take its share in accumulating insurance funds against pauperism, are not, as I write, fully matured; but, we shall soon see what shape they will take, and how effective they are likely to be. The English, who do nothing of this sort by legal compulsion, except the exaction and administration of the poor rates, but whose aim is to encourage saving among the poor, are doing much in that direction, by their postoffice savings banks, and by the stimulation of all sorts of mutual aid societies and other forms of co-operation. A Hampshire clergyman, Rev. W. L. Blackley, has recently published a paper in the "Nineteenth Century," wherein he proposes that a large proportion of the poor rates and of pauperism be avoided by a legal obligation that every youth shall, from eighteen to twenty-one, or thereabouts, pay to the government (say through the postoffice savings bank department) the sum of £15 once for all, or 2s. per week for three years, and then be *poor rate free for life*. This would, on the average, fully suffice to allow a *repayment*, in the form of 8s. per week during sickness, at any period, and a pension of 4s. per week during the remainder of life after attaining the age of seventy, according to the calculations of Mr. Blackley; who shows that, under the present system of poor rates, the law actually compels the provident and industrious to pay a great deal *more* than £15 each, in a lifetime, for the lazy and the vicious. In order to prevent imposture and false claims of sickness, he would have applications for repayment, under his plan, left in each case to a local jury of persons *interested in preventing imposture;* as, for instance, either to a specially appointed committee of rate payers, or to the existing boards of guardians, with the aid of local medical men, who now administer the legal relief under the poor laws. There is practical good sense in these suggestions. — Of the two modes of public aid which the English designate as *in-door* and *out-door* relief, the latter is everywhere and always the more common; for there never can be almshouses, workhouses, hospitals, etc., enough to receive all the poor at any season, or half of them in seasons of special destitution. M. Baron, contrary to most English and some American authorities, favors out-door relief, or what the French more properly call "aid to the family," *secours à domicile*, rather than the strict application of the "workhouse test," or the multiplication of hospitals and infirmaries. I have long held the same opinion, and for the same reasons, mainly, which this French writer now advances. Out-door relief is often abused, and these abuses are most to be guarded against in democratic countries; but it is when well administered, as it easily may be, not only more humane and effective, but less costly, than in-door relief, which involves the building and keeping up of great establishments. Both methods are indispensable, and each serves to correct the abuses of the other. — The cost of pauperism to the public treasury varies greatly in different countries. In Great Britain and Ireland the annual cost of the public poor is nearly $50,000,000 for 35,000,000 of people—say $1.50 per capita for the whole population. In France the cost does not exceed $1 per capita, and in Germany is even less. In New England and New York the annual cost is nearly $1 per capita; in the more southern and western states it ranges from seventy-five cents down to twenty-five cents, or even less, per capita. I should estimate the average per capita cost for the United States at fifty cents or less, that is, from $20,000,000 to $25,000,000 in a year for the whole country. Even in European nations this cost is not a great burden when compared with the yearly army and navy estimates; and it can hardly be said that, in America, the pecuniary burden of pauperism is seriously felt. Its social and moral evils are grievous, however; and richly will he

deserve of mankind who shall show us how to check them. F. B. SANBORN.

PEACE. Says de Maistre: "History unfortunately proves that war is, in a certain sense, the habitual state of mankind: that is, that human blood must be shed, here or there, without interruption on the earth; and that a state of peace is, for each nation, but a respite." Is this true? When God created the world, did he hand it over, forever, to the destroying angel? Is there no means to preserve peace among the nations? A means to prevent war, generally, would be to sanction, as an inviolable principle of public law, that each state is independent and free, and that no state has a right forcibly to meddle with the constitution or government of another state. A state is a society of men which alone can rule and dispose of itself; to meddle with its affairs, whatever they be, is to render uncertain the autonomy of all states; it means to scatter the seeds of war, which sooner or later will germinate and bear the most bitter fruit. It will be remembered, that on Aug. 10, 1791, Mirabeau being then president of the constitutional assembly, some Quakers appeared before the bar of that body and asked to be permitted to live under the protection of the laws of France, but reserving in their own favor the condition, that they should never be compelled to go to war. With admirable good sense, Mirabeau answered them, amid applause: "* * If I ever meet a Quaker I shall say to him: 'My brother, if thou hast the right to be free, thou hast the right to prevent thy being made a slave. Thou wantest peace? Well, it is weakness which invites war: a general resistance would be universal peace.'" A general resistance of all states against any intermeddling in the affairs of others would be one of the greatest guarantees of peace in the world. Thus, in some way a federation of free states would be formed, of states which desired to remain free, and which proclaimed as an unalterable rule of international law the principle of non-intervention. — The reciprocal independence of the nations thus proclaimed and assured, we would see the burden of standing armies, which lead to that terrible, inexorable tax, the tax of blood, but nevertheless the most indispensable of all taxes, disappear. This tax does not take from the contributor simply part of his income, or his entire income, a part of his capital, or even his whole capital, but it takes liberty and life from him; it has become the indispensable condition of political societies. The liberties of nations could not but gain by the abolition of standing armies; for history teaches us, that standing armies are an eternal danger to the liberties of nations. "Regular troops (*miles perpetuus*)," says Kant, "being always ready to act, incessantly menace other states, and incite them to increase their number of armed men *ad infinitum*. Such rivalry, an inexhaustible source of expense, which makes peace more onerous than a short war, sometimes even leads a state into open hostilities with the sole view of getting rid of so painful a burden." The suppression of standing armies would, therefore, be one of the most powerful means to preserve peace. — One of the greatest obstacles to the maintenance of peace among nations has been the facilities to feed war which credit procures. It is war that invents those loans by means of which a warlike people finds at a given hour an immense lever, great sums of money, to transform the spades which render the soil of the country fruitful, into instruments which devastate the fields, destroy the cities, and decimate the population. It would be well to admit, as a principle of international law, that the loans effected in a state or abroad, and not destined for the economical wants of the state, should be considered as a menace to the other states, and that it would authorize the latter to form a league against the state which should allow itself to take measures involving an attempt on their security and their independence. — Without pretending to contradict the principles which Mirabeau caused to triumph in his celebrated discussion on the right to declare war, might we not introduce a guarantee into political constitutions, by making, at least to some extent, the consent of the subjects of a state a condition to a declaration of war? Shall the sovereign have a right to dispose, at his will, of the lives and the savings of several generations, for the sake of quarrels which the people frequently do not understand? The answer is well known which a prince of Bulgaria gave to an emperor of the orient, when the latter proposed to him to settle their differences in single combat: "Would a farrier who had a pair of pincers take the red-hot iron from the furnace with his hands?" We wish means might be found to lay the following questions before the people of a country before a war is undertaken: "Who wants the war? Is it the nation? Is it the government? Does the nation want to see its ports and its workshops closed, its commerce diminished, perhaps even annihilated, its industry ruined, and its wealth pass into the hands of others? Does the nation want that now and forever new taxes and duties be added to the duties and taxes with which the nation is already overburdened? Does the nation want its children taken away, to make them live a life of fatigue and danger, of sacrifices and resignation, to make them shed their blood in battle? Does the nation want that even those of its other children, who had paid already their tribute to the fatherland, should be taken away once more, on the day after they had again crossed the paternal threshold?"* — May a system of international arbitra-

* The preceding only applies to wars of aggression, and in such cases most constitutions require the consent of the national representatives. Even when the constitution attributes to the king the right to declare war, this does not mean that the war is the result of the royal will, but only that it is one of the king's functions (and not, for instance, one of the functions of a minister or prefect) to sign the act. The right of defense, in case of an attack, is too evident, and is therefore not mentioned.

tion be relied on as a means to preserve peace among nations? We can not consider that means as effective. With the small nation of the Greeks the amphictyonic council was unable to preserve a state of peace; no modern confederation has escaped civil war; and can we hope that the confederation of the nations of Europe would be more fortunate? We forget that passion is the principal cause of war; and can we think that passion would submit to arbitration? Moreover, if arbitration has no sanction, it does not mean anything; if it have a sanction, that sanction is war.* — Whatever may be thought of the means to preserve peace which we have just indicated, the fact remains that war exists. We need not examine whether it is just, useful or necessary, as an illustrious philosopher (Cousin) declared it to be. All are agreed that war should be terminated as quickly as possible, and the instrument of peace be signed. That instrument is called a *treaty* by the law of nations, and from the moment of its conclusion all hostilities should cease. Generally it is the victor who dictates the conditions of the peace; it is also a principle, that in case of difficulties all obscure and ambiguous clauses must be construed against him. — The power to make peace, which is generally accorded to the heads of states by the constitutions of the latter, does not necessarily carry with it the right to make concessions of territory. Thus, the assembly of Cognac declared that Francis I., although he had the absolute control over peace and war, could not, by the treaty of Madrid, alienate any part of his kingdom. — The violation of the treaty of peace by one of the parties, is not necessarily accompanied by a resumption of hostilities. According to international usage, official cognizance is taken of the rupture, and all rights are reserved for the future. — The most celebrated treaties of peace in modern times are the treaty of Westphalia (1648), which put an end to the thirty years war; the treaty of Utrecht (1713), which closed the war of succession in Spain; the treaty of Vienna (1815), which concluded the wars of the empire; the treaty of Paris (1856), which ended the oriental war; and the treaty of Frankfort (1871), which put an end to the Franco-German war. All these treaties were closed only after terrible wars, which had cost streams of blood and the wealth of the people.

EUGÈNE PAIGNON.

PEACE CONGRESS. (See CONFERENCE, PEACE.)

PENDLETON, George H., was born at Cincinnati, O., July 25, 1825, was admitted to the bar, was a member of the state senate in 1854–5, and a democratic congressman 1857–65. In 1864 he was the democratic candidate for vice-president, and was defeated. (See DEMOCRATIC-REPUBLICAN PARTY, VI.; ELECTORAL VOTES, XX.) In 1868 he was strongly, but unsuccessfully, supported in the democratic national convention as a candidate for the presidency. He then became interested in railroads, and abandoned politics for the time. In 1879 he became United States senator from Ohio for six years. (See CIVIL SERVICE REFORM.)

A. J.

PENITENTIARY SYSTEMS. (See PRISONS AND PRISON DISCIPLINE.)

PENNSYLVANIA, one of the original states of the American Union. The English claim to the territory of which it is composed rested on the same grounds as in the case of New York and New Jersey, discovery by the Cabots and conquest from the Dutch. (See those states, and UNITED STATES, I.) The capture of New Amsterdam was held to carry with it the right to Pennsylvania and Delaware, the latter of which had been originally colonized by Swedes and conquered by the Dutch. (See DELAWARE.) — William Penn, an English Quaker, possessed a very considerable influence with Charles I., partly because of the services of his father, Admiral Sir William Penn, and still more because of the favor in which he was held by Charles' brother, the Duke of York, afterward James I. This alliance of the Quaker and the Roman Catholic, both dissenters from the church of England, non-jurors, and harassed by penal laws, was not at all uncommon at the time. Penn had been trustee for one of the Quaker proprietors of New Jersey, and thus seems to have conceived the idea of a distinct Quaker colony in North America. March 4, 1681, he obtained from the king a patent for "all that tract or parte of land in America," bounded on the east by the Delaware river, from "twelve miles distance northwards of New Castle towne," and, if the Delaware river should not reach latitude 43° north, then by a due north line from the head of the river to the northern boundary; on the north by latitude 43° north; on the west by a north and south line five degrees west of "the said eastern bounde"; and on the south by latitude 40° north, to its intersection with a circle of twelve miles radius drawn around New Castle. The province was to be called Pennsylvania; and the payment therefor was to be two beaver skins annually. — As laid down in the charter, the northern boundary would have run across the middle of the present state of New York, and the southern boundary would have lain north of the capital city, Philadelphia. Necessity produced the ingenious idea that "to the beginning" of any degree of latitude was only to the end of the next preceding degree; and Penn and his descendants, accepting latitude 42° as the northern boundary, claimed latitude 39° as the southern boundary, thus taking in the two noble bays of Chesapeake and

* Arbitration can be employed only in cases involving material interests, and in that case all European nations will submit to it in the future. Is there any material interest which is worth the milliards which war actually costs? Thus, there will be no more fighting but for honor or for a sentiment, a passion; but what can arbitrators do in such a case?

Delaware. Lord Baltimore struggled to restrict Penn to latitude 40°, and the dispute was not finally compromised until 1762, when the Penns, by giving up part of their southern claims, succeeded in securing their capital and a free access to Delaware bay. In 1780 the western boundary, five degrees west of the eastern, was run by commissioners from Pennsylvania and Virginia. By resolution of Sept. 4, 1788, the congress of the confederation relinquished to Pennsylvania the jurisdiction over the triangular strip of land in the northwest, north of latitude 42°, and west of New York, which gives the state access to Lake Erie; and Jan. 3, 1792, the new congress authorized the president to issue letters patent, conveying the territory named, to Pennsylvania. (See also WYOMING). — Penn having acquired the three counties on the Delaware from the duke of York (see DELAWARE), these were kept in close relation to Pennsylvania until the outbreak of the revolution, when Delaware became a distinct state. Penn gave his new province four various schemes of government, in 1681, 1682, 1683, and 1696; and Oct. 28, 1701, he gave it the final charter of privileges, under which it lived until 1776. Under this the governor was appointed by the proprietor; the assembly, of one house, was to be chosen annually by the people; and sheriffs and coroners were to be appointed by the governor out of a double number of candidates selected by popular vote. In spite of many conflicts between governor and assembly, the charter, on the whole, worked well during its existence. One of its evil features was the reservation of quit-rents to the proprietors on land sold; and these were abolished in 1779, the assembly voting £130,000 to the proprietors in compensation for them. — CONSTITUTIONS. June 14, 1776, the last charter assembly adjourned until Aug. 26. In the meantime a state convention at Philadelphia, July 15–Sept. 28, called by the revolutionary committees, framed a state constitution, which went into force without a popular vote. It provided for an assembly of one house, chosen annually by the freemen over twenty-one who were tax payers; for a council of twelve persons; for a president [governor] chosen annually by joint ballot of the council and assembly; and for a "council of censors," of two from each city and county, to be chosen by popular vote every seventh year, and to inquire into the conduct of state officers and into violations of the constitution. — A new constitution was framed by a convention at Philadelphia, Nov. 24, 1789–Feb. 26, 1790, Aug. 9–Sept. 2, 1790, and approved by popular vote. It divided the assembly into a senate chosen for four years by counties, according to tax-paying inhabitants, not less than fifteen nor more than thirty-four in number, and a house of representatives chosen annually in the same manner as the senate, not less than sixty nor more than 100 in number; it provided for a governor, to be chosen by popular vote and to serve three years; it made judges removable by the governor on the address of two-thirds of each house: and it abolished the council of censors. — A third constitution was framed by a convention at Harrisburgh and Philadelphia, May 2, 1837–Feb. 22, 1838, and was ratified by a close vote, 113,971 to 112,759. It changed the term of senators to three years, and that of the judiciary from good behavior to fifteen years for the supreme court, ten years for presiding judges of lower courts, and five years for their associates; it greatly diminished the governor's patronage; and it provided for amendments by their passage in two successive legislatures and their ratification by popular vote. In 1850 the judiciary was thus made elective. In 1857 the number of the house of representatives was fixed at 100, the senate was to be chosen by districts, and the legislature was forbidden to loan the credit of the state. In 1864 the right of suffrage was secured to qualified electors in the volunteer service. — The present constitution was framed by a convention at Harrisburgh and Philadelphia, Nov. 13, 1872–Nov. 3, 1873, and was ratified Dec. 16, 1873, by a popular vote of 293,564 to 109,198. It fixes the number of the senate at fifty, to serve four years, and of the house at 200, to serve two years, both to be elected by districts; forbids the legislature to pass special laws on a number of subjects, nor in any case without thirty days' publication; and makes the governor's term of office four years, and that of the supreme court twenty-one years. It is notable that it provides for the trial of contested elections of electors of president and vice-president by the state; in this point Pennsylvania was probably the only state in the Union in 1874 which enforced exactly the simple idea of the electoral system. (See ELECTORS.) — GOVERNORS. Thomas Wharton, 1777–9; Joseph Reed, 1778–81; Wm. Moore, 1781–2; John Dickinson, 1782–5; Benjamin Franklin, 1785–8; Thos. Mifflin, 1788–99; Thos. McKean, 1799–1808; Simon Snyder, 1808–17; William Findlay, 1817–20; Joseph Heister, 1820–23; John A. Schulze, 1823–9; George Wolf, 1829–35; Joseph Ritner, 1835–8; David R. Porter, 1838–44; Francis R. Shunk, 1844–8; Wm. F. Johnston, 1848–51; Wm. Bigler, 1851–4; James Pollock, 1854–7; Wm. F. Packer, 1857–61; Andrew J. Curtin, 1861–7; John W. Geary, 1867–73; John F. Hartranft, 1873–9; Henry M. Hoyt, 1879–83; Robert E. Pattison, 1883–7; — POLITICAL HISTORY. The citizens of Pennsylvania have, from the beginning of her existence as a state, claimed for her the appellation of the "key-stone state." This significant name is sufficient alone to show that the sections north and south are no recent development, but original political factors, for it was the two sections which Pennsylvania was to clamp together like a keystone. Popular doggerel of 1790, after specifying the alternate admissions of the new states, Kentucky and Vermont, thus concludes:

> "Still Pennsylvania holds the scales,
> And neither south nor north prevails."

In time the appellation was sometimes used in a

little different sense: since the reorganization of parties in 1825, Pennsylvania's electoral votes have never been cast for the unsuccessful presidential candidate; and a vague idea has grown up that Pennsylvania's support or opposition is decisive upon parties as well as sections. — At first the state was internally divided. Its population was variously Quaker, Episcopalian, Presbyterian (Scotch-Irish), and Lutheran (German); and as the first two classes generally sympathized with Great Britain during the revolution, political and religious feeling were both active. Furthermore, the state was divided by the Alleghanies into a western and an eastern section, whose people had opposite interests and politics, the former being naturally democrats, while the latter were federalists. (See ANTI-FEDERAL PARTY.) At first the eastern section was strong enough to retain the state in the federal party, but the strength of their opponents was gradually increased by the flow of immigration, mostly Irish and anti-British, to the western section, by the united and even forcible opposition of that section to the excise (see WHISKY INSURRECTION), and by the claims of New England federalists to a large tract of land in the eastern section. (See WYOMING.) All these influences were potent enough to give fourteen of the state's fifteen electoral votes to Jefferson in 1796, and thirteen to Burr, and to make the state very doubtful for the future. In 1799 the eastern section was alarmed and reunited by the so-called "Fries insurrection," an armed resistance to a federal law imposing a direct tax on houses. Nevertheless, the democrats, in December, 1799, were for the first time able to elect their candidate for governor, McKean; and he at once removed all Mifflin's federalist appointees to office. In the legislature the house was democratic; and the senate federalist. As the state's electors were to be chosen by the legislature, it was with great difficulty, and only just before the time fixed for the electors to vote, that the senate forced the house to be content with eight democratic electors, leaving the remaining seven to the opposition. The democratic control of the state grew rapidly stronger, and in 1803–4 there were but five federalists in the house, and one in the senate. Indeed, the dominant party almost immediately split into two factions, the moderate democrats, or "constitutionalists," headed by Gov. McKean, and the radicals, or "friends of the people," headed by William Duane and Michael Leib. The latter were principally bent on obtaining a new state constitution, on impeaching and removing the then state judges, and on limiting the tenure of office of the judiciary for the future. In 1805 both factions nominated candidates for governor, McKean and Simon Snyder, and the former was elected by the aid of federalist votes. In 1808, however, the "conventionalists," as the "friends of the people" now called themselves, elected Snyder governor, and secured a long control of the state; but they made no further effort to obtain a new state constitution. — Immediately after Snyder's accession to office a collision between the state and the United States was threatened in the once celebrated "Olmstead case." This was a prize case, dating from the revolutionary war. The state courts had decided it one way, and the continental congress, and afterward the federal courts, to the contrary. In 1809 the matter was brought to a head by a *mandamus* from the federal supreme court to the district marshal to execute a writ, and an order from the governor to the state militia to resist it by force. In the end the legislature appropriated a sum of money to pay the claim; the state chief justice decided for the federal court's view; and the militia were sentenced to a trivial punishment, which was remitted by the president. — Pennsylvania remained overwhelmingly democratic during and after the war of 1812, and her legislature sustained the war vigorously throughout. In 1817 Heister was nominated as an independent democratic candidate for governor against the regular candidate, Findlay, by the Duane party, and was defeated; but in 1820 he was successful. It was not until 1824 that any danger was developed to the democratic control of the state; and that was indirect, the appointment of a board of commissioners for internal improvements, excited by New York's success in the Erie canal. In 1827 annual appropriations for that object began, and continued until 1836. Still more important, in its prospective antagonism to the cardinal principles of the original democratic party, was the vast wealth of the state in anthracite coal and iron. Both had been known before the beginning of the century; but it was not until June, 1839, that the anthracite was successfully applied in Pennsylvania to the manufacture of iron. From that time protection for iron by means of the tariff has been a governing object of all parties in the state. — At first the revolt against the dominant party showed itself, as in New York, under the name of the anti-masonic party, but with more success than in New York. (See ANTI-MASONRY, I.; NEW YORK.) In 1835 the anti-masons elected Ritner governor, and thus the state, which had been one of the first to pronounce for Jackson, had given him over three-fourths of her popular vote in 1824, and had been steadily democratic ever since, became exceedingly doubtful. The anti-masonic movement came to nothing further than a few attempts at repressive legislation against the freemasons; and the party very soon fell into the whig organization. In 1836 Van Buren electors were chosen by the close vote of 91,475 to 87,111, and the democrats were able to elect Porter governor in 1838 and 1841. In 1840 the electoral votes of the state were for the first time cast for the whig candidates, the election being the closest in its history, as follows: Harrison, 144,021; Van Buren, 143,676; Birney, 343; Harrison's majority, 2 votes out of 288,040. (See also BUCKSHOT WAR.) — In 1844 the political struggle was still more animated, for the election of the governor fell in the same year with the presidential election. The democratic managers adopted the plan of claiming the semi-

protective tariff of 1842 as their own. Polk wrote, June 19, 1844, a letter to John K. Kane, of Philadelphia, in which he diplomatically declared that he was not in favor of "a tariff for protection merely"; but that he was in favor of a revenue tariff which should incidentally afford judicious protection; and that he had voted for several specified tariff acts of this nature. Under the rallying cry of "Polk, Dallas, Shunk, and the tariff of 1842," the democrats succeeded in October in electing Shunk by a majority of 4,397 in a total vote of 317,321, and in November they secured the state's electoral vote by a majority of 6,332, and twelve of the twenty-four congressmen. The democratic congress in 1846 changed the tariff of 1842 into a revenue tariff; nevertheless, Shunk's popularity obtained for him a re-election in 1847 by a majority of 17,933. He resigned the next year, and in October, 1848, the whigs elected his successor, Johnston, by the close vote of 168,523 to 168,221. This, again, was a premonition of the result in November, when Taylor electors were chosen by a majority of 3,074 over both Cass and Van Buren. — As the slavery question rose to national importance after 1848, Pennsylvania was governed at first by the ancient feeling that her function was that of a balance wheel between the two sections. As democratic success seemed most likely to maintain national harmony, Pennsylvania was democratic until 1860 in her elections for governor, presidential electors and legislatures, with the exceptions of 1854, when the anti-Nebraska excitement carried into office Gov. Pollock and a majority of the lower house of the legislature, and 1858, when the republicans obtained a majority in the lower house. In 1860 a governor was to be elected, and the success of the republicans in electing Curtin by the unusual majority, for Pennsylvania, of 32,164 over Henry D. Foster, who was heartily supported by a fusion of all the other three parties, seemed almost decisive of the presidential election in November. The majority of the Lincoln electors over the fusion electors was increased to 59,618 in a total vote of 476,442. Both houses of the legislature were republican, and twenty-one of the twenty-five congressmen. — Since the accession of the republican party to power, Pennsylvania has remained a steadily republican state. In congressional elections the democrats have usually obtained a fair share, and occasionally a majority, of the representatives; but in elections for governor or presidential electors, the republicans have invariably been successful. In 1878, for governor, Hoyt could only claim a plurality (22,353) over the democratic candidate, owing to 81,758 "greenback" votes for Mason; in other years the majority has been complete. In presidential elections the republican majority, though steady, has not been over 30,000, except in 1872, when Grant's majority over Greeley was 135,918 in 563,260 votes. In 1880 the vote for electors stood as follows: Garfield, 444,704; Hancock, 407,428; Weaver, 20,668; scattering, 1,983. In 1882 the legislature stands as follows: senate, thirty-two republicans, sixteen democrats, three national; house, one hundred and twenty-one republicans, seventy-eight democrats, one national. — No single man has ever undisputedly controlled a party in the state, with the exception of Simon Cameron. At first a democrat, he was an influential leader in the state, and United States senator 1845–9. With the formation of the republican party in 1855–6 he almost immediately obtained complete control of its machinery. In 1857 he again became United States senator; in 1861 he became secretary of war under Lincoln, but resigned in 1862; and in 1867 he was returned to the senate. In March, 1877, being then seventy-eight years old, and having control of the legislature which was to elect his successor, he resigned, and his son, James Donald Cameron, was elected in his place. The son, however, had little of the suppleness which had often enabled the father to manage even hostile majorities. The party machinery, which in every state is very frequently used to evade the will of the party, was now recklessly or ostentatiously exposed to public view. In 1880 (see NOMINATING CONVENTIONS) the state vote in the republican national convention was thus instructed for Grant, though the majority of the republicans of the state, and almost a majority of the state convention, were against him. In 1881, though defeated finally in the national convention, he still held undisputed control of the state convention which nominated the candidate for state treasurer. Thereupon Charles G. Wolfe took the first step in the road which may possibly prove a release from the all-controlling convention system, by nominating himself for treasurer, and stumping the state in his own behalf. In the end the vote stood for Bailey, republican, 265,295; for Noble, democrat, 258,471; and for Wolfe, 49,984. In the following year, 1882, Wolfe's movement developed into an organized revolt against the Cameron leadership. The dissentients rejected the idea of "reform within the party," for the very plausible reason that "you can not get within the organization to reform it"; were unmoved by the possibility of the success of the democrats in the state; and at a separate state convention, May 24, nominated a state ticket of their own, headed by the name of John Stewart for governor. Cameron's political existence depended on the election, at which was to be chosen not only the governor, the state officers and the congressmen-at-large, but the legislature which was to pass upon his own return to the senate in 1885. Nevertheless, his state convention, May 10, attempted no accommodation with the "independents," but nominated a full state ticket, headed by Jas. A. Beaver for governor. Meanwhile, the tide was all running with the revolt. It was recruited by John I. Mitchell, Cameron's associate in the senate, and by a great number of other influential republicans; the Cameron nominee for congressman-at-large, Marshall, refused to run; and when

the state convention was resuscitated to nominate another candidate, many of the delegates denied the validity of the call and refused to attend. The result was a chaotic election, in which the following vote was cast for governor: Pattison (dem.), 355,791; Beaver (rep.), 315,589; Stewart (ind. rep.), 43,743; Armstrong (greenb.), 23,996; Pettit (prohib.), 5,196. Of the twenty-eight representatives in congress, fifteen were republicans, twelve democrats, and one greenbacker. The legislature of 1883–4 stands as follows: senate, twenty democrats, thirty republicans; house, one hundred and thirteen democrats, eighty-eight republicans; democratic majority on joint ballot, fifteen. — Since the election the regular and independent republicans have quietly reunited, without formally abolishing the Cameron leadership. The most important action of the republican convention of 1883 was the revival of the old whig plan of distributing surplus revenue among the states. Its previous history is elsewhere given. (See DISTRIBUTION, under INTERNAL IMPROVEMENTS, II.) It has not yet been adopted by the party in other states, and must as yet be considered only a Pennsylvania policy.— Besides the Camerons, and James Buchanan, George M. Dallas, Benjamin Franklin, Albert Gallatin, W. S. Hancock, Jared Ingersoll, John Sergeant, E. M. Stanton, and Thaddeus Stevens (see their names), the following have been prominent in the state's political history: Henry Baldwin, federalist congressman 1817–22, and justice of the supreme court 1830–44; Nicholas Biddle, president of the United States bank, 1823–41; Horace Binney, whig congressman 1833–5; Jeremiah S. Black, secretary of state under Buchanan; Benj. H. Brewster, attorney general under Arthur; Charles R. Buckalew, democratic United States senator 1863–9; Hiester Clymer, democratic candidate for governor in 1866, United States senator in 1879, and congressman 1878–81; John Covode, republican congressman 1855–63; Andrew G. Curtin, governor 1861–7, and democratic congressman 1881–5; William Findlay, democratic congressman 1791–9 and 1803–17 (see WHISKY INSURRECTION); Thomas Fitzsimons, member of the convention of 1787, federalist congressman 1789–95; John W. Forney, clerk of the house of representatives 1851–6 and 1860–61; Walter Forward, congressman 1822–5, and secretary of the treasury under Tyler; Joseph Heister, democratic congressman 1797–1805 and 1815–20, and governor 1820–23; Chas. J. Ingersoll, democratic congressman, 1813–15 and 1841–9; Joseph R. Ingersoll (brother of the preceding, and son of Jared Ingersoll), whig congressman 1835–7 and 1841–9, and minister to Great Britain 1852–3; Samuel D. Ingham, democratic congressman 1813–18 and 1822–9, and secretary of the treasury under Jackson; Wm. D. Kelley, republican congressman 1861–87; Michael Leib, democratic congressman 1799–1806, and United States senator 1809–14; Edward McPherson, republican congressman 1859–63, and clerk of the house of representatives 1863–73; Wayne McVeagh, attorney general under Garfield; John I. Mitchell, republican congressman 1877–81, and United States senator 1881–7; Gouverneur Morris, minister to France 1792–4, and federalist United States senator 1800–3; Robert Morris, one of the signers of the declaration of independence, the manager of the revolutionary finances, a delegate to the convention of 1787, and United States senator 1789–95; Frederick A Muhlenberg, democratic congressman 1789–95 (see CONGRESS, SESSIONS OF); Henry A. Muhlenberg, democratic congressman 1829–38, minister to Austria 1838–40, and democratic nominee for governor in 1844, Shunk being afterward substituted by reason of Muhlenberg's sudden death; J. P. G. Muhlenberg, priest in the episcopal church, brigadier general in the revolutionary army, democratic congressman 1789–91, 1793–5, and 1789–1801; Asa Packer, democratic congressman 1853–7; Samuel J. Randall, democratic congressman 1863–87 (see CONGRESS, SESSIONS OF); Glenni W. Schofield, republican congressman 1863–75; Arthur St. Clair, major general in the revolutionary army, and delegate to the continental congress (see ORDINANCE OF 1787); Wm. A. Wallace, democratic state senator 1862–71, and United States senator 1875–81; Wm. Wilkins, democratic and anti-masonic United States senator 1831–4 and 1843–4, minister to Russia 1834–5, and secretary of war under Tyler; David Wilmot, democratic congressman 1845–51, republican candidate for governor 1857, and United States senator 1861–3 (see WILMOT PROVISO); James Wilson, delegate to the continental congress 1775–8, 1782–3 and 1785–7, member of the convention of 1787, and justice of the United States supreme court 1789–98; Geo. W. Woodward, democratic candidate for United States senator in 1844, and for governor in 1863, judge of the state supreme court 1852–67, and congressman 1867–71; and Hendrick B. Wright, democratic congressman 1853–5, 1861–3 and 1877–81. — See 2 Poore's *Federal and State Constitution;* Clarkson's *Memoir of Penn;* 2 Wm. Penn's *Works;* Hazard's *Annals of Pennsylvania* (to 1682); *Pennsylvania Archives* (to 1786), and *Register of Pennsylvania;* Clay's *Annals of the Swedes on the Delaware;* authorities on Mason and Dixon's line under MARYLAND; 3 Franklin's *Works*, 107; Proud's *History of Pennsylvania* (to 1742); Gordon's *History of Pennsylvania* (to 1776); Fuller's *Political Class Book of Pennsylvania* (1853); Carpenter's *History of Pennsylvania* (1854); Barber's *History and Antiquities of Pennsylvania* (1856); Watson's *Annals of Pennsylvania and Philadelphia;* Sypher's *School History of Pennsylvania* (1868); Bates' *History of Pennsylvania* (1869); Cornell's *History of Pennsylvania* (1876); Morton's *History of the Appellation Keystone State;* Gibbons' *Pennsylvania Dutch;* Bettle's *Negro Slavery in Pennsylvania;* Bates' *Martial Deeds of Pennsylvania;* Rupp's *History of Lancaster County;* Harris' *Biographical History of Lancaster County* (to 1873); Goodwin's *Pennsylvania Biography* (1840); Armor's *Lives of the Governors of Pennsylvania* (to 1872); *Biographical*

Encyclopædia of Pennsylvania (to 1874); W. D. Kelley's *Speeches and Addresses;* and authorities under DELAWARE and WYOMING.

ALEXANDER JOHNSTON.

PENNY BANKS. (See BANKS, HISTORY AND MANAGEMENT OF SAVINGS.)

PENSIONS. (See UNITED STATES PENSION LAWS, AND THE PENSION LAWS OF OTHER COUNTRIES.)

PERSIA. The name Persia awakens great memories. But Persia, or Iran, is no longer the flourishing empire of the sophis, and still less the vaster and more powerful empire of the *great kings*. Modern Persia has an area of scarcely more than 65,000 square geographical leagues (of twenty-five to a degree). It is bounded on the north by Russia, the Caspian sea and Turkestan; on the east by the kingdoms of Herat and of Cabul and the confederation of the Beloochees; on the south by the gulf of Oman and the Persian gulf; on the west by Turkey in Asia. This vast territory has scarcely nine millions of inhabitants; which is explained by the fact that the country has met with the fate of all the countries of western Asia, which, after having been in ancient times the theatre of a rich development of civilization, present to the traveler of the present day only the ruins of ancient cities and an abased people, ignorant, for the most part, of the glory of their ancestors. — Nevertheless, the Persians are very intelligent and tolerably active. Only, their intelligence is principally exercised on metaphysical questions, while their activity is concentrated upon commerce and brokerage. The only laborious inhabitants of the country are the Turks, who conquered Persia about five hundred years ago, but their patience and spirit of order are exercised only in rudimentary agriculture. — The name of Iran, which Persia gives herself, and which Europe allows to her, would mislead us should we persist in seeing in the modern Persians an Indo-European race. The Aryans of the ancient invasions have almost wholly disappeared in the Semitic masses of Farsistan; at the time of the Achemenidian kings, six centuries before Christ, this fusion was already far advanced. It has since only increased, and a truly Semitic people, under the name of *Tadjik*, now occupies all the towns of Persia and the countries of the southeast. The Aryan blood has been better preserved in the other Farsee group, the *Kurds*, who, to the number of about a million, inhabit the mountains of the west. An entirely different race, the *Turks* or *Phlats*, occupy the north. Neither must the name of *Touran*, which they give themselves, and which the Persians grant them, cause us to see in them a people exclusively Mongolian; they are Mongolians strongly Aryanized, like their ancestors, the Arsacidæan Parthians. It is they who have furnished to Persia the greater part of her dynasties. The reigning dynasty, that of the *Kadjars*, came from the heart of their feudal system, which comprises 700,000 to 800,000 individuals. The Turkish tribes are not subject to the king, but are merely his vassals. On the contrary, the king has for subjects all the Persians, *Tadjiks* or *Kurds*. — The king is sovereign master of the state and of his subjects, of their lives and of their fortunes; this is, as we see, what has been called eastern despotism; a despotism which is not absolute, however, since it finds limits in religion, tradition and the privileges of the corporations and of the tribes. The crown is hereditary in the direct line; but the king, or shah, may choose his successor from among his sons. He designates him during his lifetime, in order to prevent civil war. — There are a great number of offices in the court of the shah of Persia. There is a swordbearer, a shieldbearer, a cupbearer, etc. The functions of the grand marshal (*nasaktchee bashee*) consist not only in directing the service of the Persian army, but also in watching over the execution of justice. The grand master of ceremonies and the grand master of hospitality are charged with the reception of ambassadors and travelers of distinction. The highest dignity of the empire is that of the first minister (*vizier-i-azem*). He concentrates in his hands the whole government and administration. After him come the steward (*ameen-ed-doulah*), who has charge of the finances; the high chancellor of state (*mounchee-il-memalik*), who has charge of internal affairs; and finally, the *mousteffi*, or secretaries of state, among whom is found the *eshker-nuvis*, or secretary of state in the war department. The executor of confiscations is also an important functionary.— The empire is divided into eleven provinces, which are administered in the following manner: In each province a governor (*beglerbeg*) has under his authority the commanders of the towns (*kakims and zabits*), the mayors of important localities (*kelanter*), those of the villages (*ketkhodah*), the lieutenants of police (*darogha*), the chiefs of police (*mir-i-ahdas*) the market commissioners (*mouhtesib*), and the (*pakkee*) or tax gatherers. The distinctive feature of the Persian administration, as in all the countries of the orient, is, that power is delegated in full; thus, the governors of provinces or towns are real kings, until the king exiles them or puts them to death. The police exercise their functions in a very remarkable manner in Persia. The towns are divided into districts. The inhabitants of each district choose their lieutenant of police from among the most honorable citizens. These functions are gratuitous, and are obtained only by a spotless reputation. In this respect, Persia possesses the germ of a fruitful principle of municipal liberty, which, carried out, would have a favorable influence upon the social condition of the country. Unlike other Mussulman (that is to say, Sunnite) countries, in which civil law and religious law are confounded, Persia distinguishes the precepts of the Koran, with the administration of which the clergy are charged, from the laical law. The *urf*, or customary law, compre-

hending the crimes or misdemeanors which disturb society, such as murder, theft, fraud, etc., is the province of a court composed of secular magistrates. The sovereign is the first of these magistrates. The governors of provinces, the commandants of cities, and the other officers of the government administer justice, in the name of the shah, each in his own jurisdiction. Another difference, of equal importance, between Persia and other Mussulman countries, is the existence of a clergy of *priests*, an institution contrary to the very spirit of Islamism, which admits only of jurisconsults and judges. The *mollahs* and the *mooshtehed*, their chiefs, have inherited, in Mussulman Persia, some of the power of the mazdean *mŏbeds*, as well as of their unpopularity, justified, it is said, by the conduct of these priests, and which would, moreover, be abundantly explained by this fact: that Persia is Mussulman only in appearance. If we except, indeed, a certain number of Turks, strict *Sunnites*, like their Ottoman congeners, and as such, very hostile to a clergy of priests, Persian Islamism, or Shiism, while remaining the official religion, resolves itself into a national religion, which the Sunnites hold to be very similar to Christianity, and which in fact concentrates all veneration upon Ali; and some sects of which even make a god of him. But even this schismatic religion has but very few convinced adherents; every one makes an obligatory profession of it; but the entire bourgeoisie is made up of sufis, or free-thinkers, not that there are any atheists among them, nor, especially, any dogmatic materialists; all Persian imaginations, on the contrary, are full of the supernatural: but the sufis are absolutely freed from Islam. Lastly, the moral element, truly *religious*, of Persia, is to be found in the *nossayris*, monogamous gnostics, whom every one in Persia takes for Christians, and who, in reality, appear to have derived their doctrine from Buddhism. The nossayris comprise two-fifths of Persia. It would be unjust to forget, in this enumeration, a set of sufis, the *babis*, a recent sect founded by an enthusiast, prophet and martyr, who declared the religion of Mohammed abolished. His doctrine, which appears to be absolute rationalism, made great progress, and caused a riot, which was quelled only in the blood of its votaries. —The system of finance established in Persia for the assessment and collection of taxes presents nothing analogous to the institutions which exist among the nations of Europe. The revenues of the state, or, to speak more accurately, the revenues of the sovereign, were estimated, in 1878, at about seventy-five millions of francs. This sum is the product of imposts and taxes of all kinds, which are assessed in the following manner: the land tax, or *meliat*, which is paid partly in kind and partly in money, and is one-fifth of the product; the tax to which domestic animals, horses, camels, sheep, goats, bees, etc., are subject, and which varies according to their different kinds; the personal tax and house tax, of which we can make no exact valuation, and which vary in the different provinces. These last taxes are not levied in the towns, except on the shops and stores of merchants, who pay in proportion to the amount of their business. Foreign goods are subject to a duty of 5 per cent., paid at the frontiers, and to an additional one of 1½ per cent., in the tollhouses, farmed out to private individuals, which pay considerable sums to the government. The tax is not always directly collected by the *divan*, which, on the other hand, does not always pay the functionaries directly. The latter receive an order to collect the tax of certain villages, which constitute their appanage. As the *cadastre* is old, the tax which the tax gatherer is authorized to collect according to his warrant, is frequently less than the two-tenths of the actual revenue, which the functionary does not fail to collect; therefore the king issued, in 1869, two edicts, one to enjoin the tax payers to pay only the quota registered at the divan; the other to order a census which was regarded as the prelude to a new cadastre.—But we have as yet spoken only of the fixed taxes; there are variable ones, and a great number of them. There is the *extraordinary tributs*, which is one of the most vexatious; it is exacted to meet certain expenses of the royal family, such as the marriage of a prince of the blood, or any other solemnity; there is the *sadr*, designed to provide for the expenses occasioned by ambassadors of foreign courts, and to entertain high functionaries; there is the *pik-ked*, or *present to the king*, which, though called a *voluntary tax*, is none the less exacted. This present is made annually to the king by the governors of the provinces and the great dignitaries of the kingdom; it is necessarily the fruit of an arbitrary imposition. Public establishments are also subject to the payment of periodical dues. — If the revenues of the crown are considerable in Persia, where the necessaries of life are much cheaper than in Europe, the functionaries are but slightly remunerated; in return, however, they are left at liberty to pay themselves, to the detriment of the people. When an important man or a dignitary of the empire sees that he can enrich himself by obtaining the government of a province, he makes his request to a sovereign, fixing in advance the sum which he pledges himself to pay annually into the treasury. The place is given to the highest bidder. It may easily be imagined what the conduct of this sort of royal farmers must be! It is true that the sovereign receives all the complaints which are made to him; but it is solely to the end of making the beglerbeg disgorge, for the benefit of the state, whenever his wealth has become too great. Thus the people and the sovereign are equally satisfied. — The peasantry alone are subject to taxation. The merchants and workmen are legally exempt from it. The merchants transmit their business to their sons; their honesty is proverbial, and all unemployed funds are intrusted to them; they are the only bankers of the empire. It is they who lend to the state, and as all the money returns to their hands, they no longer

fear the public bankruptcies which characterized the ancient governments of Persia. The workmen have their corporations, their regulations, their funds, their elected assemblies. It is the organization of St. Louis, or rather, it is the organization which St. Louis had regulated, and which came from the Roman empire, which had found it in the east. It was, in fact, after the capture of Ctesiphon that Alexander Severus organized the trade corporations. Industry has declined very much from what it was under the *sophis*. The ancient manufactories of silk and velvet (Kashan, Ispahan, Reschet), and the manufactories of arms (Kerman, Schiraz), are no longer in existence, but commerce is carried on in an indifferent way. — As to the military forces of Persia, see the note hereto appended. — The resources of Persia would be immense if it were possible to make the most of them. Gold, silver, copper, iron, jasper, white marble, sulphur, copperas, salt and saltpetre, turquoise, bitumen, naphtha and petroleum: all these abound in Iran. The soil is remarkably fertile wherever irrigation is practicable, but large areas of fertile land are uninhabited, and it is only the facility of finding fields to cultivate which compensates somewhat for the lack of work in the cities. The vast saline deserts in Persia might be brought under cultivation by supplying them with the necessary water. The products of the soil are flax, hemp, sesame, tobacco, cotton, saffron, terebinth, mastic, gums, gall nuts, and dye plants. Persia furnishes to commerce annually, 20,000 bales of silk. The opium-yielding poppy is very extensively cultivated there. Manna and rhubarb are exported. But this wealth can be sent out of the kingdom only at a very considerable cost for transportation, so imperfect are the means of communication. If Persia had roads kept in good repair, commerce there would develop immensely, the mines could be worked, and the public wealth would increase ten-fold in a very short time. Such must be, however, the foundation of all social renovation for the nations of the east, and since 1878, the year of the shah's first visit to Europe, we have been assured that measures have been taken to construct roads and to introduce into Persia several of the most important European institutions.* — BIBLIOGRAPHY.

T. S. Andersen, *My Wanderings in Persia*, 8vo, London, 1880; General Blaramberg, *Statistical Survey of Persia, made in the years* 1837–40 (in Russian), 8vo, St. Petersburg, 1853; Do. Heinrich Brugsch, *Reise der K. preussischen Gesandtschaft nach Persien*, 1860 *und* 1861, 2 vols., 8vo, Leip-

* By the treaty of Dec. 9 (21), 1881, ratified Feb. 28 (March 12), 1882, the boundary between the Persian province of Chorasan and the territory of the Turkomans, which had lately been occupied by the Russians, was finally established. By the stipulations of that treaty the boundary line is formed by the lower parts of the Atrek river upward to Fort Tschat, by the ridge of the Songu Dagh and by the Sjagirim mountains; it next crosses the upper Tshandyr, runs in a northeasterly direction to the Sumbar, following its course to its mouth; it then runs along the ridge of the Kopet Dagh in a southeasterly direction, following, as a whole, irrespective of some sinuosities and indentations, the northern water-shed of the Atrek river, up to Baba-Durmas, which remains in the possession of Persia. This conquest by Russia has at least the advantage for Persia, that a considerable portion of the latter country will henceforth be secure from the destructive invasions of the Turkomans; the Russians also gave their freedom to a great number of captive Persians in the settlements of the Tekke (Turkomans). The sixth volume of Behm & Wagner's *Die Bevölkerung der Erde* contains the latest estimates of the population of Persia, by Gen. Houtum-Schindler, who possesses a most thorough knowledge of the country; these estimates are based, partly on the general's own observations, and partly on the statements of the Persian minister of finance, and are as follows:

			Inhabitants.
99 towns, with 363,630 families			1,963,600
Villages and about 30 districts containing no towns			3,780,000
Nomads, as follows:			
Arabians, with	57,800 families	494,400 families	1,909,800
Turks, with	160,000 "		
Kurds, Lak, with	150,000 "		
Belooches, Gipsies, with	4,600 "		
Bachtjares, Lurcs, with	52,000 "		
Total			7,653,600

According to religion these 7,653,600 inhabitants are divided into 6,860,600 Shiites, 700,000 Sunnites and Mohammedan sectarians, 8,000 Parsees, 19,000 Jews, 43,000 Armenians, and 23,000 Nestorians. Of 1,000 Armenians, 528 are males, 472 females; of 1,000 Mohammedans, 495 are males, and 505 females. — The cultivation and the export of opium, which are not only encouraged by the government, but even ordered by it, have lately considerably increased, while in other respects little or no progress has been made in the country. The Persian opium trade dates only from the Anglo-Chinese war. In consequence of the safety afforded by the occupation of Hong Kong by the English, Persian opium gradually made its way to China. The prohibitory duties exacted in the ports of India had been a great obstacle in the way of trade, and for a long time more opium was sent to Constantinople than to Hong Kong. Finally, some merchants of Iesd discovered the route via Ceylon, and now that drug is shipped via Bender-Abbas directly to China, by steamers of the Pei-ho line of steamships. In 1880 the export was 6,000 *piculs* (or boxes of 125 English lbs.), and in 1881, 8,000; while ten years previous, the export amounted to but 4,000 *piculs*, or one-half of the amount exported in 1881. 8,000 *piculs* are equivalent to 480 English tons, and are but one-tenth of the quantity of opium exported from India. With better roads, Persia might well nigh make its competition felt by India. Probably in consequence of the primitive method of manufacturing it, Persian opium is a little cheaper than that produced in India; crude Persian opium costs ten rupees per *ses* (two lbs.); refined, thirteen and one-third rupees, against sixteen rupees for refined Indian opium. — The Persian priesthood consists of many orders, the chief of them at the present time being that of Mooshtehed, of whom there are but five in number in the whole country. Vacancies in this post are filled nominally by the members of the order, but in reality by the public voice, and the shah himself is excluded from all power of appointment. Next in rank to the mooshtehed is the sheik-ul-islam, or ruler of the faith, of whom there is one in every large town, nominated by, and receiving his salary from, the government. Under these dignitaries there are three classes of ministers of religion, the mooturelie, one for each mosque or place of pilgrimage; the muezzin, or sayer of prayers, and the mollah, or conductor of rites. The Armenians are under two bishops, one of them Roman Catholic, and both residing at Ispahan. There is wide tolerance exercised toward Armenians and Nestorians, but the Jews and Guebres suffer under great oppression. Education is in a comparatively advanced state, at least as far as the upper classes are concerned. There are a great number of colleges, supported by public funds, in which students are instructed in religion and Persian and Arabian literature, as well as in a certain amount of scientific knowledge, while private tutors are very common, being employed by all families who have the means. A larger portion of the population of Persia are possessed of the rudiments of education

zig, 1864; E. B. Eastwick, *Journal of a Diplomate's Three Years' Residence in Persia*, 2 vols., 8vo, London, 1864; A. H. Keane and Sir R. Temple, *Asia*, London, 1882; Col. C. M. Macgregor, *Narrative of a Journey through the Province of Khorassan and the Northwest Frontier of Afghanistan in* 1875, 2 vols., London, 1879; Clements R. Markham, *A General Sketch of the History of Persia*, 8vo., London, 1874; Capt. Hippisley Cunliffe Marsh, *A Ride through Islam: being a Journey through Persia and Afghanistan to India*, 8vo., London, 1877; Chas. de Molon, *De la Perse: Etudes sur la Géographie, le Commerce, la Politique, l'Industrie, l'Administration, etc.*, 8vo, Versailles, 1875; Augustus Mounsey, *A Journey through the Caucasus and the Interior of Persia*, 8vo, London, 1872; John Piggot, *Persia: Ancient and Modern*, 8vo, London, 1875; Do. Jak. Ed. Polak, *Persien: Das Land und seine Bewohner: Ethnographische Schilderungen*, 2 vols., 8vo, Leipzig, 1865; Lady Sheil, *Glimpses of Life and Manners in Persia*, 8vo, London, 1856; E. Stack, *Six Months in Persia*; 2 vols., London, 1882; Baron Thielmann, *Travels in the Caucasus, Persia, and Turkey in Asia*, 2 vols., 8vo, London, 1876; I. Thomson, *La Perse: sa population, ses revenues, son armée, son commerce, avec notes par N. de Khanikof*, in "*Bulletin de la Société de géographie*," *Juillet*, 8vo, Paris, 1869; John Ussher, *Journey from London to Persepolis, including Wanderings in Daghestan, Georgia, Armenia, Kurdistan, Mesopotamia and Persia*, 8vo, London, 1866; Robert Grant Watson, *A History of Persia, from the beginning of the nineteenth century to the year* 1858, 8vo, London, 1878. F. M.

than of any other country in Asia, except China. The revenue and expenditure of the government are known only from estimates, as no budgets or other official accounts have ever been published. The receipts of the year 1875 amounted to 4,861,660 tomans, or £2,026,354, in money, besides payments in kind, consisting of barley, wheat, rice and silk, valued at 550,840 tomans, or £355,911, making the total revenue equal to 4,912,500 tomans, or £2,282,265. The bulk of the public expenditure is for the maintenance of troops, and salaries, with pensions, to the Persian priesthood, while each annual surplus is paid into the shah's treasury. Almost the entire burthen of taxation lies, as remarked above, upon the laboring classes, and, among these, upon the Mohammedan subjects of the shah. The amount of revenue collected from the Christian population, the Jews, and the Guebres, is reported to be very small. The government has no public debt. — By a decree of the shah, issued in July, 1875, it was ordered that the army should for the future be raised by conscription, instead of by irregular levies, and that a term of service of twelve years should be substituted for the old system, under which the mass of the soldiers were retained for life. The organization of the army is by provinces, tribes and districts. A province furnishes several regiments; a tribe gives one, and sometimes two, and a district contributes one battalion to the army. The commanding officers are almost invariably selected from the chiefs of the tribe or district from which the regiment is raised. The Christians, Jews and Guebres in Persia are exempt from all military service. The whole external trade of Persia may be roughly valued at £4,000,000 annually, of which £2,500,000 may be taken as the value of the imports, and £1,500,000 as that of the exports. The greater part of the commerce of Persia centres at Tabreez, which is the chief emporium for the productions of northern India, Samarkand, Bokhara, Cabul and Beloochistan. There are no official returns of the value of the total imports and exports, the former of which are estimated to have averaged £1,000,000, and the latter £500,000, per annum, in the year 1876-80. The principal article of import into Tabreez during the five years consisted of cotton goods of British manufacture, of the average annual value of £800,000; while the chief article of export was silk, shipped for France and Great Britain, of the average annual value of £110,000. All the European merchandise that reaches Tabreez passes by Constantinople to Trebizond, whence it is forwarded by caravans. Upward of £100,000 worth of carpets are now annually exported to Europe. — Persia has a system of telegraphs, established by Europeans. At the end of 1879 there were 3,367 miles of telegraph lines and 5,660 miles of telegraph wire in operation. The number of telegraph offices was seventy-one at the same date. The number of dispatches forwarded in the year 1878 was 500,000, the revenue of the year from telegraphs amounting to £15,000. The first regular postal service, also established by Europeans, was opened in January, 1877. Under it mails are conveyed from Julfa, on the Russian frontier, to Tabreez and Teheran, and from thence to the port of Resht, on the Caspian sea. In November, 1882, the Persian government arranged with a syndicate of French capitalists for the construction of a railway from Resht to Teheran, 250 miles. (See Statesman's Manual, 1883.)

PERSONAL LIBERTY LAWS (IN U. S. HISTORY), statutes passed by the legislatures of various northern states, during the existence of the fugitive slave laws, for the purpose of securing to alleged fugitives the privilege of the writ of *habeas corpus* and the trial by jury, which those laws denied them. (See FUGITIVE SLAVE LAWS.) — In 1840 New York passed an act securing a trial by jury to persons accused of being fugitive slaves. This was the first real "personal liberty law," other previous state statutes being ostensibly or really designed to assist in the rendition of fugitives; and even this statute soon fell into disuse and was practically forgotten. The case of Prigg *vs.* Pennsylvania (see FUGITIVE SLAVE LAWS) was decided in 1842, and in 1843 Massachusetts and Vermont passed laws prohibiting state officers from performing the duties exacted of them by the first fugitive slave law, and forbidding the use of the jails of the state for the detention of fugitives. In 1847 and 1848 Pennsylvania and Rhode Island passed similar laws. Other states refused to do so. — The passage of the fugitive slave law of 1850, which avoided all employment of state officers, necessitated a change in the personal liberty laws. Accordingly, new laws were passed by Vermont, Rhode Island and Connecticut in 1854, by Maine, Massachusetts and Michigan in 1855, by Wisconsin and Kansas in 1858, by Ohio in 1859, and by Pennsylvania in 1860. These laws generally prohibited the use of the state's jails for detaining fugitives; provided state officers, under various names, throughout the state, to act as counsel for persons alleged to be fugitives; secured to all such persons the benefits of *habeas corpus* and trial by jury; required the identity of the fugitive to be proved by two witnesses; forbade state judges and officers to issue writs or give any assistance to the claimant; and imposed a heavy fine and imprisonment for the crime of forcibly seizing or representing as a slave any free person with intent to reduce him to slavery. New Hampshire, New York, New Jer-

sey, Indiana, Illinois, Iowa, Minnesota, California and Oregon passed no full personal liberty laws; but there were only two of these states, New Jersey and California, which gave any official sanction or assistance to the rendition of fugitive slaves, though three of them, Indiana, Illinois and Oregon, did so indirectly, by prohibiting the entrance within their borders of negroes either slave or free. In the other states named above, the action of the legislative, judiciary or executive was generally so unfriendly that the South Carolina declaration of causes for secession in 1860 included Illinois, Indiana, Iowa and New Hampshire with the ten states which had passed liberty laws, in the charge of having violated their constitutional obligation to deliver fugitive slaves. — The fugitive slave law and the personal liberty laws together show plainly that the compromise of 1850 (see COMPROMISES, V.) was far worse than labor lost. It gave the south a law to which it had no title; even Rhett, in the South Carolina secession convention, declared that he had never considered the fugitive slave law constitutional. It thus provoked the passage of the personal liberty laws in the north. Each section, ignoring the other's complaints, exhausted its own patience in calling for a redress which neither was willing to accord first. It is not meant to be understood that secession would never have occurred without the aid of the fugitive slave law and its countervailing statutes; only that secession would have had to search much more diligently for an excuse without them. Throughout the whole declaration of South Carolina in 1860 there is hardly an allegation which, in any point of view, deserves respectful consideration, with this single exception of the personal liberty laws; and these were the unconstitutional results of the unconstitutional fugitive slave law. — The objection to the constitutionality of the fugitive slave law is, in brief, that the rendition of fugitive slaves, as well as of fugitives from justice, was an obligation imposed by the constitution upon the states; and that the federal government, which has never attempted to give the law in the latter case, had no more right to do so in the former. (See FUGITIVE SLAVE LAWS.) This opinion, however, has against it the unanimous opinion of the supreme court in the case of Ableman *vs.* Booth, cited below. But there is absolutely no legal excuse for the personal liberty laws. If the rendition of fugitive slaves was a federal obligation, the personal liberty laws were in flat disobedience to law; if the obligation was upon the states, they were a gross breach of good faith, for they were intended, and operated, to prevent rendition; and in either case they were in violation of the constitution, which the state legislators themselves were sworn to support. The dilemma is so inevitable that only the pressure of an intense and natural horror of surrendering to slavery a *man* who had escaped from it, or who had never been subject to it, can palliate the passage of the laws in question. Plainly, the people, in adopting the fugitive slave clause of the constitution, had assumed an obligation which it was not possible to fulfill. — The writer's own belief that the obligation of rendition was upon the states alone, has prevented him from classing the personal liberty laws under nullification. If, however, the obligation was really federal, they were certainly nullifications, though not to the same degree as that of South Carolina; for the latter absolutely prohibited the execution of the tariff act, while the former only impeded the rendition of fugitive slaves. The principle, however, is the same. (See NULLIFICATION.) It is worthy of notice, however, that when the supreme court, in the case of Ableman *vs.* Booth, overrode the Wisconsin personal liberty law, the Wisconsin legislature passed a series of resolutions, March 19, 1859, reaffirming the Kentucky resolutions of 1799 (see KENTUCKY RESOLUTIONS), but making them read "that a *positive defiance*" (instead of a nullification) "is the rightful remedy." — See *Massachusetts Revised Statutes* (1860), c. 125, § 20; 2 Wilson's *Rise and Fall of the Slave Power*, 57, 639; Joel Parker's *Personal Liberty Laws* (1861); B. R. Curtis' *Works*, 328, 345; 2 *ib.*, 69; Tyler's *Life of Taney*, 398; Appleton's *Annual Cyclopædia* (1861), 575; 21 *How.*, 506 (Ableman *vs.* Booth); 2 Webster's *Works*, 577; Schuckers' *Life of Chase*, 178. ALEXANDER JOHNSTON.

PERSONAL UNION, or dynastic union, is the combination by which two different states are governed by the same prince, while their boundaries, their laws and their interests remain distinct. Thus, in modern times, the king of England was at the same time king of Hanover; the king of Saxony, grand duke of Warsaw; the king of Denmark, duke of Schleswig-Holstein; the emperor of Austria, king of Hungary; the king of Prussia, prince of Neufchâtel; the king of Sweden, king of Norway; the king of The Netherlands, grand duke of Luxemburg; the emperor of Russia, grand duke of Finland; and the king of Prussia, duke of Lauenburg. — Personal union scarcely ever exists except between countries the populations of which belong to different nationalities, or inhabit territories distant from each other. If the territories of the two countries were contiguous and their populations of the same race, speaking the same language, and a complete fusion did not take place between them, the mistake would be so great a one that it could not but result in serious inconveniences. It seems as if in such a case the separation could not be maintained. — According to the letter of international law, one of the countries which is united to another by personal union may be at peace, while the other is at war. Thus, it might have happened, between 1816 and 1866, that the king of The Netherlands should have furnished for Luxemburg a military contingent to a war, which the Germanic confederation might have waged against Italy, for instance, without his minister plenipotentiary leaving Turin, or that of Italy demanding his passports at The Hague. We might even imagine cases, improbable though

not impossible, in which the grand duke of Luxemburg might have been in one camp, and the king of The Netherlands in the other. The same thing would be still more improbable in Sweden or in Norway, and entirely impossible in Finland, whose personal union with Russia is only on paper, while its real union is in the facts. Moreover there can be a personal union only between constitutional states. In absolute governments it is the sovereign who declares war; he is the state; and it is of little import that one of his territories is called Kamtschatka, and another Poland; it is still the emperor of Russia who acts, and against whom defense is made. — We do not consider personal union a very rational combination. If two states have not enough mutual interest and sympathy to unite their destinies, let them remain separated; mutual independence does not exclude an alliance, which will not delay being formed if there is any reason for it, if it has any grounds and an aim. A personal union will almost necessarily influence the politics of one of the countries united, to the exclusive advantage of the other. It sometimes results in domestic animosities, which, as is well known, are the most bitter and inveterate. — Personal union, it seems to us, is practicable only when the two countries form a unit vis-a-vis of foreign states. But it is not sufficient that the two countries be represented by one and the same diplomatic agent; it is also necessary that their armies should be united into one, and consequently, that the two countries should have common finances; from which it follows, that the two countries united must have, besides, their respective chambers for the special affairs of each country, a common parliament authorized to deal with international questions. The history of the United Kingdom furnishes an example which other countries should follow, and the ultimate fusion, which might be the result of the functioning of a common parliament, seems to us an advantage great enough to induce a state not to neglect the means to arrive at it. We are even surprised they have not yet thought of this in Sweden and Norway, where they ought to begin to constitute a common parliament if they indeed desire to firmly establish "Scandinavism" (which is not spoken of so much as it was in 1860–65).

MAURICE BLOCK.

PERU. Traversed from north to south by the two parallel chains of the Andes, Peru extends from the equator to Chili, over a length of nearly 1,500 kilometres. It is bounded on the east by the Amazon river, and by Brazil. Its entire area is estimated at nearly 450,000 square kilometres. The most highly favored portions of this vast territory, those which are most richly endowed by nature, are situated between the eastern slope of the Andes and Brazil; they have as yet scarcely any European population, and are almost wholly unexplored. The greater part of the population is settled upon the western side, between the Andes and the sea. It is not very large. At the time of the last census, (1876), there were 2,704,998 inhabitants, besides about 350,000 uncivilized Indians.— As in all other parts of Spanish America, the census population is far from being composed of homogeneous elements. The agricultural classes are entirely Indian. The mechanics and shopkeepers of the towns and villages are a mixture of Indians and half-breeds. The lower classes of the coast belong to what is called the Zambo element, a mixture formed by the crossing of negroes, Chinese and Indians. The higher classes are in a great degree of Spanish origin; the number of families in which the Spanish blood is entirely pure is very limited; the same is true of the Indian families which form a part of these classes. The pure Indian type, unmixed with Spanish blood, is very rare. The ratio of these races is estimated thus: 57 per cent. of Indians, 23 of mixed breeds, 12½ of whites born in Peru, 3½ of negroes, 1¼ of Chinese, and 2¼ of foreigners. — Peru, while it has had a good many internal dissensions and quarrels with its neighbors and foreign powers, is nevertheless far from presenting as sad an internal and external history as do so many of the other republics of Spanish America. The comparative repose which it enjoyed [up to the time of the Chilian-Peruvian war] *

* The so-called "saltpetre war" carried on by the republic of Chili, against the allied republics of Peru and Bolivia, was begun in the year 1879. For decades there had existed a controversy concerning the boundaries between Chili and Bolivia. The question in dispute was, whether the province of Atacamba, between Peru and Chili, belonged entirely to Bolivia, or whether Chili had a right to claim its extremest southern part. This question increased in significance, when it was discovered, that there were in this very southern part vast deposits of guano, extensive beds of saltpetre and rich veins of silver. By the treaty of Aug. 10, 1866, the governments of Chili and Bolivia agreed that the territory in dispute should belong to both states in common, so far as the division of receipts from taxes and revenue duties was concerned, and Bolivia pledged itself in no way to disturb Chilian citizens in the exploitation of the saltpetre mines. Incensed by Peru, with which Bolivia had concluded a secret offensive and defensive alliance in 1873, the government of Bolivia did not observe the treaty of 1866; it arbitrarily taxed a Chilian company of merchants in the seaport of Antofagasta, and here meeting with resistance, made several arrests and confiscated the property of the company. Peru, which exported large quantities of guano and saltpetre, and feared the competition of energetic Chili, did not dislike this repression. Chili complained of the action of Bolivia in violation of the treaty, and when the latter did not pay any attention to its complaints, Chili equipped a squadron, caused Antofagasta to be blockaded by the same on Feb. 14, 1879, and the entire saltpetre region to be seized. Upon this followed, on the first of March, the declaration of war by Bolivia, which, on the second day of April, concluded an armed alliance with Peru. The Chilian squadron next blockaded the south Peruvian port of Iquique and other ports in the neighborhood, whence saltpetre and guano were exported. Pressed hard by the Peruvian fleet, which had more iron-clads, the Chilians were, however, compelled to raise the blockade and to retire to Antofagasta. But soon afterward they succeeded in capturing the strongest iron-clad of the enemy, in taking the port of Pisagua and in defeating the land forces of the Bolivians and Peruvians near Dolores; they also occupied the port of Iquique and took away the entire south Peruvian province of Tarapaca, with its rich beds of guano and saltpetre. Chili was completely master at sea, and Arica and other ports of Peru were block-

was owing, not to the free play of its constitutional institutions, the model of which was borrowed for a short time from the great republic of North America, but to the firmness and to the more or less intelligence which have been shown by the various military chiefs who filled the presidential chair in Peru. — The constitution of 1856, modified Nov. 10, 1860, is the source of the public law of Peru. The executive power is in the hands of a president, invariably chosen from the army. The president is elected for four years by the citizens assembled in electoral colleges. He is

aded by the Chilian fleet. Intense excitement prevailed in the two allied states, and their two respective governments were overthrown; in Bolivia there existed a state of anarchy, its army and finances being prostrate; in Peru, Gen. Pierola, who had been elected president, ruled like a dictator. The campaign of 1880 was still more favorable for the Chilians. Their troops, under Gen. Baquedano, marched on the 20th of March into the town of Moquegua, which had been abandoned by the Peruvians; the Chilian troops threw the enemy back on Tacna, where the allied troops suffered another defeat, upon which the former occupied the town and took Arica by storm. The Bolivian troops retired home after the defeat near Tacna. Through the mediation of the United States negotiations for peace were begun. The plenipotentiaries of the belligerent republics and of the United States convened on neutral ground, on board a United States man-of-war, on the 22d of October. The conference, however, did not agree as to the conditions of peace. The proposition that the three states should submit to the arbitration of the United States government was refused by the victorious Chilians. Thus the conference came to an end, without any result, on the 27th of October. With a force of about 24,000 men the Chilians resumed the war. They landed two army corps on the coast of Peru, they routed the enemy, intrenched near Larin, and advanced toward Lima, the capital of Peru. After having suffered two further defeats, one near Chorillos, on Jan. 12, 1881, and the other near Miraflores, on the 15th of the same month, the enemy fled in confusion to Lima. The Peruvian army was now utterly demoralized, and unable to resist any further. Lima was occupied by the Chilian troops on the 17th of January. In place of the fugitive Pierola, Calderon was appointed provisional president of Peru by a convention of notables; after the session of congress, which had been convened with great difficulty, had been opened, Calderon's nomination was made definitive. Gen. Lynch, who, in place of Gen. Baquedano, was intrusted with the chief command of the Chilian troops, came in conflict with Calderon and with Galvez, the minister of foreign affairs; he ordered their removal; and when, his orders notwithstanding, both of them continued to exercise their functions, they were arrested and sent to Santiago. The United States government, believing it had a right to intervene in all American states, and knowing its own interest to be better guarded by the existence of small than of large states, had already recognized the Calderon government; it had also declared to the Chilian government, that the latter would not be allowed to insist upon a cession of territory as a condition preliminary to negotiations for peace, and that the United States would not suffer any intervention from Europe. Chili stipulated the following conditions: Peru was to cede the district of Tarapaca, and to pay a war indemnity of twenty millions of dollars within sixteen years; until the completion of the payment of that sum, Chili was to keep the town of Arica as a pledge; and in case the indemnity should not be paid, Chili would keep Arica and take possession also of the guano island, Lobos. Chili declared to the American minister that it would decline all further mediation in case of Peru's refusing to accept these conditions. In a circular of Dec 21, 1881, to the diplomatic representatives of Chili, Balmaceda, the Chilian minister of foreign affairs, gave an accurate account of the causes of the war, of the events of the war and of the intervention by the United States, and insisted upon the demand of a cession of territory, which he signified as an indispensable means of indemnification, and a condition of security based upon international law. At the same time he did not fail to recall the fact that the United States government in its international conflicts (especially in the wars with Mexico) did not hesitate to impose on the vanquished adversary cessions of large tracts of territory as a preliminary condition. Under such circumstances the negotiations, it is true, were continued, but the conclusion of peace was removed to an incalculable distance; meanwhile Chili remained in possession of what it had occupied.—During the year 1882 no essential change occurred in the condition of Peru. The Chilians insisted upon their conditions of peace, and in Peru they could find no government that would agree to these conditions. Bolivia kept aloof from the war, and neither could Peru expect any assistance from any other power, the more so because the United States in 1882 abstained from any intervention. In that part of the country which had not been occupied by Chilian troops, lawless gangs of soldiers, under rapacious and violent leaders, raged in a most cruel manner. In Chincha sixty European inhabitants were shot, and in pillaging the town the marauders destroyed property valued at eight millions of dollars. In the seaport of Pisco the gang of Col. Mas, on the 24th of January, in a state of beastly intoxication, murdered several hundreds of inhabitants. Several generals now claimed the highest authority, and fought one against the other; thus: Admiral Mantero, in Huaraz; farther north, the Indian Puga; in Cajamarca, Pierola's former minister of war, Gen. Iglesias; in Arequipa, Carrillo; in Ayacucho, Gen. Caceres, a brave and determined officer. The latter had some of the leaders of the marauding troops shot, among them Col. Mas. The Chilians refused to recognize the troops of these leaders as belligerent soldiers, but treated all men who were captured with arms in hand as highway robbers. The Peruvians treated the Chilians in a like manner. Thus, on the 9th of July they surprised and killed a troop of Chilian soldiers in Concepcion, upon which the Chilian general, del Canto, caused all the inhabitants of that town to be massacred. The Chilians, growing impatient because peace was not concluded, sought to indemnify themselves by increasing the revenue duties, and by imposing contributions on the towns which they held and occupied. In this manner they tried to compel the Peruvians to make peace. The negotiations with President Garcia Calderon, confined in the interior of Chili, remained without result, because he refused to agree to the cession of Arica and Tacna. The Chilians therefore entered into negotiations with Iglesias, an honest but narrow-minded man, in Cajamarca; Iglesias proved to be more ready to yield. Montero, however, who, by virtue of his former capacity as vice-president, had declared himself the constitutional successor of Calderon, who had gone to Arequipa and had even formed a ministry there, refused to ratify the concessions made by Iglesias. — On May 15, 1883, a treaty of peace, accepted by Iglesias, was concluded between Chili and Peru. The stipulations of the treaty were as follows: 1. The unconditional surrender in perpetuity to Chili of the department of Tarapaca as far north as the Quebrada de Camarones, the whole of which territory is consequently to be governed by Chili. 2. The territories of Tacna and Arica, now held by Chili, are to be subject to the legislation and government of that republic during ten years from the date of the treaty's taking effect. At the expiration of that time, a plebiscitum is to be had, which shall decide whether that territory shall be subject to Chili or return to Peru. The country which remains in possession of the territory is to pay the other country 10,000,000 silver Chilian dollars, or the equivalent in Peruvian *soles*. A special protocol is to determine the form under which the plebiscitum shall be held, and the time of payment of the $10,000,000 alluded to. 3. The government of Chili binds itself strictly to comply with the contract signed and decrees issued respecting guano Feb. 9, 1882, and respecting nitrate March 22 of the same year, and it adds thereto the following declaration: "The said decree of Feb. 9, 1882, orders the sale of 1,000,000 tons of guano, and article thirteen establishes that the net price of the guano, after deducting the cost of extraction, analysis, weighing, loading, salaries of employes to overlook these different operations, and all expenses incurred up to the moment of placing it, sacked, on board the vessel, shall be divided in equal parts between

assisted by a council of ministers. The legislative power is vested in a congress composed of two chambers, who pass the budget and the laws in the making of which the executive power has the initiative. The senate is composed of forty members, and the chamber of deputies of eighty. During the interval between one session and another, a permanent commission of seven senators and eight deputies assists the president, and performs the functions of a council of state. — At the head of each department is a prefect, appointed by the president. The constitution of 1856 had instituted departmental juntas, but these assemblies having resulted in making government impossible, it became necessary to dissolve them. In some departments the prefect did not allow them to assemble. The municipal juntas, composed of the principal inhabitants of each locality, have given better results; for a number of years, it has been remarked that they are an excellent school of political and administrative education. — Thanks to an unlooked-for resource, the sale of guano, which tends, however, to become exhausted, and of which the state claimed the monopoly, the financial condition of Peru was pretty good previous to the breaking out of the war with Chili. In the budget of 1872 the receipts were 58,982,851 *soles* (five francs), and the disbursements were 57,913,974 *soles*. The excess of receipts was thus 1,069,087 *soles*. The public debt, on Jan. 1, 1869, was 62,225,550 *soles*, say, 311,127,500 francs; it was distributed thus: home debt, 4,737,800 *soles* (23,689,000 francs); foreign debt, 41,803,750 *soles* (209,018,750 francs); sum due to consignees of guano, 15,684,000 *soles* (78,420,000 francs). The public debt in 1870 had increased to 104,855,000 *soles*, distributed thus: consolidated internal debt, 1,350,000; new consolidated debt, 3,000,000; loan of 1862 and various other debts, 5,905,000; English loan at 5 per cent. (1865), 35,000,000; another English loan at 6 per cent. for the construction of railroads, guaranteed by the receipts of the railroads, custom house and guano, 59,600,000 *soles*. — The Catholic religion has remained the religion of the state; and unless he professes Catholicism, no one can be admitted to fill any public office. The government of the church is divided between an archbishop and six bishops, and the church derives its revenues from tithes. The congress of 1856 had some thought of introducing freedom of worship, but a city celebrated in the history of Peru for its *pronunciamentos*, Arequipa, threatened to secede if that freedom should be granted by the constitution. The clergy have preserved their ecclesiastical courts. — Public instruction is almost wholly in the hands of the clergy. The state appropriates nearly half a million of dollars for the support of the universities. Justice, civil and criminal, is administered by a supreme court, which sits at Lima; by courts of appeal in each of the chief towns of the departments; and by the district courts of first resort. The administration of the mines, the forests and the military and naval services have special jurisdiction. There is scarcely any industry, but a good deal of commerce. The greater part of the foreign trade is in the hands of French, English and American merchants. As in all the rest of America, it is England which holds the first rank, as regards both imports and exports: France is only second. Her transactions amount to an average of sixty million francs per annum, that is to say, less than half those of England. — Since the discovery of guano the merchant marine of Peru has increased to a certain extent. In 1869 it had ninety vessels, with a capacity of 9,596 tons. The exports of 1867 amounted to $18,506,851; while in 1866 they reached the sum of $40,511,291. The principal article of export is still guano, of which there was exported in 1870, 482,299 tons, of a total value of 20,195,146 silver piastres. According to statistics published in Lima in 1868, the quantity of guano exported from 1842 to 1867 amounted to 7,157,194 tons, with a total value of $218,693,625. — The soil of Peru is suitable for the cultivation of all tropical productions. Since 1860, cotton and sugar cane have been cultivated upon a very large scale, Chinese and free blacks being employed in its cultivation. In 1860 the cotton crop was estimated at seventy millions of dollars, the profits of which were forty-seven millions. — Peru, which has already had the good

the government of Chili and the creditors of Peru, whose credits are guaranteed by this article." The government of Chili also declares that, when the sale of 1,000,000 tons shall have been completed, it will deliver to the creditors of Peru 50 per cent. of the net proceeds, as provided by article thirteen, until the debt shall have been extinguished or the deposits exhausted. But it is understood that only the deposits which are actually worked are alluded to hereby, and that all those which may hereafter be discovered or worked in the annexed territories will belong exclusively to Chili, which will retain all the proceeds and dispose of them as she may determine. It is also understood that the creditors of Peru who are benefited under this concession must comply with the regulations contained in the decree of Feb. 9, 1862, and that, beyond the declarations contained in this article, Chili does not recognize, on account of war or any other motive, any indebtedness of Peru, of any nature whatsoever. 4. The North Lobos islands will continue to be managed by Chili until the 1,000,000 tons of guano which have been sold shall have been delivered. Then they will be returned to Peru. The 50 per cent. of the net proceeds of the guano from the Lobos islands to which Chili is entitled under the decree of Feb. 9, is ceded by her to Peru, and payment thereof will be commenced directly the present treaty shall have been ratified. — The questions referring to the future commercial relations between the two countries, and the indemnities due the Chilians for losses through the war, are matters for subsequent discussion and arrangement. The treaty, however, could not be carried into effect, because the Peruvians refused to recognize Gen. Iglesias as their lawful president, and to ratify the treaty he had signed. Victorious Chili was from the beginning willing to recognize Iglesias as president, because his presidency offered the best guarantees for the ratification, and for the strict observance, of the treaty. Meanwhile, the lawless condition of Peru continued. Bands of so-called "patriots," who opposed Iglesias and the ratification of the treaty of peace, committed numberless outrages. This reign of terror, and the consideration of the fact that the conclusion of a treaty would be an indispensable condition to the recovery of Peru, caused the better part of the population of that country to rally around Iglesias, and to support his claims to the presidency.

fortune to find in the sale of the guano three-quarters of its revenue, has recently met with further luck. Some explorations conducted in 1830 resulted in the discovery of vast beds of nitrate of soda. The exportation of saltpetre increased from 18,700 cwt. in 1830, to 699,406 in 1851, to 1,858,691 in 1861, and to 3,605,906 in 1871. — Of all the wealth with which nature has endowed Peru, that least taken advantage of is its mineral treasures. There are still near Puno some very productive silver mines. From 1775 to 1824 these mines produced 1,786,000 marcs of silver, of an average value of from eight to nine dollars. Since the cessation of Spanish rule these mines have declined very much in productive value, the greater part of them having been abandoned for lack of capital and other means of working them. The great cause of the decline of the mining industry is the want of confidence which the capitalists have in each other. This distrust prevents the formation of mining associations upon a large scale, and it is only by the revival of the great companies that Peru will be able to resume, among the countries producing precious metals, the place which belongs to her.* — BIBLIOGRAPHY. Besides the older works of Ulloa, Helm, Breckenridge, Mathison, Hall, Stevenson, Smith, Meyen and Pöppig, there are: Hill's *Travels in Peru and Mexico*, 2 vols., London, 1860; Grandidier, *Voyage dans l'Amérique du Sud, Pérou et Bolivie;* Menendez, *Manual de geographia y statistica del Perú*, Paris, 1861; Carrey, *Le Pérou*, Paris, 1875; Raimondi, *El Perú*, Lima, 1874; Desjardin, *Le Pérou avant la conquête espagnole*, Paris, 1858; Prescott, *History of the Conquest of Peru*, Boston, 1847, new edition, 1878; Pruvonena, *Memorias y documentos para la historia de la independencia del Perú*, 2 vols., Paris, 1858; Odriozola, *Memorias y documentos para la historia del Perú*, Lima, 1863–4; Paz-Soldan, *Historia del Perú independte*, Lima, 1871; Arana, *Histoire de la guerre du Pacifique*, 1881. LOUIS GOTTARD.

* Peru had a deficit, in 1876, of about $1,538,490. It has (1883) a large public debt, divided into internal and external. The internal liabilities are estimated at about $20,000,000. It has, besides, a floating debt of an unknown amount, greatly increased by large issues of paper money, made in 1879 and 1880, to carry on the war against Chili. The total of these issues was estimated, at the end of October, 1880, at 35,000,000 *soles*. — The army of Peru was composed, at the end of 1878, of eight battalions of infantry, numbering 5,600 men; of three regiments of cavalry, numbering 1,200 men; of two brigades of artillery, numbering 1,000 men; and of a gendarmerie, numbering 5,400 men. The number of men under arms was raised nominally to 40,000 in May, 1879, after the outbreak of hostilities against Chili, and further increased to 70,000 in the summer of 1880, after the successful invasion of the territory by the Chilians. At the beginning of November, 1879, the Peruvian navy consisted of four ironclads and six other steamers. In 1883, in consequence of the war with Chili, it may be said that both the army and navy of Peru have been completely destroyed. — The foreign commerce of Peru is chiefly with Great Britain and the United States. — In 1878 there were open for traffic, or in course of construction, eleven railway lines belonging to the state, 1,281 miles in length, and costing 128,354,600 *soles*. There were, besides, eight lines belonging to private persons, 496 miles in length, and two lines belonging in part to the state and in part to individuals.

PETITION (IN U. S. HISTORY). The first amendment to the constitution prohibits congress from making any law to *abridge* "the right of the people peaceably to assemble, and to petition the government for a redress of grievances." The right to petition congress is therefore not derived from the constitution, but secured by it. Of course the right to offer a petition implies the duty of congress to receive it, without which the petition would lack its most essential element. Nevertheless, from 1835 until 1844, this duty of congress was more or less strenuously denied by southern members in the case of petitions for the abolition of slavery and the slave trade in the District of Columbia. — Feb. 11, 1790, a petition was offered, signed by Franklin, as president of the Pennsylvania abolition society, praying for the immediate prohibition of the African slave trade. This prohibition could not constitutionally be effected until 1808; nevertheless, after debate, it was received and referred by a vote of 43 to 14. Madison and other members urged "the commitment of the petition as a matter of course," so that "no notice would be taken of it out of doors." This purpose was accomplished then and afterward; as long as petitions were received and referred, the action of the petitioners there ended. — Very few anti-slavery petitions were offered for forty years, and those few were against slavery in general. The only exception was the petition of Warner Mifflin in 1792, which was rejected on the ground that it was not a petition, and concluded with no specific prayer. This objection would not lie against the new series of petitions which were brought out by the agitation for immediate abolition (see ABOLITION, II.) which began in 1830–31. These prayed that congress, to which the constitution had given the exclusive power of legislation for the District of Columbia, would exercise it in prohibiting slavery therein. At first, in December, 1831, when they were referred to the committee on the District of Columbia, the committee reported formally that the prayer of the petitioners should not be granted. As the petitions became more numerous, the committee ceased to report, and its room became "the lion's den from which there were no footprints to mark their return." In February, 1835, there were some complaints of this mode of procedure, and requests for a special committee, but these were not heeded. The peace was not disturbed until the following December. — PINCKNEY'S RESOLUTIONS. In December, 1835, the petitions began to come in again, and the house of representatives showed a new disposition toward them by laying them on the table by overwhelming votes. This, however, was not enough. Feb. 8, 1836, Henry L. Pinckney, of South Carolina, moved for and obtained a suspension of the rules to offer three resolutions: 1, that all the petitions should be referred to a select committee, 2, with instructions to report that congress could not constitutionally interfere with slavery in the states, and 3, ought not to do so in the district of Co-

lumbia. May 18 the committee reported as instructed, with an additional resolution that thereafter all petitions relating in any way to slavery or its abolition should be laid on the table without action, and without being printed or referred. May 25 the previous question, cutting off debate, was ordered by a vote of 109 to 89, and the second of Pinckney's resolutions, above mentioned, was adopted by a vote of 182 to 9. John Quincy Adams offered to prove it false in five minutes, but was silenced. On the following day the third resolution was adopted, 132 to 45, and the committee's new resolution, 117 to 68. Adams refused to vote, denouncing the resolution as a violation of the constitution, of the rules of the house, and of the rights of his constituents. The first of the "gag laws" was thus put in force. It was renewed in substance, Jan. 18, 1837.— Adams at once became the champion of the right of petition. In the adoption of the rules at the beginning of each congress, he regularly and unsuccessfully moved to rescind the "gag rule." He became the funnel through which all the anti-slavery petitions of the country were poured. Within the next four years he records the offering of nearly 2,000 petitions, including petitions for the rescinding of the gag rule itself, for the recognition of Hayti, for expunging the declaration of independence from the journals, and for his own expulsion. Besides those whose number he mentions, there was an unknown number of others presented in batches. The most exciting scene of the series began Feb. 6, 1837. Adams inquired of the speaker whether it would be in order to present a petition from twenty-two slaves. The disorderly house, catching but a hazy notion of the inquiry, at once lost its head. Suggestions to expel Adams for having attempted to offer a petition from slaves, to censure him for contempt of the house, and to take the petition out and burn it, were becoming inextricably entangled, when Adams for the first time reminded the speaker that his inquiry as to the propriety of offering the petition was still pending and unanswered, and stated also that the petition was in favor of slavery. The house saw that it had been outwitted, but it disliked to yield. "What, sir," said Waddy Thompson, of South Carolina, "is it a mere trifle to hoax, to trifle with, the members from the south in this way and on this subject? Is it a light thing, for the amusement of others, to irritate almost to madness the whole delegation from the slave states? Sir, it is an aggravation." He therefore modified his resolutions into a censure of Adams for having "trifled with the house," "by creating the impression, and leaving the house under such impression, that the said petition was for the abolition of slavery, when he knew that it was not." By various amendments this was finally modified into a tame resolution that, since Adams had disclaimed any effort to present the petition, nothing should be done, and even this was rejected. But before the final vote, Feb. 9, Adams secured his coveted opportunity for defense, and his savage retaliation upon his opponents in general and in particular, interrupted by explanations and half-hearted denials from them, made up one of the few scenes in congressional history, from 1820 until 1860, when the cowing of an opposition was the result of a northern member's speech. From this time debate with Adams was the most perilous of undertakings. — In the senate the objection to the reception of abolition petitions had been almost simultaneous. Jan. 7, 1836, Calhoun objected to the reception of two petitions from Ohio for the abolition of slavery in the District of Columbia, and four days afterward he renewed it upon a petition of Pennsylvania Quakers to the same effect. But the senate was a dangerous place for such an experiment. No "previous question" could cut off debate; senator after senator drifted off to the perilous questions involved in the institution of slavery itself; and the result was such a portentous debate as had never yet been heard in the senate. Calhoun's point was, that if the petition was couched in disrespectful language it could not be received. But in this there was a cumulative difficulty. To know the language of a petition it was necessary that it should be read, and it would always be difficult for southern senators to listen quietly to petitions in which their constituents and themselves were denounced as pirates, butchers, and dealers in human flesh. King, of Georgia, read Calhoun a bitter and well-deserved lecture on this unstatesmanlike policy of provoking debate on the petitions; and Calhoun could only answer with the reproach that King was destroying southern unity of action. Calhoun's course is one of the few evidences of his lack of sincerity in desiring the preservation of the Union. A democratic northern senator likened him to a pugnacious farmer in his state who was so anxious for peace with his neighbors that he was always willing to fight for it. In this instance Calhoun had abundant opportunity to agitate for the suppression of agitation. It was not until March 9 that the reception was agreed to by a vote of 36 to 10; and two days after, "the prayer of the petition was rejected" by a vote of 34 to 6. This halting compromise between refusing to receive, and referring to a committee, was thereafter the regular mode of procedure in the senate. It had no effect in checking the petitions, and renewed and constant debate on their reception kept the senate in turmoil. In December, 1837, Clay urged their reception and reference, on the grounds that they were evoked mainly by a feeling in the north, that the right of petition had been assailed, and that it was "better that the country should be quiet than the senate"; but his advice met no more respectful attention than the warning of Buchanan at the beginning, "Let it be once understood that the sacred right of petition and the cause of the abolitionists must rise or must fall together, and the consequences may be fatal." — THE PATTON RESOLUTION. Dec. 21, 1837, in the house, John M. Patton, of Virginia, secured a suspension of

the rules and the previous question, and the passage of a resolution to lay on the table, without being debated, printed, read or referred, and without further action, all petitions and papers touching the abolition of slavery, or the buying, selling or transferring of slaves in any state, district "or territory" of the United States. Adams again protested, and refused to vote, but the resolution was passed by a vote of 122 to 74. — THE ATHERTON RESOLUTIONS. Dec. 11, 1838, in the house, Charles J. Atherton, of New Hampshire, obtained a suspension of the rules, and offered five resolutions. The first four condemned generally any attempts at the abolition of slavery in the District of Columbia, or in the territories, and any petitions for that object; the fifth resolved that all such petitions should be laid on the table, "without being printed, debated or referred." Again, the previous question cut off debate, and the resolutions were passed on this and the following day, the last or "gag" resolution having in its favor 126 votes to 73. The only apparent result was the immediate appearance of a new line of petitions for the repeal of the Atherton "settlement." — TWENTY-FIRST RULE. Jan. 21, 1840, by a vote of 114 to 108, the house adopted as its twenty-first rule, that no petition, memorial, resolution, or other paper praying the abolition of slavery in the District of Columbia or the territories, or of the interstate slave trade, should in future be received by the house, or entertained in any manner whatever. The decrease of the majority in favor of the repression principle in this vote was striking, and was in itself an evidence that the system could not endure very much longer. Adams had found the support which he had at first lacked, and his yearly recurring motions to omit the twenty-first from the list of rules were defeated by steadily dwindling majorities. The rule, however, only increased the strength of language of the petitions, and their number as well: 34,000 signatures had been affixed to petitions of this nature in 1835–6; 110,000 in the session after the Pinckney resolutions; over 300,000 after the Patton resolutions; and after the twenty-first rule was adopted the signatures to petitions on all the cognate subjects were practically beyond counting. Jan. 14, 1842, another exciting scene began in the house, Adams being again the centre of it. He offered a petition from citizens of Haverhill, Massachusetts, praying for a dissolution of the Union, and asked for its reference to a committee to set forth reasons for the rejection of the petition. The anger of the southern members flamed out again. Suggestions were again made to expel Adams, to censure him, or to burn the petition. Adams at first only replied by advising his leading opponents to "go to a law school, and learn a little of the rights of the citizens and of the members of this house"; but, when the house had voted, 118 to 75, to take into consideration the resolutions of censure offered by Thomas F. Marshall, of Kentucky, the spokesman of the southern caucus, the debate was adjourned until Jan. 28. From that day it continued until Feb. 7, with a virulence surpassing that of the first. Adams had his opponents at a disadvantage, for many of them were avowed disunionists, but he used also every other advantage which could be used. The character of the whole debate may be conceived from Adams' reference to Wise, of Virginia, his bitterest opponent, as having come into that hall from the Graves-Cilley duel, of which he was a promoter, "with his hands dripping with human gore, and a blotch of human blood upon his face"; and from Wise's temperate reply that "the charge was as base and black a lie as the traitor was base and black who uttered it." At last Adams, worn out and almost breathless, but triumphant over every assailant, allowed a motion to "lay the whole subject on the table forever," and it was carried by a vote of 106 to 93. — At the special session of 1841 Adams' regular motion to omit the twenty-first rule had actually been carried, by a vote of 112 to 104, on a motion to adopt the rules of the last house for ten days only; but this was afterward reconsidered and lost. Session after session the majority against Adams' motion dwindled. At last, Dec. 3, 1844, the house, by a vote of 104 to 81, refused to lay his motion on the table, and, by a vote of 108 to 80, abolished the twenty-first rule. The ten years' gripe of John Quincy Adams upon the gag system had choked it at last and forever. Thereafter petitions of every nature were quietly relegated to the limbo of such papers, the committee room. — Dec. 12, 1853, the ancient rule requiring the presentation of petitions in the house was rescinded. Since that time petitions have been delivered to the clerk of the house, indorsed with the name of the member presenting them and of the committee to which they are to be referred. The clerk then transfers them to the proper committees, and notes their presentation on the journal. — See 1 Benton's *Debates of Congress*, 201, 207; 13 *ib.*, 24 (Pinckney resolutions), 13 *ib.*, 266 (Adams' first trial: his speech is at page 283); 12 *ib.*, 705 (Calhoun's motion); 13 *ib.*, 566 (Patton resolutions), 702 (Atherton resolutions); 14 *ib.*, 289 (twenty-first rule); Jay's *Miscellaneous Writings*, 349; 2 Calhoun's *Works*, 466; 9 Adams' *Memoir of J. Q. Adams*, 350; 11 *ib.*, 109; 61 Niles' *Register*, 350 (Adams' second trial); 14 *Democratic Review*, 303 (the best argument in favor of the twenty-first rule); 2 Benton's *Thirty Years' View*, 150; 1 Greeley's *American Conflict*, 143; Giddings' *History of the Rebellion*, 108, 158; 2 Wilson's *Rise and Fall of the Slave Power*, 346; 2 von Holst's *United States*, 236, 470; Morse's *Life of J. Q. Adams*, 249, 307; 18, 22, 38 *Rules of the House of Representatives*. (Compare PETITION, RIGHT OF.)

ALEXANDER JOHNSTON.

PETITION, Right of. The constitution of the United States, in its first amendment, provides that "Congress shall make no law abridging the right of the people peaceably to assemble and to petition the government for a redress of griev-

ances." This provision is not a statement of abstract right based on theory, but, like almost all other clauses in the great Anglo-Saxon charters, it had its origin in the successful struggle against actual tyranny. It is founded on English history, and to understand it, it is necessary to glance at that history. — The right of petition seems to be recognized in *magna charta*, which was ratified by King John in 1215. Chapter forty contains these words: "*Nulli negabimus rectum aut justitiam*," and they are repeated in the charters of Henry III. (1216, chap. 29) and Edward I. (1297, chap. 29). Some petitions of this period are said to be preserved in the tower of London. In the reign of Charles I. petitions became bolder and bolder, notwithstanding the contemptuous treatment which they received from him, and the right of presenting them naturally grew to be obnoxious to the cavaliers. Consequently, soon after the restoration of Charles II., parliament passed a bill against tumultuous petitioning, which forbade the presentation of petitions for the alteration of matters established by law, to the king or either house, by more than ten persons; nor could more than twenty persons sign a petition, unless its contents were previously approved by three justices or a majority of the grand jury in the country, or by the lord mayor, aldermen and common council in London. The transgressor was liable to fine and imprisonment. (13 Car. II., st. 1, c. 5; 8 Statutes at Large, p. 6.) This statute did not have the desired result, and in 1679 so many petitions were presented protesting against the repeated prorogation of parliament, that the king issued a proclamation to put a stop to them, but still they continued to pour in. The advanced royalists presented counter-addresses expressing their *abhorrence* of these petitions. Hence, the two national parties became known as "Petitioners" and "abhorrers," although soon after they were called "whigs" and "tories" instead. (8 Hume's History of England, chap. 68.) It was from James II., that, nine years later, the right of petition received the severest blow in England. He had made up his mind to restore his fellow Catholics to the full rights of English subjects (and, indeed, to give them the preference), in spite of existing penal laws. To this end he found it necessary to set aside the statutes by means of what was called the "dispensing power." This prerogative of dispensing with penal laws had been assumed by the crown several centuries before, and was originally copied from the practice of the Roman church. It was an infringement of law, and had met with resistance almost from the beginning. In 1687 the king issued a declaration, under this power, announcing that none of the penal laws against non-conformists should be enforced. This proclamation, which is known as the "declaration of indulgence," produced no effect. Accordingly, in 1688, he published a second similar declaration, which was followed, a week later, by an order in council commanding the clergy to read the declaration on certain Sundays at the usual time of divine service in all the churches of England, and bidding the bishops distribute copies of it for this object throughout their dioceses. The clergy received the order with doubt and dissatisfaction. Not only was it opposed to their wishes, but it was equally repugnant to public opinion and the laws of the realm. Before the day fixed for the first reading a number of prominent divines met at Lambeth and drew up a petition, which was finally reduced to writing by Lancroft, the archbishop of Canterbury himself, and signed by him and six bishops. In their petition they denied the existence of any power in the king to dispense with acts of parliament; they expressed their willingness to obey parliament or convocation; and besought the king not to insist upon the distribution and reading of the declaration. The six suffragan bishops delivered the petition to James on their knees, but he received it in a passion. Although the declaration was not recalled, it was read in only four churches in London on the day appointed, and from these churches the congregations immediately departed in disgust. At the king's order the seven prelates were sent to the tower, and tried before the king's bench for seditious libel. James used every means to secure their conviction, but it was impossible to turn the presentation of a respectful petition into a criminal offense. The jury returned a verdict of "not guilty," and the prisoners were released. The whole nation learned the result of the trial with joy, and the king's course in the matter called down upon him the lasting enmity of the people, and did much to shake off his tottering crown. (12 Howell's State Trials, 183; 3 Modern Reports, 212.) The prince of Orange referred to the case of the seven bishops in the declaration which he published before coming to England, when he said that the offering of a petition had been held a high misdemeanor, and that this was one of the wrongs which he would redress. (2 Macaulay's History of England, 358; Bishop Burnet's History of his own Time, 775–780.) Afterward, when the two houses offered the throne to William and Mary, the offer and acceptance were made subject to the bill of rights. This important document recited the fact that James II. "did endeavor to subject and extirpate the Protestant religion and the laws and liberties of the kingdom," among other things, "by committing and prosecuting divers worthy prelates for humbly petitioning to be excused from concurring to the said assumed [dispensing] power," and it goes on to declare "that it is the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal." ("An Act for declaring the rights and liberties of the subject and settling the succession of the Crown," 1 William and Mary, sess. 2, chap. 2; 9 Statutes at Large, p. 67, 1688; 5 Cobbett's Parliamentary History, 108 et seq.) The act of 1700 which established the succession of the crown in the house of Hanover confirms all laws which secure the

rights and liberties of the people (12 and 13 Wm. III., chap. 2; 10 Statutes at Large, 360), and the bill of rights, protecting the right of petition, is to-day a conspicuous part of the English constitution. In the celebrated case of Lord George Gordon (1781,) Lord Mansfield said that the statute of 13 Charles II., limiting the number of petitioners, was still in force. The petition in this instance was also directed against the Roman Catholics. Lord George Gordon, president of the protestant association, was displeased with the passage of Sir George Savile's bill removing penalties from Romanists, and presented a petition in the house of commons for its repeal. It bore thousands of signatures, and he went to the house at the head of a large mob which he had collected. His followers attacked several members and attempted to exert intimidation. The motion was, however, almost unanimously rejected, and the rabble, after rioting several days, subsided. (21 Cobbett's Parliamentary History, 654, et seq.) The ringleader was tried for high treason and acquitted, though the act of 13 Charles II. could undoubtedly have been enforced against him. (21 Howell's State Trials, 485; 24 Annual Register, 217, 238.) About this time petitions to parliament became very numerous. Many of them were directed against the slave trade, and afterward against slavery. At last, in 1839, debate was forbidden on the presentation of petitions in the house of commons, as they threatened to occupy all the time of the house. The most important English petition of the present century was the one of the chartists in 1848. These men, excited by the revolutions on the continent, sent a petition to the lower house for annual parliaments, universal suffrage, and the other reforms contemplated in their "charter." More than a million names were appended to the petition, and a mass meeting was called in London to support it. The house received it with respect, but it was soon discovered that many of the signatures were fictitious, and that their number had been greatly over-estimated. The committee on public petitions, while reporting these facts, declared its opinion that the right of petition was an important privilege. (98 Hansard's Parliamentary Debates, 74,283.) The agitation soon died out without affecting legislation. (1 McCarthy's History of Our Own Times, chap 18.) — *Practice.* In olden times petitions were usually presented to the English monarch, because he was more powerful than parliament. The contrary is now the case; but petitions to the sovereign, though less frequent than those to the legislature, stand upon the same legal footing with them. The sovereign sometimes receives petitions personally, and sometimes through officers of the court. Parliament used to appoint receivers and triers of petitions, but now the house of commons refers public petitions to a committee on public petitions. (May's Law of Parliament, chap 19.) —The amendment to the constitution of the United States referring to petitions was modeled after the clause in the English bill of rights. (See BILL OF RIGHTS.) The constitution originally contained no list of popular rights, as the general convention considered such an enumeration unnecessary. In the subsequent state conventions, on the other hand, it became evident that a considerable party desired such a "bill of rights."* Consequently, in the first congress a series of amendments to the constitution were adopted, including the one quoted at the head of this article. The convention of Virginia had submitted a proposed section on the right of petition, which also asserted the right of constituents "to instruct their representatives." In the lower house, while the amendments were under consideration, Mr. Tucker, of South Carolina, moved that these words be added. Mr. Madison opposed the motion, and it was lost. (Towle's Analysis of the Constitution, 230, 231.) There have been no petitions of very great historical interest in this country except those which sought the abolition of slavery. (See, *e. g.*, 2 Benson's Abridgment of the Debates of Congress, 57 et seq., 182 et seq., 209, 436–444; 12 ib., 660–666, 676–679, 705–711, 713–720, 722–743; 13 ib., 5–14, 24–29.) These petitions were very numerous, and always drew forth most bitter debates. Finally, in 1836, a resolution was adopted in the house of representatives, which directed that all petitions relating in any way to slavery should be laid upon the table without being printed or referred, and that no further action should be taken on them. (13 ib., 24).† In 1838 another rule of the same tenor was adopted. (13 ib., 702–707; Congressional Globe, Dec. 17 and 24, 1838, vol. 7, nos. 2 and 3, pp. 23–25, 27, 28, 33–38.) The former resolution was based, according to its recitals, on the want of power in congress over the states, the undesirability of any exercise of power in the District of Columbia, and the necessity of stopping agitation and restoring tranquillity. The latter resolution affirmed that all attempts to abolish slavery in the territories or District of Columbia were virtually aimed at the southern states, and therefore unconstitutional in their tendencies. Fortunately, such rules are no longer needed. — The national constitution has been followed, as far as the right of petition is concerned, in almost all of the state constitutions. Only three states ignore the right in their fundamental law: Minnesota, Virginia and West Virginia. Eleven include the right of "petition, address and remonstrance" in their "bills of rights": Alabama, Connecticut, Kentucky, Pennsylvania, Rhode Island, Tennessee, Delaware, Massachusetts, New Hampshire, Texas and Vermont. Four recognize the right to "ap-

* See, for example, "Address to the People of Maryland," 3 American Museum, 419, giving an account of the Maryland convention, very few members of which, it is true, seemed to wish to have the right of petition mentioned in the constitution; p. 424.

† See ib., 273–278, 280–290, 557–562, for the attempt to censure John Quincy Adams for a breach of this resolution; and notice, at p. 278, Mr. Cushing's able argument, showing that the right of petition existed independent of the constitution.

ply for the redress of grievances": Illinois, Indiana, North Carolina and Oregon. Two confirm the right of "petition or remonstrance": Maine and Missouri; while all the rest copy the general constitution more closely, and protect the right of "petition" simply. (2 Hough's American Constitutions, 571.) — The supreme court of the United States has recently passed upon the right of petition as affected by the constitution of the United States. (United States *vs.* Cruikshank, 92 U. S. Reports, 542.) Chief Justice Waite, in stating the opinion of the court, says that the right to assemble for lawful purposes existed long before the adoption of the constitution. It is an attribute of free government, springing from laws universally recognized by civilized man. The constitution did not establish it, but found it in existence. Up to that time the individual states were bound to protect it, and as the amendment granted no direct power over it to congress, the right of petition remains subject to the jurisdiction of the states. The amendment recognizes an existing privilege of the people, and guards it against congressional interference only. For their protection in its enjoyment the people must look to the states. The court, however, holds that the right of petition appertains to national citizenship, and that on this account it is guaranteed by the national government. It is implied in the very idea of a republican form of government. (Ib., 551, 552.) As petitions are legal, it follows that a petitioner is not guilty of libel in his petition unless express malice be proved. Therefore a petition to the legislature, requesting that body to direct the attorney general to do his duty, was decided not to be actionable. The court held that a man can petition the legislature for the redress of a grievance which does not exist, if he thinks that it exists. (Reid *vs.* Delorme, 1806, 2 Brevard's Reports, South Carolina, 76.) So it was held in New York that a petition for the removal of a district attorney on account of malversation in office, directed to the council of removal, and followed by his removal, could not give rise to a cause of action, unless it was presented maliciously, even if it contained false statements. (Thorn *vs.* Blanchard, 1809, 5 Johnson's Reports, 508, and see cases cited by counsel; see also Gray *vs.* Pentland, 1815, 2 Sergeant & Rawle's Reports, Pennsylvania, 23, and the very full opinion of the court in Harris *vs.* Huntington, 1802, 2 Tyler's Reports, Vermont, 129.) — In the United States each legislative body has its own rules, which prescribe the manner of offering petitions and the disposition of them. We will give a short résumé of the rules of the house of representatives on this subject for an example. Members having petitions to present may deliver them to the clerk, after indorsing on them their names and the reference or disposition to be made of them. These petitions, except such as in the speaker's judgment are obscene or insulting, are entered in the journal and published in the congressional record. Petitions excluded by the speaker are returned to the member who presented them. If a petition has been inappropriately referred, it may be properly referred by direction of the committee having possession of it. (Rule 22; see Smith's Rules and Practice of the House of Representatives, latest edition.) No petition can be withdrawn without the leave of the house, but if an act pass for the settlement of a claim, the clerk can send all the papers to the officer charged with the settlement. (Rule 39.) Every petition reported by a committee must be accompanied by a written report, which report is thereupon printed. (Rule 18, § 2.) After the final adjournment of congress the clerks of committees are obliged to deliver all petitions, not reported, and the evidence taken upon them, to the clerk of the house. (Rule 38.) A petition can only be printed by unanimous consent or suspension of the rules. (Smith; supra, 5th ed., 314; this does not refer to printing in the record.) A committee can not receive a petition except through the house. (9 Grey, 412; Jefferson's Manual, § 8; Smith, supra, 105, 234.) All petitions for the satisfaction of private claims against the government of the United States are transmitted to the court of claims, unless the house in which they are introduced otherwise orders. (U. S. Revised Statutes, § 1060.) Petitions must, of course, be presented to the appropriate department of the government. (Paschal's Annotated Constitution, 256, § 248.)* — The right of petition seems to be so just, so harmless, and so unquestionable, that its formal recognition in our constitution may appear needless. Its justice, however, has not always been admitted. In the case of the seven bishops we have seen that James II. attempted to override it. In ancient Persia we learn that petitions were discouraged, for "whosoever, whether man or woman, shall come unto the king into the inner court, who is not called, there is one law of his to put him to death, except such to whom the king shall hold out the golden sceptre that he may live." (Esther, chap. 4, verse 11.) We have the authority of Perry for the statement that Peter the Great made a decree that no petition should be presented to him until it had been offered to his ministers, and by them rejected. If the petition should then be presented to the czar, and fail to secure his approval, the petitioner was to suffer death. The result was, that no more petitions were presented. (*Etat de la Grande Russie*, 173.) From this account Montesquieu draws the conclusion that "in a monarchy the prince should be accessible." (*Esprit des Lois*, 12, 26.) It may readily be seen that such instances prove the value of the constitutional recognition of the right of petition, not only in monarchies but also in repub-

* (See also 1 Blackstone's Commentaries, 143; Story on the Constitution, § 1894; Cooley's Constitutional Limitations, 349; 1 May's Constitutional History, chap 7, pp. 410-417; Whipple's Report to the Legislature of Rhode Island, and Otis' Letter, published in pamphlet form, by Cassady & March, Boston, 1839; Broom's Constitutional Law, 408 et seq., 493 et seq., 508 et seq.)

lics. The right is most useful as a safety-valve for the people, and such a safety-valve is especially necessary where the people govern. The chartist petition did much to quiet the petitioners and those who sympathized with them. Public petitions awaken the attention of men, keep ideas alive, countenance those who wish to act, and show public opinion. (Lieber on Civil Liberty and Self-Government, 3d ed., chap. 12, p. 121 et seq.) In these ways they have a positive power. In the debate on the extension of the time of the income tax in 1853, Lord Brougham told the house of lords how the old income tax law was repealed. "How did the opponents of the tax conduct the campaign in 1816? By means of petitions." He proceeds to show that for five or six weeks, from four o'clock in the afternoon till two or three o'clock in the morning, petition after petition was presented and debated. (128 Hansard's Parliamentary Debates, 798.) In England petitions brought about the abolition of slavery, the emancipation of the Roman Catholics, and the repeal of the corn law. Of course the right of petition may be abused. The legislature should be free, and threatening crowds of petitioners destroy this freedom, as was frequently the case during the French Revolution. Again, petitions should be respectful. The Kentish petitioners in 1701 were imprisoned on the ground that their petition was insolent and seditious. (5 Cobbett's Parliamentary History, 1250 et seq.) Stockdale's petition was rejected by the house of commons in 1840, because it was insulting. The abuses to which the right of petition is liable are by no means enough to affect its value seriously. The statute of Charles II. was designed to prevent the disorders which petitions produced, and it is now unnecessary to enforce it. Such disorders are discountenanced by the constitution of the United States, which recognizes only the right "peaceably to assemble and to petition." (Rawle on the Constitution, 124.) The first amendment has been solemnly criticised because it "savors of the style of condescension, in which favors are supposed to be granted." (1 Tucker's Blackstone, Appendix, 299.) This criticism may account for the word "remonstrance" in many of the state constitutions (supra), but it can have but little weight with those who regard substance rather than language. — In France the constitution of 1791 included the right of petition among natural rights, specifying it as *la liberté d'adresser aux autorités constituées des petitions signées individuellement.* Although this section required every petition to be signed by the actual name of the signer, yet the assembly and convention often considered petitions signed by assumed titles, such as "the people," etc. The constitution of 1793 again preserved this right, pointing out the *tribunat* as the most appropriate recipient of petitions, and in 1799 the same privilege was reaffirmed. (Constitution of 1799, art. 83.) Under the first empire and the constitutions of 1815 and 1830 we find the right of petition protected. Many petitions were presented to the constituent assembly of 1848. During the second empire they could be addressed to the senate only. The constitution of 1870 allowed petitions to be presented to the *corps législatif.* (2 Block's *Dictionnaire de la Politique,* 555, tit. *Pétition.*) — In Prussia, Frederick the Great was accustomed to receive petitions himself. In the early part of this century a decree was published forbidding the thrusting of petitions personally upon the king. The Prussian constitution of 1850 recognizes the right of petition (articles 28 and 32); and in fact all Germany, as well as the other constitutional countries of Europe, admits its existence. (8 Bluntschli & Brater's *Deutsches Staats-Wörterbuch,* 67, tit. *Petitionsrecht;* 3 Holtzendorff's *Rechtslexicon,* 40, same tit. See, for example, Constitution of Belgium, 1831, article 21, and Constitution of Switzerland, 1848, article 47.) Even in Russia the emperor Nicholas was often addressed personally by petitioners. (Lieber, supra.) Huc states that the right prevails in China. He records a case in which the inhabitants of a Chinese town secured the removal of an obnoxious prefect by means of a popular meeting and a petition to the viceroy. He adds that such incidents are not infrequent in that empire. (2 Travels through China, chap. 3, pp. 77–80.)

ERNEST HOWARD CROSBY.

PHILOSOPHY OF LAW. 1. *What the Philosophy of Law means; its Task.* The mind of the jurist and the mind of the philosopher demand a philosophical consideration of the law. Both to the jurist and the philosopher the inquiries with which the philosophy of law concerns itself are altogether indispensable, if they would deeply and exhaustively understand their respective sciences. The student of law can not avoid the task of rendering account to himself of some of the highest principles of his science, of their foundation and connections, which his own science is unable to explain. Not only the statesman, the legislator and the teacher of law, but also the judge and the lawyer, in their respective spheres, find innumerable occasions for testing either whole institutes or single points of positive law, in their legitimacy and the essential reason of their validity; occasions for seeking to interpret them, and according to the result of that interpretation to endeavor either to retain or to alter them. The jurist is thus frequently compelled to seek for principles of law; but to search after principles, is to philosophize. — On the other hand, the philosopher is compelled to test his general, theoretical principles by the materials of existing law. Among all enlightened nations he finds the state the grandest reflex of the human mind in history. In all human communities he meets with the idea of law, as an essentially human idea, in various stages of development, from its most refined down to its most simple and only half-conscious beginnings. In his system, therefore, the philosopher must take this important phenomenon into careful con-

sideration. The philosophy of law is, accordingly, the systematic science of the principles of law. From the philosophical point of view, it assumes the task of inquiring into the necessary origin of the idea of law in the human mind, and into its relation to other forces and creations in the life of man. The philosophy of law is called upon to assign to law its true position in the cosmos of intellect. From the legal point of view the philosophy of law should endeavor to apply the highest principles concerning the nature of law and the state, obtained through philosophical reflection and historical investigation, and seek to incorporate them into the existing materials of all legislation. — 2. *Outlines of the History of the Development of the Philosophy of Law.* As a matter of course, there can be a philosophy of law only where the principles of law, as such, have at least begun to detach themselves from the precepts of religion and from the dictates of morals. Hence, in the present sketch of the process of development of that philosophy, we may regard as a preliminary stage (and therefore completely overlook) all that which, in ancient history, appears as religious revelation, legend, custom and poetry; although such traditions otherwise constitute important material for the investigation of national character, and of the chief outlines of the primitive human conceptions of law. — We meet with a true philosophy of law first among the Hellenes, for they at least began to detach law from ethics and religion, although they were far from completing the task of that separation. In this, however, as in many other things, they form the transition from, or connecting link between, the east and the west. In judging the organization of the Grecian state, and the Greek doctrine of the state, we must not forget this middle position of the Hellenes. Compared with theocratic and patriarchal despotism, they had made notable progress; but the Greeks must be said to have lived in very close bondage, when we compare them with the Roman *civis*, not to say with the citizens of modern states. For the Hellenic state was absolute, and all excellence, all ἀρετή, was excellent only in so far as it was subservient to the state, and became a πολιτικὴ ἀρετή. It was not so much that the state interfered in almost everything, but rather that everything was absorbed in the state. Religion was the state's religion, and any one who announced new gods had to drain the fatal cup. The family was only a means to the ends of the state. The state might prevent trade and traffic with foreign countries, and fetter the free activity of the economy of individuals; it acknowledged no society but itself. That state was only the logical consequence of the same political idea which prescribed to music its melodies, to instruments their tunes, and even ventured to forbid the Hellenes to read Homer. This political idea was not only oppressive to, but it actually destroyed, the family, by authorizing the community of women and children, and the selection of the parties to be united as man and wife by the public magistrates. — This entire conception of the state was possible only because of the very limited territorial extent of the Hellenic states themselves. The Hellenic state was the city (πόλις). The whole government easily assumed a narrow, police character, interfering in almost everything. Even Aristotle, although he expressly warned the Greeks against the danger of their petty state system, entertained, in this respect, so narrow a view, that he actually required that all the citizens of the state should be personally acquainted with one another. But, even in small "city-states" of this kind, the absolute absorption of the individual by the state was possible only so long as the old Hellenic spirit maintained itself; when the subject, without thought, submitted himself to the substantial embodiment of the national spirit, as traditionally expressed and represented in religion, customs and the state, and thus submitted himself with a feeling that things could not be otherwise. — Yet this old Hellenic spirit began very early to die out. After the first Persian war the dissolution of the old relation of absorption of the individual by the state accompanied the enlargement of the horizon of the popular mind and the increase of national culture. This was a natural, necessary, and in many respects a wholesome, movement. The transition to reflection in this instance was, as it is always and everywhere, the condition precedent of a higher mental development; and if the Athenians had never abandoned the point of view of the "Marathonites," the highest which they attained in science, in art and in the state, would have remained unachieved. But it can not be denied that the negative, dissolving and disintegrating effects that accompany all thought, or rather reflection, soon became very prominently, very sharply and very one-sidedly perceptible among the Greeks. To overcome effects of this kind requires at all times the most intense and continuous effort of all human energies. It accordingly can not be denied, that the Hellenic national character did not bear its emancipation from the old strict observance of faith and custom without rapid demoralization: a fact which is connected with the exceedingly rapid course of the whole history of Greece from its earliest beginning until its final decay. — The period of the *sophists* is, properly speaking, the time when awakened thought presumed to question, to investigate, to doubt, and even to pull down everything that was customary in religion or morals, in law or in the organization of the state. To the Hellenes this epoch had nearly the same meaning that the "period of enlightenment" of the past century had to France and Germany. In many things it was injurious; in some, useful; but in all, necessary. At this period Hellenic thought, in spite of all its traditions, was not satisfied with the belief that things could not be otherwise than they were. The Greek philosophers asked themselves whether right and wrong were settled for

all time by nature; or, whether they were only provisions changeable at the caprice of men. They inquired whether those ideas were φύσει or θέσει, and ever afterward this controversy ran through the entire Hellenic-Roman philosophy. But it is a characteristic fact, that the Hellenes, face to face with this first problem, should have thrown together ethics and law. The right, the good, the law (τὸ ἄγαθον, ὁ νόμος)—concerning which they inquired whether it existed θέσει or φύσει—was with them not only the law of legal right, but also the law of morality. The conservatives maintained the eternal inviolability of the law of legal right and of the law of morality, as an ordinance of the gods and of nature; but the sophists, armed with the subtlety and culture of the more modern time, pointed to the fact that the law of morality and the law of legal right are by no means always the same, but may be very contradictory in time and space. — The sophists, however, did not understand that the *idea* of legal right or law exists with all nations; that the creation of *forms* of law or legal right is rooted in the *nature* of man, and that only the *forms* in which this idea appears, may be different and even contradictory, according to national character, and to natural conditions and the conditions of the time. The sophists, because they saw uncertain, changeable forms of law, rejected the whole idea of legal right and of the good. They maintained that every nation, every epoch, as well as every individual, from motives of caprice or interest, might prescribe to itself or himself what it or he should consider lawful or unlawful, and might act accordingly. In this manner subjectivity finally passed all bounds. Although at the beginning the more moderate among the sophists (Prodikos, Protagoras) erected fresh barriers; subsequently the majority (like Gorgias, Hippias) both theoretically and practically followed out to the last consequences this anarchical doctrine. It has been justly observed that even Socrates, as the representative of the right of free investigation into all traditional institutions, stood on entirely the same ground as the sophists. But he differed from the latter, in that he subordinated the freedom of the individual to the purposes of the good, and wished that thought should not be employed for the purpose of demolition, but for the attainment of the knowledge and the voluntary observance of the law of morality. — In judging the philosophy of the state of both the great pupils of Socrates, Plato and Aristotle, we must take into account the influence of the Greek political situation, and of the general condition of Greek civilization at the time. That process of disintegration, the dissolution of the old system of ethics, through unrestrained skeptical thought, was making alarmingly rapid progress. In a political respect this degeneracy manifested itself in an unbridled ochlocracy, as in Athens; or in a malevolent tyranny, as in Sicily and the other islands. All earnest, thinking men, in all the Hellenic cities, had long since turned away with loathing from the turbulent democracy, and sought support and assistance in the strict Doric political and moral system, with its aristocratic ideals. We must keep in view this partiality for the Doric political ideal, which had been partly realized in the state of Lycurgus, in order to understand how Plato could reach the otherwise unintelligible extremes of his philosophy of the state. In the second place, we must take into account the peculiar tendency to abstract theoretical construction that characterized the whole Hellenic national character, and most materially all Hellenic speculation. This explains why Plato could admit, as the principle of his doctrine of the state and of law, the same idea which forms the basis of his psychology and of his analysis of the individual man. Hence, the well-known simile by which he illustrated his own psychology: As the charioteer guides his two-in-hand, the reason (νοῦς) must control, and keep in harmony the two halves of the human soul, the masculine, courageous, and the feminine, appetitive halves. And what is true of the individual man, is true of men as a whole, as they appear in the state. This whole only represents man on a larger scale, as one animated organic being, endowed with but one body and one soul. In other words, the three parts of the human mind, the feminine soul, the masculine soul and reason, reveal themselves in the state as three classes or estates—the class of tradesmen, that of the warriors, and that of the wise men. The best form of government, to wit, aristocracy, consists in the supremacy of the wise men, the passive obedience of tradesmen, and the active obedience of the warrior class. Every individual should belong completely to one of these orders, and be entirely absorbed in it. All private interests are destroyed by the state's distributing wives, children and goods among the citizens. The state controls the whole education of the people, even in the smallest details, and continues to educate even adult individuals. It prescribes the tunes of the lyre, forbids the songs of Homer, as being too passionate, and interdicts all imitative arts, such as painting, sculpture and the drama. The most gifted among the warriors after a long training may rise to the class of the wise men; but the caste of tradesmen, after ministering to the wants of the higher orders, as the adamant foundation of the state, must remain imbedded in the ground. The slaves, so indispensable to the ancient state, and all bodily defective children, must be degraded into that caste. In his later work, the twelve books on the laws, having seen the impracticability of his ideal state, Plato modified his extreme notions concerning the community of women and goods, and proposed a constitution, half way between oligarchy and democracy, in which the laws themselves should rule, instead of his ideal rulers, the order of wise men. — In Aristotle we find a marked progress both in the methods and the contents of the doctrine of the state. This philosopher gave his doctrine of the state a broad historico-juristic basis, by collecting data relating

to the constitutions of no fewer than 158 different states, and critically sifting the materials in a work that has unfortunately been lost. As regards the substance of his doctrine, his greatest merit seems to lie in his conception of man, as a ζῶον πολιτικόν, a political animal, a being by nature necessarily impelled to form states. It is not with Aristotle as with Plato, and most of the other Greek, Roman and Christian philosophers, purely external urgency and helplessness that impel man to form the state, but his very nature. The ideal basis of the state, side by side with the real, was first proved by Aristotle; yet without his distorting that ideal in either a theocratic or transcendental sense. — The collapse of all intellectual life in Greece, and principally of the life of the state, was soon reflected in the prevailing philosophical systems, and in the neglect of political life, with which the Greeks had formerly been so closely identified. The sensualist-material tendency of the Cyrenian school was continued in the Epicurean sect, which neglected the state. The rising school of the stoics, also, which in many respects bore a resemblance to the earlier school of cynics, no longer regarded the state from the point of view of the national state, which had represented the healthy point of view peculiar to the life of antiquity. The pantheism of this doctrine accorded a marked prominence to the subject, and led to the hypothesis of a grand whole, which embraced all individuals in a community of the cosmos. Men must live conformably to the law of nature (*naturæ convenienter vivere*—a maxim on which was subsequently based the so-called *jus naturæ*, or law of nature, which accordingly had a physico-ethical, not juridical, starting-point). Nature is supposed to impel all men, even all beings, that have any share in the cosmic soul, consequently the gods, into one great community; and any one who, in regard to this whole, conducts himself properly, is just. The justice of men among themselves is moral-politico-juridical; that of men toward the gods consists in piety. As in the cosmos, the world-soul, so in the state the "state-soul," moves, contains and controls everything; but this soul of the state is the law. — As is known, the teachings of the stoics became, later, the favorite doctrine of Rome, when it had gained the empire of the world; and precisely as the Roman empire finally dissolved all nationalities, even its own, into one universal state, so also the political doctrines of the stoic philosophy were cosmopolitan, and no longer national-political. — These stoical conceptions, mingled with Christian elements, exerted their influence far into the middle ages. The "Civitas Dei" of St. Augustine, who himself had received a stoical training, has many traits of the stoical πόλις Διός. — There was once a lively controversy as to whether, and how far, the stoical school had exercised an influence on Roman law; but in our present state of knowledge, and with our deeper historical insight into both the stoical philosophy and Roman law, such a question can no longer be raised. A school of French jurists (Cujacius), with the laudable intent of entering into the whole mental life of the Romans, was the first to seek an explanation of their law in its relation to the stoical school; and, strange to say, these jurists supposed they discovered a material influence of that philosophical system on the Roman law. But we now know that that law was only the outcome and development of the peculiar popular life, and of the peculiar talent, of the Romans. Its chief excellence consisted precisely in its repugnance to all the doctrinarian wisdom of the schools and in its thoroughly practical wisdom. It would never have occurred to a Roman jurist to allow any kind of philosophy to exercise any influence on the matter of his real juridical ideas. There certainly are to be found many stoical elements in the *corpus juris*, but only in its general definitions, in its erudition, in its ethical maxims. But those philosophical opinions remained completely without influence on the life and development of the institutes of the Roman law. In the same manner as the Romans, in a purely outward manner, appropriated to themselves all Greek culture, so, too, they introduced into Italy, Greek philosophy and political theories, yet without any real appropriation of them, and without any further development of any one of them, just as they erected the pillaged statues of the temple on the capitol, often bringing them, without much discernment, into an enforced contact with their own national institutions, heedless whether they harmonized well or badly with the latter. Now, the stoic definitions were very poorly adapted to the matter of Roman law, and we may confidently assert that what in the *corpus juris* is juridical is not stoic, and what is stoic is not juridical. — The Romans, accordingly, had no philosophy of law, in the proper sense of the term. Their so-called philosophers, particularly Cicero, learned philosophy from the Greeks, as one learns a foreign language, without changing it, or working it into the elements of Roman law. And yet, as it were, an unconscious philosophy of law, such as never afterward was attained to, seems to pervade the labors of the Roman jurisprudents. The eminent talent of the Roman mind for law is not only displayed in the acute formulation of juridical ideas, in the subtle distinctions of these ideas, or in the admirable conclusions it draws from them, in their algebra of juridical ideas, but the instinct for the deepest intelligence of the essence of law is still more luminously revealed throughout the whole development of it by the Romans, in the prætorial edict and in the *jurisprudentes*. The characteristic traits that make the Romans emphatically the juridical nation of history, were the above, and the gradual, slow transformation of the old, obsolete forms of law, according to the wants and the social progress of the time, as well as their efforts to do justice to all that was new, but with the utmost leniency toward the old. The incessant mental labor of the Roman

jurisprudents for centuries, by degrees smoothed down the rigid, specifically Roman, harshness of their law, and in connection with the growing universal culture of their empire, changed it into a *jus gentium* in the highest sense of the term, that is, into a law that in many things has promulgated lasting juridical truths, particularly in the law on obligations, or contracts, and in the general theory of the law. But it must not be forgotten, that, to effect this, that specific juridical talent, which itself was incontestably Roman, was required. Only the Romans were able to develop their Roman law into universal law. Their law, like Christianity, conquered the world, and together with the whole culture of antiquity, and as a fragment of that culture, it legitimately passed into mediæval and modern culture; yet legitimately only in as far as even that fragment of ancient culture could be assimilated with propriety to our life. We shall return below to this subject. — To the Hellenic philosophy and the Roman law were now added, as influential elements in the history of ethical, political and juridical ideas, the ideas of Christianity. The influence of these on the philosophy of law was decidedly unfavorable in the beginning. It enhanced the fundamental vice of that philosophy in the extreme: the amalgamation of law and morality, the preponderance of the internal and the moral over the external and really juridical. We have called attention above to the fact, that, as a matter of course, there can be, in principle, no opposition or contradiction between ethics and law, both being forms of one same force; but we have also called attention to the fact, that, spite of their close connection, there is a very decided difference between law and ethics, the obliteration of which operates unfavorably in the highest degree on both. When the domain of inner freedom and of morality is occupied by the law, when religious and moral precepts are understood or conceived in a juridical sense, then religious and moral truth perishes, and untrue and un-free formal holiness and apparent morality take its place. This history has demonstrated in all those cases in which the state or other external power has sought to command and enforce faith, religiousness or morality by coercive measures. In this domain of the free, inner life of the soul, only forms, formulas and appearance can be commanded. When, on the other hand, law is confounded with ethics, when religion and morality seek to rule the state and dictate codes of law, we see come into existence those abortive systems which would paralyze man's highest activity, his participation in the life of the state, and substitute fanaticism and hypocrisy for healthy action and open force. Unmanly, untrue and unhealthy organization is to be found wherever it is attempted to replace the state and the law by religion and morals. Here, too, the only healthy and normal course is to separate what is different. — The history of the philosophy of law, however, shows that it was only late that men learned to keep morality separate from law. Among the Hellenes we find the clearest contradiction between their theory and practice; both their theory and practice confounded ethics and law; but while in its practical life the state absorbed morality, prescribed ethico-religious rules or laws, and scarcely endured any free individual life, the science of the law and of the state was entirely ethical. It has been rightly remarked that the Hellenic vocabulary has no word for law in the sense of the Roman *jus*, but couples ethico-religious notions with the words *θέμις*, *δικαιοσύνη*, *νέμεσις*, etc.; and we have seen how, from Pythagoras to Aristotle, the pedagogical preponderated in the state, and the moral in the idea of the law. Among the Romans the life of the law was free and richly developed, but they had no philosophy of law. Their jurists avoided general definitions even in positive law.— Christian ideas at the outset evinced a strong disinclination toward the state, which was still heathen and corrupt. The kingdom of the Christian was not of this world. The true home of the Christian was not this earth, corrupted through the fall of man, but in the world beyond. Above all, he had to save his soul, by piety and faith, and only to concern himself with the state when it was unavoidable. As is known, the Christians of the first centuries expected the speedy end of the world, and carefully avoided, as far as possible, any contact with the heathen and sinful life of the state. Religious morality, with them, overruling every other motive, stepped into the foreground, while the state was but a secondary concern, or was considered only as a necessary evil. If human nature had not been corrupted through the fall, there would have been neither murder nor homicide, nor quarrels concerning mine and thine, and consequently no need of the state or of the law. Sin was introduced by the devil; along with, or at least on account of, sin, the state and the law had also entered into this world; in paradise there was neither king nor judge. With this sinful world, with the devil, the state and the law were to disappear, for they will not be required in heaven. The *lex temporalis* contains, of just and legal, only what it borrowed from the *lex æterna*. — Such was the teaching of St. Augustine, and his doctrine was only logical. The ancient wisdom of the Stagirite had taught, that man by his ideal nature was drawn toward the state; that the latter was not a necessary evil, but a necessary good; but now Christianity had reached the very opposite conclusion. This world-shunning view, neglectful of the state and of the law, governed the entire Christian philosophy. The scholastic philosophy confused law and ethics in this, that, according to the former, the just man (the *δικαῖος* of the Bible) was only the person who, through the redemption, had been rescued from sin. Scholasticism over and again called to mind how man, so long as his nature had not been corrupted by the devil, neither knew nor needed the law or the

state: and further, that all law ought to be reduced to religious morality and the ten commandments. The different philosophers and their parties only diverged from one another in this, that some among them ascribed man's knowledge of these principles to divine revelation, while others ascribed it rather to the natural reason of man. Scholasticism further made frequent attempts to distinguish the *lex divina* (the moral and religious law of the Mosaic-Christian revelation) from the *lex naturalis* (the voice of moral, juridical commands, dwelling even in the heart of the heathen: thus particularly the tolerant and liberal Abelard). But this whole intellectual tendency, which attained its latest expression in Thomas Aquinas (1225–74), has in common a disregarding of the state and of the law, and the coloring of both by religious morals. — Considering the historical conditions of the middle ages, this idea naturally led to the complete supremacy of the church over the state, in its quality of representative of religious morals. But the opposition to this idea was preparing, during the time that the state, with increasing success, began to struggle for its emancipation from the church, by the aid of science, no longer exclusively confined to the clergy, but pursued by laymen as well, and particularly by the aid of the revival of ancient culture and the knowledge of Roman law. The struggles of the Hohenstaufens against the papacy may apparently have ended in the subjugation of the secular power; but in many individuals it had at least aroused a doubt concerning the legitimateness of ecclesiastical supremacy. The increasing power of the opposition against the religious-moral absorption of the state and the law, was not the work of philosophers, nor the outcome of theoretical reasons, but was owing to the efforts of statesmen and party writers, and to the practical wants and aspirations of the period. These men at first opposed these principles on account of their practical consequences. Dante and Occam, the brave political adherents of the emperors Henry of Luxemburg and Louis of Bavaria, were the men who first successfully, for practico-political reasons, attacked the supremacy of the pope over the secular powers, and the whole theory on which that supremacy was based; but, as a matter of course, they did this in complete conformity with the dogmas of the church. Two hundred years later, Niccolo Machiavelli (1469–1527) submitted, with reckless knavery, morality to political ends. In his ardent wish to see Italy freed from the numerous small despots and their feuds, he called for an absolute dictatorship, which by any, even by immoral means, as violence and fraud, might carry out the political behests of the times. Yet all this is sufficiently explained by the historical conditions, by the times of the Borgias and the Medicis, as also by that peculiar talent of the Neo-Latin nations, particularly of the Italians, which prompts them to follow up the suggestions of any ardent passion to the end. At the same time it was an equally extreme reaction against the subjugation of the state and of the law by the religious morals of the church. The emancipation of the state was carried to the point of ignoring all ethical laws, and of sacrificing morality to purely political ends; yet the motives here again were practico-political: the wounds of torn Italy and the necessity of healing them. Machiavelli belonged to the period of the reformation, that amidst violent convulsions completed the movement which began at the close of the thirteenth and continued through the fourteenth and fifteenth centuries; the movement which, in principle and forever, did away with the scholastic idea of the state and of the law, and of their relations to morality and the church. — And here, again, the men who achieved these results were not philosophers of the schools, armed with theories; on the contrary, these results were the necessary outcome of the gigantic strife of the sixteenth and seventeenth centuries, which in Germany, England, Switzerland and France led to radical changes in the organization of church and state. Once more the practico-political movements of history created the necessity of not abiding by old, traditional ideas, but of seeking a different solution of a number of important problems, touching the relations of church and state, of law and religion, of the freedom of private life, the rights of public life, and the rights of citizens in relation to their governments. Men insisted on examining for themselves into these problems, in order possibly to attain higher results. Such were the great questions of the period, which aroused so many powerful minds in Germany and in the Low Countries, in England, in France, and even in Italy and Spain. In this manner the 150 years that followed the first efforts of the reformers, until the last vanishing traces of the thirty years' war, displayed an extraordinary wealth of political and juridico-philosophical literature, both in the form of long-winded systems and of short polemical writings and pamphlets. — The reformers themselves, even Luther and Melancthon, knew hardly anything of the philosophy of law, in the proper sense of the term. In ethics, also, they still maintained the traditional ideas concerning the *lex divina*, *naturalis* and *positiva*. There, nevertheless, were a few of the friends and pupils of the reformers, who, both in theory and in their practical deductions, boldly broke away from their teachers, and followed the spirit of the times. Such was Hubert Languet (1518–81), who in the interest of freedom of conscience openly advocated popular sovereignty. The same was also done by his contemporaries, Hotomanus in France, and George Buchanan in Scotland. Melancthon's pupil, Hemming, more deliberately than his teacher, severed all connection with the doctrine of the middle ages. Yet, along with all this, there were many stationary men among the adherents of the reformation, who, in the field of juridical philosophy, retained unchanged the old views, as did Oldndorp. The revival, and at that

time flourishing condition, of Græco-Roman philology caused the students and patrons of it to show a decided inclination for the political ideas of antiquity. The Frenchmen Hotomanus, Bodinus, Charron (1541–1603), Gassendi (1592–1655); the Englishmen More and Sidney; the Italian Piccolomini (1604), and others, with but few Christian modifications, renewed the doctrines of the old Hellenic and Roman philosophy. It would be unfair to maintain that in all this there was nothing more than the harmless whims of unpractical scholars. It must not be forgotten that More and Sidney died for their convictions. Their theories concerning the importance and dignity of the state contrasted strikingly with the mediæval theocratic ideas; and in this respect they certainly represented the spirit of modern times. But the old point of view was at the same time vehemently defended by the school of the Jesuits. The conversion of heretics was their main task. Dominicus de Soto, Fernando Vasquez, Bellarmine, Molina, Suarez and Mariana are the most prominent names connected with the tendency of this school. They frequently displayed great learning and intelligence. They skillfully employed the theories of the principle of sociality and of the sovereignty of the people, which were in favor at the time. In other words, they defended the old, desperate cause with the arms of their adversaries, and in so doing scorned no means that proved serviceable for their holy purpose. They even considered the murder of an heretical prince a duty. The church herself was finally compelled to disacknowledge these ultra-apostles of hers; yet long before that not only governments had had their books burned by the hands of the public executioner, but deeply religious men, like Pascal, had directed their combined power of heart and intellect against this deplorable misuse of religion. — We next come to a long line of conspicuous British philosophers who wrote concerning the state. Most of them had for point of departure the problems that were agitating their own insular kingdom in particular, but which, nevertheless, justly claim a certain universal importance, because the convulsions that shook the state and church in England were closely connected with the general religious-political movement of the sixteenth and seventeenth centuries. Among these men, also, there were harmless philological dreamers, who regarded the revival of antiquity as the standard suited to their own time. This not only applies to More and Sidney, but even to the highly realistic Bacon of Verulam, who, with genuine, practical English common sense, looked upon utility as the principle of the state. He, nevertheless, to a certain degree, leaned on Plato, basing the state on ethics, while Plato based it on psychology. In the great struggle for the respective rights of the crown and of the people, absolutism found an intelligent champion in Hobbes, who in a logical manner attributed absolute inviolability to all government, while others, like Salmasius and Filmer, demonstrated the autocratic power of the monarch from the Scriptures: the latter, in his notorious *Patriarch* (1665), maintained the identity of the royal and paternal power, and showed that God had instituted absolute monarchy with Adam, in Paradise. Milton, with his wonted enthusiasm for truth, morality and freedom, successfully attacked Salmasius, while the penetrating intellect of Locke completely overthrew Filmer's patriarchal doctrine. At the same time the principle of sociality, as it had been accepted by the German and Dutch writers on the philosophy of law, was established psychologically by Richard Cumberland, with whose name the school of so-called English moralists is associated: Shaftesbury, Wollaston, Clarke, Hutcheson, Home, Ferguson and Adam Smith.— David Hume also went in this same direction, although in many respects he conflicted with its tendencies. His austere skepticism rejected the traditional "myths" of a state of nature and of a social contract. General utility is his principle of the state, of law and of justice; for peace and good faith will in the end prove more profitable than violence and cunning. In this manner he sought both to modify and support the optimism of the moralists. This utilitarianism, which among English philosophers began with Bacon, frequently after reappeared in England, under ever-varying forms, as a characteristic trait; and in our own century it attained its most marked expression in the system of Bentham. — Yet the main branch of the intellectual current at that time flowed through Germany and the Low Countries. Here the doctrine of the law of nature emanated from Hugo Grotius, inasmuch as he, with greater decision and consciousness than his predecessors, reduced all positive law of whatever kind to the common basis of a constantly uniform law of nature. It was also very characteristic of the practical starting point of all this movement, that even Grotius begins with the simple question: "Is it ever just to wage war?" To investigate this question, the terrible wars, of which he had been a witness during his own lifetime (1583–1648), furnished, indeed, sufficient cause. He answers the question in the affirmative, in the case of just defense or demand for satisfaction; and he only occasionally comes to the investigation of the legal principle itself. It is, besides, very remarkable that Grotius, as well as all the following teachers of the law of nature, gradually distinguished more sharply between law and the morals of religion, although they regarded God, or his revealed will, as the common basis of both. As to the particular institutes of public law, Grotius seeks to prove that they do not necessarily, or altogether certainly, emanate from the reason, yet he contends that they do not absolutely contradict it. This problem might, indeed, have led to a fruitful analysis of the matter of the law, if the whole law of nature had not started from a false conception of humanity and of history. Another fiction of this doctrine is the supposition of a *state* of nature (*status naturalis*), corresponding to the *law* of nature, that is, a con-

dition of humanity before the beginnings of society and of the state; and this condition of nature, with the theological philosophers, frequently meant the supposed state in Paradise before the fall of man (*status integritatis*), but with others, a condition of wretchedness and helpless want after the fall. — It was possible, from these general premises, to draw the most opposite conclusions in questions of detail. Thus Hobbes, from the political contract, which unconditionally bestows sovereignty on the monarch, infers extreme absolutism; while Rousseau, from his *contrat social*, reaches permanent revolution, the sovereign people having made every office revokable, and thus at any time being able to depose the king. Between both these extremes there exist various kinds of modified doctrines. It is remarkable that Spinoza here also sustained the superiority of his genius; and although not entirely exempt from the influences and errors of the scholarship of his time, he on certain main points decidedly opposed them. Thus, he combats the hypothesis that men by the political contract ever renounced their freedom. On the contrary, he maintains that only in the state do they acquire freedom; that before the state there existed only arbitrary power; and that only in the state is it possible to put an end to irrational and unlimited unrestraint, unworthy of man, to attain to an existence in accordance with reason. — Samuel Pufendorf agrees with Spinoza in combating the theological view of the state. The remarkable juridical talent of the former placed him on many points in direct conflict with the traditional tendency to fill up the whole domain of law with moral-religious ideas, and involved him in numerous polemical conflicts with the advocates of the latter school. Although he also draws no clear distinction in principle, between law and morality, in most matters of detail his sound juridical sense correctly distinguished between them and connected them. With Spinoza, he lays stress on the fact that the "state of nature" of man before the social contract is the most wretched hypothesis conceivable, and that man did not enter into a state of society by contract, but was impelled thereto by a fundamental law of his nature. The commands that are indispensable to the preservation of society or the community, Pufendorf holds may be enforced, and are *jus perfectum;* those, on the contrary, that only serve to render human association more pleasant or agreeable, are not coercible, and constitute *jura imperfecta*. Pufendorf further distinguishes between the duties of man toward himself, and his duties toward others; and among the latter he distinguishes the absolute and the hypothetical, that arise from special agreements (*adventitiæ obligationis*), such as the rights of property, the rights of the family, and the state, into which men entered, and that by contract, to prevent the war of all against all. Here Pufendorf pays homage to the errors of his time; but he decidedly opposes them in his conception of the church, which, as a *corpus mysticum*, should wield no immediate, and particularly no political, supremacy in the state. The church may appoint teachers of its own faith; but it is subject to the state, like any private society, and in things not spiritual it should be deprived of all coercive power. — Nevertheless, other ardent champions of the old theory soon appeared, to oppose these innovations, at the close of the seventeenth, and beginning of the eighteenth, century, in Seckendorf and Alberti, and the two Cocceji, as well as in the works of their pupils, who directly based both law and morals on the will of God, as revealed in the ten commandments. Christian Thomasius (1655–1728) was a real standard-bearer on the field of progress, just as he was the devoted adversary of the trials for witchcraft, and the first who lectured on the law of nature in the German language. At his first appearance, while he still adhered to Grotius and Pufendorf, he was goaded, like Luther, by the polemical writings of his numerous and violent adversaries, into much more extreme views. His point of departure is a strict separation of religious-moral doctrine from natural law. The former, he claims, has its origin in divine revelation, the latter in human reason, and the more reverently we grant the precedence to the former, within its own sphere, the more marked will be the independence of the whole sphere of law.—Leibnitz (1646–1716) was not so important an element in promoting the development of the philosophy of law as was Thomasius, who, both in a positive and negative manner, imparted a powerful impulse to that development; but Leibnitz was a most powerful force, by the general spread of his ideas, broadly developed by Wolff (1679–1754); ideas which ruled the literature and the whole world of enlightened German thought, in the period of its *aufklärung* (enlightenment). To Leibnitz, justice is the virtue which preserves the normal condition of man's social life. The pre-established harmony which keeps the universe together, reveals itself, in the community of men, as law, hedging in the institutions of marriage, of paternity, the relation of master and servant, the commune and the state. In this sense, to obey God and to obey reason are one and the same thing; and the conviction of the binding force of the law does not come through the state contract or political contract or social contract, but is given with the idea of law itself. — Still, it was not these deep views themselves, but rather the theistic-rationalistic ideas of an ethico-pedagogical kind, that governed the German *aufklärung* (enlightenment), through the broad interpretation and amplification of Wolffian dogmatism. — But even this harmless system of German rationalism, on many points, calls to mind the dangerous theories which, during the same period, abounded in the French *éclaircissement* (enlightenment), the attempted realization of which was destined to shake and startle the world in the French revolution. — In France the thoroughly corrupt moral-political and politico-economical state of things, toward the close of the sixteenth

century, had, in a Montaigne, engendered absolute skepticism as to the power of the moral law; and the fermenting putrescence of that state of affairs finally found a natural outlet in the French revolution. — In fact, toward the middle of the eighteenth century, the culture of the time placed itself in open and avowed opposition to the prevailing conditions in the state, the church and society, from which that culture itself had sprung. The rationalism of the encyclopædists, influenced both by the English moralists and the materialistic tendencies of the natural sciences, the study of which was renewed, proclaimed *interest* (*l'intérêt*) the principle of all action, even of all noble action, the latter also, it was claimed, being due to an enlightened self-love. In order to protect the practical results of this view, men formed society, and created the state (D'Alembert, Diderot); society and the state being but the outcome of the *nobles passions* of men, such as ambition, pride and love of glory. Thus Voltaire; but this author here drew an illegitimate conclusion, because from the above starting point, the state would manifestly owe its origin to the abject passion of fear. Nevertheless, Voltaire's practical efforts to effect an improvement in the cruel penal code of his time, possess a higher value than his theory. To effect that improvement, he worked in connection with the philanthropic club *Il Café* of Milan, particularly with Beccaria, who, in his book *Dei delitti e delle pene*, opposed with all his might both torture and capital punishment. Yet this he did from the point of view of the theory of contract, and by the use of arguments which would altogether deprive the state of the right of punishment. The circle that gathered round Baron Holbach, and the writings that emanated from it, revealed the materialistic tendencies of this period of "enlightenment." Rousseau, however, was the real harbinger of the revolution. His whole frame of mind, his absolute rupture with history, his leveling of all existing institutions, his heedless neglect of all experience, his bold construction of systems on entirely new ground, were destined soon to pass from theory into the practice of the French people. Rousseau expressly declares, that it is impossible to examine whether there ever existed a primitive state of man; but that, in reality, man's primitive condition consisted in the equality of all in a state of barbarism. In that state there was neither right nor wrong nor property. The first appropriation of things produced inequality, and thus kindled envy and ambition. The *social contract* was concluded, in order to control the outbreak of these passions. Each individual entered into this contract with each other individual; and thus in every act of the state every individual should be consulted; and so the English are really free only at the moment of the elections to parliament! Sovereignty is only bestowed conditionally and revocably; and when authority becomes despotic, that is, when it acts arbitrarily, it thereby cancels the social contract, and re-establishes the state of nature; in other words, it is not the people, but the government, that is in revolution. Despotism is by its very nature a revolution, and the uprising of the citizens is only the result of that revolution. The political consequences of these doctrines afterward appeared in the statesmen of the revolution, in Sieyes, to whom, as to Mirabeau, the third estate, which hitherto had been nothing, was everything. Thomas Paine proclaimed the most advanced tenets of this revolutionary philosophy. For him, even the Jacobins were not sufficiently advanced in their ideas; he regarded all government as an evil, and called monarchy and the papacy the inventions of the devil. His work on the rights of man was directed against the great English statesman Burke, who, with a rare abundance of superior political wisdom, combated the abstract theories of Rousseau and the revolution. The effect of this whole school was doubtless a destructive one. Still, in one man at least, who otherwise completely belonged to it, Montesquieu, negation is found connected with the work of construction, not so much as regards what he has to say on the philosophy of law, in which he was rather insignificant, as in his method, and in one main result of that method. While Rousseau intentionally turned his back upon history, Montesquieu sought to base his philosophical reflections on the state, and its constitution on historical experience. The wholesome result of this sound method was, that while Rousseau arrived at only abstract systems, devoid of real political vitality, Montesquieu, by his historical investigations, was led to the English constitution, and thus earned for himself the lasting merit of having transplanted the main traits of English constitutional monarchy to the continent of Europe, of having made it familiarly known there, and of having endeared it to the nations of the continent. — At the same time there arose in Germany a kindred historical tendency. Justus Henning Böhmer had energetically combated the traditional doctrines of the law of nature concerning the political or state contract, as well as the theological doctrine in reference to the immediately divine origin of kingly authority. These doctrines, he maintained, were contrary to all history. The *historia juris* proved manifestly, that the foundations of states and the organization of law were human institutions gradually developed, and which God had only permitted as he had all other things. — About the middle of the eighteenth century an enlarged intellectual activity in all the exact sciences appeared throughout Germany, chiefly in connection with the youthful vigor of the university of Göttingen (founded 1734). To this activity was added the careful editing and criticism of long-neglected juridical materials, side by side with the Roman law, which hitherto had alone been taken into consideration in the law of nature: we mean German law. The activity of the elder Germanists who were at work upon the history of the German empire and German law,

and on the antiquities and amenities of the German law, recall the life which then stirred in this field, and which prepared the way for the new historical school. At the time, this tendency had certainly no direct influence on the philosophy of law. The latter still dragged along the road of the old Wolffian law of nature in a series of numberless compendiums, copied one from another; and when the mighty blow followed—the criticism of Kant, which overthrew all such dogmatism—it did not proceed from the positive science of law, or from historical science, but from the philosophy of the school. The consequence was, that the effects which followed were also limited to the philosophy of the school.—Abstract philosophy, through pure construction, had, in the science of law also, been carried to absurdity. The great systems of subjective idealism, that followed the criticism of Kant, notwithstanding many subtle *aperçus* in detail to be found in Hegel, Fichte and Schelling, finally turned out to be only ingenuous mental aberrations. On the contrary, the new historical school, from the very outset, was far from seeking the creation of a philosophy of law. Hugo, Savigny, Puchta, Niebuhr, W. von Humboldt, Eichhorn and Grimm, by an exhaustive investigation into the nature of history, language, myths, and the history of law, obtained a far deeper knowledge of the principles, nature, development and life of the law. After the fall of the great *a priori* systems, the results of this historical school, although not as yet clothed in the language of a genuine philosophy of law, stepped, as it were, *ipso jure*, into the place of all those exploded theories. In fact, the results of this historical school, and particularly its methods, have become the necessary starting point of all future philosophy of law. The immediate task of that philosophy will still long consist in appropriating, and shaping into the form and language of philosophy, the results that have been obtained by this historical school. — As regards Kant, it should be remembered that he refuses to reach the absolute by the "theoretic reason," or by the cognitive faculty; but, in the field of practical reason, he assumes God as a postulate, through which he and all his followers derived religion from ethics in the same way that ethics were in the middle ages derived from religion. After the manner, and partly in the very language, of his predecessors, from Thomasius to Wolff, Kant finds the distinction between legal and moral duties in the external coercive power of the law. This constitutes the epitome of all the norms, under the presupposition of which, the freedom of all individuals is compatible with a common law for all. Kant is certainly profound in basing the rightfulness of legal coercion on the reason of the law; and every one, who himself is endowed with reason, may inwardly, and on that very account also outwardly, be compelled to submit to the coercion of the law. — We need not here enumerate the multitude of dependent disciples of Kant, who for a length of time concerned themselves with the law of nature. It must be borne in mind, however, that a juridical mind like Feuerbach's was at the beginning captivated by Kant's ideas, which ruled the entire culture of the epoch. Soon, however, he strove to sever law from its identification with the moral law. He maintained the existence of a distinct juridical faculty in man, side by side with the moral faculty; and the idea of freedom, which plays such an important part in the system of Kant's science of law, he deliberately banishes from law into the moral domain, so that he wrongly bases his whole system of penal law on a refined theory of psychological coercion, and punishes crimes above all things according to the measure of their danger. — In Fichte, on the contrary, the preponderance of the practical reason transforms all philosophy, and particularly the theory of law, into ethics. Not only religion and morals are identified, but, in the later stage of his philosophy, law becomes a means to the ends of morality. In the compulsory state there prevails only the lower freedom of the law, but in his reason-state the higher freedom of culture. This reason-state, which, as a moral institution, has to realize the virtue of justice, according to Fichte, is practically the hermetically closed commercial state, in which, however, as in Plato's ideal republic, all freedom of individual life is lost. In the Hegelian system, by the side of monstrous distortions of juridical or legal ideas, there are to be found several clever ideas, as, for instance, in the penal law. It is well known that in this system the double-edged principle, "All that is, is rational," has been misused to support the extremest revolutionary doctrines, and to defend the most corrupt political systems. We must also lay stress on the fact, that all this ingenuous philosophy succumbed to the error of its methods; the *a priori* construction of all reality from "pure" ideas, with the apparent neglect of all experience, and of the sciences based on experience. At the very time that the Hegelian philosophy of law, religion and history, and Schelling's philosophy of nature, marked the failure of these bold *a priori* constructions, the above-named founders of the historical school had obtained important results, through more diligent and thoughtful detailed investigations in the field of law, tradition, religion, language and all the intellectual sciences. These results have since become lasting achievements, not only of the historical and positive, but also of the philosophical, treatment of these sciences. — Before we pass to the exposition of the principles of the historical school, and try to apply them to philosophy, we must at least mention certain groups, that are equally distant from the great idealistic systems, and from the historical tendency, but still in many respects related to both, though more closely connected with the current of political and social thought. The spirit of restoration and reaction in the state and the church, which, after the overthrow of the French revolution, ruled, in Napo-

leon, the whole European continent, called forth in Germany a series of phenomena, which collectively may be described as the romanticism of the philosophy of law. These phenomena are closely connected with the romantic tendency in art and culture, and borrowed many of their weapons from the conservative side of the idealistic systems, as well as from the historical school. — In this manner Karl L. von Haller, with stubborn logical methods, would restore the whole mediæval idea of the state; that is, he denies that the idea of constitutional law is different from that of private law. The state is, according to him, nothing but a great landed domain; the king is the proprietor of this domain; the citizens are his servants or tenants; the taxes are rents; and war is but the private feud of the lord of the land. In this patrimonial state there naturally exist no rights belonging to the citizen. With Fr. Schiegel and Adam Müller this state romanticism inclined toward the church. In Steffens and Baader this same tendency was closely connected with the ideal mysticism of Schelling. — This school closes its preliminary stage of development with the philosophy of law of Julius Stahl. This philosophy appeared with greater pretensions, and displayed more correct dialectics and subtler methods of demonstration. By leaning toward the historical school, it somewhat disguises its real purpose, but like Haller's restoration, it was really nothing but a return to the middle age, a relapse into the theological doctrine of the state taught by Pufendorf and Thomasius; his doctrine of the state begins as orthodox theology. — *Socialism* forms an extreme contrast to this German romanticism of the state. At a much earlier period it had been acclimatized in France; but it grew most luxuriantly during the period of the restoration. — Even before the time of the encyclopædists, Morelli had called private property the source of all evil. According to him, the earth, given undivided to man, should remain undivided. Labor should be distributed among men according to their strength and capacity, and the product of that labor according to the wants of each, the surplus sold, and what was obtained for it divided equally among all. — But to maintain this state of things, legislation was, as a matter of course, needed; a legislation which, as in the case of Lycurgus, Plato and Fichte, would destroy all liberty. The right to labor was then recognized by the views which at that time prevailed, and ruled in all France, the views of the physiocrates, Mirabeau, Quesnay, Gournay, and even of the moderate Turgot. During and after the revolution, these ideas reappeared, with stormy energy, in Babeuf, Darthé, Marechal, Buonarotti, Saint Simon, Bazard, Fourier, Cabet, and Proudhon. In Le Maistre and Lammenais they were associated with the ecclesiastical, religious romanticism of the state. The former regarded the papacy as the highest international tribunal, while the latter, with a generous but very unstatesmanlike enthusiasm, dreamt of the re-establishment of the state on the basis of the early Christian community. We may also mention briefly other chief tendencies of the doctrines of the state in France, which yet are not originally French. The old liberals and old constitutionalists (Constant, Guizot, etc.,) as Montesquieu had once done, inclined toward the English constitution. Others yet sought to introduce and naturalize in France the methods and results of German philosophy, particularly of the great idealistic systems (as Cousin), partly in order to combat materialism, which, together with the eager pursuit of the natural sciences, seems to preponderate in modern French culture. — We are not as yet able to pass judgment, from an historical point of view, on the multitudinous tendencies of the German philosophy of law since Hegel's time, tendencies which are still in full course of growth, and greatly at variance among themselves. Nevertheless, any philosophy of law that wishes to raise itself to the actual level of the science of law, can not henceforth afford to ignore the methods or the fundamental principles of the historical school referred to above. — 3. *Chief Features of the System.* The main result of the above-mentioned development, as it is represented in the new historical school of legal science on the continent of Europe, and of philosophy, relates, in the first place, to the methods, and then to a few of the chief features, of the matter of the philosophy of law. As in all the departments of philosophy, so also in this, it has become evident that "pure speculation," which pretended to construct phenomena *a priori*, without the aid of historical experience, never existed. The task of the philosophy of law is not to evolve the phenomena of the idea of law, as it were, prophetically out of that philosophy; but, by the aid of the inseparable forms of synthetic and analytic thought, to investigate the principles of law, after a careful historical and experimental study of the matter of law itself. A correct knowledge of law, especially of the history of the law of different nations and the comparative history of law, must henceforth be the basis of all philosophy of law; but that knowledge certainly will not supplant the law, as is supposed by the one-sided adherents of positivism and of the historical school. — We find the realization of the idea of law in all its multitudinous forms of manifestation, by way of experience, in history. The first task of the philosophy of law is to investigate the cause of this phenomenon, and to ask: What is properly the fundamental idea that distinguishes this from other kindred phenomena? and how is it connected with these latter phenomena? We must further inquire: Since, wherever men live in society, at least some traces of a juridical organization are to be found; since law, no less so than language, religion, morals or art, seems to be a necessary attribute of human nature: wherein lies the necessity of the idea of justice for mankind? — Let us start with an approximative description of law, which does not pretend to be a definition. We may describe

law provisionally as the sum total of general regulations, under which particular cases may be subsumed with a certain degree of necessity. — This at once reminds us of the fundamental quality of all human thought in itself. All our thinking, as it moves within the logical forms of judgment, notion and deduction, and in deduction in the form of major premise, minor premise and conclusion, is really but the subsumption of particulars under the head of a higher generality. Human speech, with which our thinking is indissolubly connected, and which is the essential form of our thinking, has its essence in the construction of unities from multitudinous phenomena of the same kind. All speaking and thinking is, accordingly, a seeking for generalities, for unity instead of multiplicity. The deduction, the syllogism, is, even more manifestly than the judgment, a subsuming of a particular under a general. — And all our research, within the domain of mind and of nature, is nothing but a seeking for unity, generality, necessity, in place of the apparent multiplicity, particularity or accidentality of the phenomena. In the domain of nature we are not satisfied with the sight of the innumerable particular phenomena presented by falling bodies; we seek for unity, generality, necessity, in all these instances; that is, we seek for their "law," and speak of the law of gravity. In the department of mind, we are not satisfied with the impressions made by certain natural phenomena or human works upon our imagination. We try to discover why all these like phenomena produce the like impression that we call "beauty"; that is, we seek for the *law* of beauty. All human research is, therefore, a search for laws; that is, a search for a generality which has the character of unity, and under which particular phenomena are necessarily subsumed. When we have discovered a law in this sense, our thinking is at once satisfied, but not before. For the law of our thinking itself (the general, uniform, necessary essence of all our thoughts) consists precisely in seeking for laws, or for a necessary generality. Thus, the natural sciences seek for "laws of nature," and the mental sciences for "laws of mind." Man has divided the multitude of phenomena into two large hemispheres, according to the standard of their immediate, sensuous perceptibility, mind and nature. But the human mind not only wishes a law for each of these halves, it not only aspires after one law of nature appearing in all the laws of mind; but it also asks for unity above and within this duality. As the human mind embraces all that is conceivable, the world of nature and that of mind, in the idea of the universe, it rises to the idea of and the demand for an *absolute law*, a world-law of unity and necessity in the universe. — In this manner, having recognized that law also is general regulation, under which particulars may be subsumed with necessity, we can understand the inner connection of the idea of law with the whole intellectual life of man, and its inner *ideal* necessity for man. To prove this and bring it out into relief, is an important task of the philosophy of law. We have seen how, since the days of Plato, through the age of scholasticism, and of the teachers of the law of nature, down to our modern socialists, law and the state have almost always been conceived, as the result of external compulsion, as a mutual assurance of life and property against murderers and robbers. It can not be denied, that this external compulsion exists; but it does not exist *alone*. Men are led not only by external motives to law and the state; an ideal necessity impels them to regulate their social life, its manifold relations and phenomena, according to a uniform, general rule, necessarily demanded by reason; that is, according to *a law*. — The natural and intellectual constitution of man teaches us that he is intended for society, for living together with his equals. Natural instinct compels the two sexes of the human species to come together, not temporarily, like other creatures. The helplessness of man during infancy necessitates a permanent association of father and mother, and the human family is specifically different from that of other animals, just as human speech, which also presupposes a lasting community among men, is different from the inarticulate sounds of other animals. Man can not even exist, still less develop his native faculties, without utilizing in his service a number of natural objects, things and goods, to a far greater extent than all other animals. He needs not only food and shelter; clothing, weapons and tools of every kind are indispensable to his existence. But, since he lives and must live, in common, in marriage, in the family, the clan, the commune, etc., and as each man has an equal need of everything, conflicts concerning the outward relations of individuals to things or goods are unavoidable. There can be no doubt that it was the external necessity of preventing or quickly terminating conflicts of this kind, which constituted the real external compulsion that urged man to create law and the state; but it is a radical error to derive these institutions exclusively from that external compulsion. Human society demands a peace institution or peace order, but it is not satisfied with one that merely insures order. It requires a rational order of the peace. In this lies the ideal, intrinsic root of the law. Man does not wish the law, as external compulsion, as a purely arbitrary, compulsory ordinance or order. In this, as in every other domain man possesses the faculty, and feels the want, of seeking and finding the one general and uniform order which presides over the variety of phenomena, and which appears to him rationally necessary. The law of every people is the effort of a human community to find a rational peace order. Such laws embrace the cardinal principles, which, according to the ideas of each people, should regulate the acquisition of wealth, its exchange, the loss of goods or claims, the punishments for the unlawful violation of these same laws, and the proofs of such violation; or, in other

words, everything which conditions social life, based on common interests. If this order of peace is violated, the offended person feels, that not only his individual interest has been violated, but also the general reason, under the protection of which his right is placed. And, since those who are entitled to the same rights regard the violation of the right of an individual as a violation of the order of peace or of the peace regulation, which, in the common conviction of all, is alone able to render life in society possible in a rational way, all feel, as does the offended individual himself, the necessity of restitution, and, according to circumstances, of satisfaction. As a result of these considerations we have the following definition: *Law is the rational ordering of the peace of a human community in what concerns the external relations of the members thereof to one another and to things.* — Law is the rational ordering of a *human* community. This characterizes it as a work of the human reason, and precludes its derivation from supernatural revelation. We say law is the ordering of *a* human community, but not of *the* human community; in other words, there is no law of nature, no abstract, model law, equally applicable to all times and to all peoples. The idea of law is certainly common to all nations and to all humanity. But, just as there is no abstract universal art, there is no abstract absolute law. The universal human idea of law appears only in the totality and in the succession of the laws of separate nations, in the same way that humanity is not a dead abstraction, above those communities of men called nations, but appears in the totality of nations. The difference of national characters appears in the difference of the laws, precisely as it does in the difference of the arts, languages and religions of the different nations. The law of every nation is the outcome of its natural and historical antecedents, and of those antecedents which accorded with its national character. It should be in harmony with the national character and the actual condition of the civilization of the country. It grows, at first, unconsciously, spontaneously, necessarily, as a custom. Originally, a nation no more *made* its laws than its language. — It has been objected to this conception of law of the historical school, that it leads to complete quietism. For it is said, if the law of a nation necessarily grows out of its aggregate character, individuals can do nothing but let it grow, and there can be no such thing as progress or learning. But the objection does not hold. So far as it applies at all, it is no objection; and so far as it is an objection, it does not apply. At all events, even in immediate stages of culture, the law, on the whole, is changed rather unconsciously than with a conscious intention. But if in a nation thought advances with culture and the complexity of its life, it naturally, also, affects the matter of the nation's law; it then consciously seeks to change and to improve that law, as it seeks change and improvement in every other sphere. As the law is always the mirror of the condition of a nation, if a nation far advanced in culture did not reflect upon its law, it would be as unnatural as if the "thing" men of the primitive forests of Germany had come to their judgments and decrees by means of the philosophy of law. — This also disposes of the objection that, according to the historical conception of law, the learning of nations from each other, and their progress, are impossible. There have been dreamers, who, without any very profound knowledge of history or of human nature, have gratuitously supposed that the history of the world would constantly progress in a straight line; that, at some distant day, a universal law of humanity would supplant all the special laws of the different nations; and that this is to be the ultimate end of the world's history. But this will never happen. It is as impossible as the existence at any time in the future of an abstract humanity without national differences, or as that there should exist a universal language of humanity. That comfortless condition of absolute uniformity is excluded by differences in race, climate, soil, etc., which can never be entirely effaced by any degree of civilization. But our historical conception of law does not exclude the idea, that, in proportion as the civilization, interests and the common views of nations grow more like one another, their ideas of law will also grow more similar. But even then the similarity of the laws of the different nations would only be the mirror of their altered social conditions. This similarity of laws will probably be reached at a not very distant day, in those departments of law which by their nature belong more to the community of nations than to their separate life. Thus, there already exists an international law extending over the whole of Europe, and even beyond its boundaries; and it is not improbable that the most civilized nations will shortly agree in their views in regard to the laws relating to commerce, bills of exchange, copyright, the post, railways, etc. Yet this can scarcely happen as to laws relating to the family, and to real property, to say nothing of the fact that among many nations (as mountain and seacoast peoples) many departments of law will either necessarily exist, or necessarily be wanting. And so nations may learn law as well as art from one another. In so far as wherever men live together there are certain legal relations (those created by contract, for instance), which must be judged by a logic inherent in these relations, a less developed nation, possessing a younger civilization, may very well adopt the truths which have been discovered by another nation with a more ancient civilization. The most important instance of this phenomenon is the acceptance of the Roman law in Germany. As the Germans had received the whole of Græco-Roman culture, it was very natural that they should also adopt the Roman law —that most important of all the elements of Roman culture; and thus far that acceptance has proved wholesome and instructive. But it was unnatural that that bit of ancient civilization

should be received by Germany in a way different from the rest, or absolutely; that is, not transferred into German views because capable of being assimilated with those views, but simply *because* and *as* it was written in the *corpus juris*. This unnatural process was only possible under the influence of the idea that the German empire was but a continuation of imperial Rome. This intrusion of Roman law met with obstinate popular resistance, and we are convinced that all the elements of Roman law which have not been assimilated will speedily again be rejected. — As our definition excludes the law of nature, and an illusory universal human law in the future, it also determines the warmly contested relation of law to the state. It is self-evident that the human community, the peace of which the law orders or regulates in a rational manner, according to the views of such community, is uniformly the state. The real, normal boundaries within which the developed life of the law regularly moves, is the circle of the state. But although the perfect life of the law is developed only in the state, attempts and primitive creations of the legal instinct, in laws relating to things, the family, contracts and punishments, are to be found, even before the state, in the clan, etc., out of which the state historically and gradually grows. The peoples of many states may, for definite particular purposes, permanently or temporarily enter into association, and conclude commercial treaties, alliances, international treaties of every kind, and reach a kind of ordering of the peace between several kingdoms. But it only shows how clearly the individual state is the normal circle of the community of law, that communities which are smaller or larger than the limits of an individual state, frequently lack the foremost requisite of the life of the law; a judge, and coercive power to enforce the sentence. The patriarchal head of the ante-state clan only too often substitutes his own peremptory decree for the sentence of the law; and the lack of a tribunal, as a constantly reliable executive power, constitutes the weak side of the law as soon as it extends its circle over several states. International law has hitherto in vain sought for a tribunal, which, in case of a violation of the law, might, in a reliable manner, enforce the fulfillment of treaties. — Since the law regulates only the external relations of men to each other, and not the internal relations of men to God or to their fellow-men, it follows that the law should not invade the domain of religion or morals; but it follows, also, that religion and morals should not encroach on the domain of the law and of the state. Law and the state are their own proper ends, just as religion and morals are. They are independent realizations of ideas which are as essential to human reason as religion and morals. For this reason, since they all are but different phenomena and tendencies of one sole power, there exists in principle no opposition or contradiction between them, but only complete harmony. Only in appearance can conflicts arise between them, as when either the state chooses to dictate articles of faith, which is necessarily free, or when the church prescribes a definite form of faith as a condition precedent to the enjoyment of civil rights. In all these domains of the free inner life of man, in religion, science and art, the state has only a right to command or prohibit, when religion, science, etc., by some external manifestation, effect a disturbance of the peaceful order of the state; when, for instance, a sect refuses military service, or excites its members to the extermination of the adherents of creeds other than its own. Whenever these invisible forces produce visible phenomena, they at once enter the domain of law, and give the law occasion, in their own interest even, to create new forms and promulgate regulations. Thus, even the most spiritual things, as the thought of the artist or author, as soon as they enter the circle of outward interests, require legal regulation (copyright). The whole law as regards religion may be summed up thus: the state by no means assumes an indifferent attitude toward religion, but should allow complete religious freedom, in the sense that the state should not interfere with the existence of any religion not dangerous to morals or to the state; but, on the other hand, the state should not concede an influence on civil rights to any religious creed. — In like manner, morals and law are neither hostile nor indifferent to each other, but they are independent each of the other. When the law draws within its domain certain duties, the performance of which should be dictated entirely by the heart, as, for instance, gratitude, as did the Athenian law of old, it becomes guilty of an unwarrantable trespass, which can be productive of no good either from a legal or moral point of view. When, on the other hand, the canon law and mediæval secular law punished purely moral transgressions with external and even political penalties, they were guilty of a similar offense. — Although in principle there does not exist any opposition between morals and law, still, as history teaches, such an opposition may easily exist in appearance. When, mainly because of a diseased condition, a nation obstinately desires to retain and keep up forms and regulations perfectly suited to a past epoch, but which no longer answer to the needs of advanced progress, or to the new conditions of the nation; which are kept up, perhaps, because a fraction of the nation by so doing satisfies a selfish interest, although the national life requires a change of the old forms: in all such instances there occurs a conflict between formal but antiquated law, and living, moral forces, which have not yet become law. Instances of this, well known to all, were the conflicts between the patricians and plebeians in Rome, of the noble families and the guilds in the cities of the middle ages, during the French revolution, etc. In the greater number of such cases the champions of formal law believe themselves to be morally justified in their opinions. Not only selfish interests, but *bona fide* convictions, are frequently brought face to face with each other. The obduracy of

the one and the heedless passion of the other reach a climax, when the strain becomes unendurable, and a violent change follows. In such a case the right of revolution, the *jus revolutionis*, in a juridical sense, has been appealed to. But this is not admissible; for no state can admit a juridical right to a violent breach of formal law, without self-abrogation. Here we must carefully distinguish between law and morals. No careful student of law and history will deny to a people the *moral* right of self-defense against the pressure of obsolete formal law which has become unendurable. The law should be a *rational* regulation or ordering of the peace. If it is an *irrational* ordering or regulation, if its pressure becomes unendurable, and if a redress in a legal way becomes impossible, it would be the height of folly to demand that the people should perish, in order to keep merely formal law in existence. On the contrary, in such case the people have authority morally to resort even to forcible self-defense, and the champions of obsolete law would here act immorally, or, at least, irrationally. But, in truth, every revolution is and must remain a breach of formal law, although morally we may regard it as entirely justified. A breach of the law under all circumstances is a catastrophe, threatening to the existence of the state, or temporarily even suspending its existence; for we must guard against the dangerous principle, that exclusively formal law is juridically law no longer. That principle conflicts with the essence of all law, and makes the existence of the state dependent on the whims of any discontented party. The moral justification of revolution also is a dangerous theory; but, at the same time, it is the incontestable teaching of philosophy and of history. That teaching presupposes that, objectively, there exists a case in which self-help is unavoidable, that the pressure of formal law has become unbearable, and that a peaceful settlement has become impossible. If these conditions be assumed inconsiderately to exist, then not with the correct theory, but with the incorrect application of the theory in practice, must the moral-political responsibility rest. — We shall now briefly touch on one of the most important questions regarding the nature and character of the state. It was in keeping with the entire Kantian conception of morals, law and the state, that it considered the latter merely as a great institution for the enforcement of the law. The state, according to that conception, established courts, and, if necessary, carried out their judgments by force. This mere *Rechtsstaat* (constitutional state), by the political movements in Germany, which began under the influence of the critical philosophy, was used as a party shibboleth in a two-fold sense, in that country. The *Rechtsstaat* in Germany was the modern state, as it, in connection with the English and still more with the French revolution, contrasted with the mediæval feudal and patrimonial state. The modern state, with its ideas of citizenship, the separation of the powers, checks and balances, popular representation, political rights of freedom, security of the person and of property, freedom of conscience and of the press; with its independence of the courts of law—this modern state was emphatically called the *Rechtsstaat*, and formed a contrast to the negation or diminution of these ideas in the state. But, in the second place, as a contrast to *Polizeistaat* (police state) German radicalism required also a pure *Rechtsstaat* in another sense. It maintained that the undue tutelage and excessive supervision which the bureaucratic state introduced into all human concerns, was really no part of the task of the state; and Kant's authority was appealed to to prove that the state was but an institution in the nature of a court of justice. Hitherto, in fact, the interference of the state in the activity of society, of economy, trade, industry and culture, had been disastrous instead of profitable. And so all right of interference of the state in these several departments was denied. — It need not be said that the philosophy of law looks upon the modern state as a *Rechtsstaat* only in the first of these senses, and as opposed to the feudal state. In the second sense of the term, however, the philosophy of law can not sanction the mere *Rechtsstaat*. It assigns to the state other tasks besides dealing out justice in civil and criminal cases. The abuses of the administration should not lead to the rejection of all administration. The task of the state is to realize the idea of legal right, the idea of law; but law is the regulation or ordering of the peace in all that concerns all the external relations of men to each other, and to things. But this ordering of the peace is in no manner confined to the field of civil and criminal law, or the law relating to private and public rights. Wherever men enter into external relations to each other, and to things, a *rational* ordering or regulation is needed, which must aim not only at the preservation of the actual state of things, but progress and constant improvement. An ordering which aims only at preserving and protecting, and not at developing and improving, can not be called a *rational* ordering. — Law is an idea essential to the human mind. It can not be supplanted by another any more than religion can be by art. That idea necessarily requires an external manifestation and a power in which to embody itself. That power is the state. — LITERATURE. The old founders and teachers of the law of nature contain comparisons of older views and of contemporaneous polemical writings; in other words, they afford us the first materials for a history of the philosophy of law. Thus, we have the *Prolegomena* of Hugo Grotius, and the *Specimen Controversiarum* of Pufendorf. At the close of the seventeenth century we meet with special works on the history of the law of nature, *historiæ juris naturæ*, by Buddeus, 1695; Ludovici, 1701, 1714; Thomasius, 1719. We may mention: Schmauss, *Neues System des Rechts der Natur*, Göttingen, 1754; Ompteda, *Literatur des natürlichen und positiven Völkerrechts*, 1785; Henrici, *Ideen zur wissenschaftlichen Begründung der*

Rechtslehre, Hanover, 1810; Welcker, *Die letzten Gründe von Recht, Staat und Strafe*, Giessen, 1813; Fr. von Raumer, *Geschichtliche Entwickelung der Begriffe von Recht, Staat und Politik*, Leipzig, 1826, 1832; Stahl, *Rechtsphilosophie*, Heidelberg, 1829, 1847; Warnkönig, *Rechtsphilosophie*, Freiburg, 1839, 1854; Schmitthenner, *Zwölf Bücher vom Staat*, Giessen, 1839; Rossbach, *Die Perioden der Rechtsphilosophie*, Regensburg, 1842; *Die Grundrichtungen in der Geschichte der Staatswissenschaft*, Erlangen, 1848; Lentz, *Entwurf einer Geschichte der Rechtsphilosophie*, Danzig, 1846; Ahrens, *Philosophie des Rechts und Staats*, 4th ed., Vienna, 1850, 1852; Hinrichs, *Politische Vorlesungen*, 1842, *Geschichte der Rechts- und Staatsprincipien seit dem Zeitalter der Reformation*, Leipzig, 1849, 1852; Bluntschli, *Allgemeines Staatsrecht, geschichtlich begründet*, 3d ed., Munich, 1863; Dahlmann, *Die Politik auf den Grund und das Mass der gegebenen Verhältnisse zurückgeführt*, 2d ed., Leipzig, 1847; Schilling, *Lehrbuch des Naturrechts, oder die philosophische Rechtswissenschaft*, Leipzig, 1858; Hildebrand, *Geschichte und System der Rechts-und Staatswissenschaft*, 1 vol., *Das classische Alterthum*, Leipzig, 1860; Röder, *Grundzüge des Naturrechts*, 2d ed., Leipzig, 1860; La Salle, *Das System der erworbenen Rechte, Eine Versöhnung des positiven Rechts und der Rechtsphilosophie*, Leipzig, 1860; Thilo, *Die Theologisirende Rechts- und Staatslehre*, Leipzig, 1851; Trendelenburg, *Naturrecht auf dem Grunde der Ethik*, Leipzig, 1860. Compare POLITICS, NATURE AND CHARACTER OF, and POLITICS, SCIENCE OF.

FELIX DAHN.

PHYSIOCRATES. I. *Physiocrates and Economists.* Those French economists who rallied to the defense and advocacy of the doctrine of Quesnay, and who constituted one of the most brilliant groups of thinkers in the eighteenth century, are now called *physiocrates*, a word derived from *physiocratie*, the general title given, in 1768, to the first volume of Quesnay's collected works, published by his disciple, Dupont de Nemours. Quesnay and his friends understood by physiocracy (from φύσις, *nature*, and κρατεῖν, *to rule*), the natural constitution, the natural order, of human society.—Dupont thought (correctly in some respects) that Quesnay had pointed out this nature of things, and he called the aggregate of his views *physiocracy*. The expression, however, was not generally adopted. The term *physiocrates*, derived from it, is of comparatively recent use. J. B. Say first employed it in his *Cours Complet*, published in 1829, and it appears to have been popularized by the illustrious Rossi, and the editors of the *Collection des Principaux Economistes*, who have grouped together the most remarkable writings published by this celebrated school in the second volume of their collection, under the title "Physiocrates." In 1847, one year later, the French "Academy of Moral Sciences" used the term in the programme for a prize essay, formulated as follows, in accordance with Rossi's proposition, "to investigate what the influence of the school of physiocrates has been on the advance and development of economic science, as well as on the administration of states in the matter of finance, manufactures and commerce."—Until the expression physiocrates was adopted, the disciples of Quesnay were designated by periphrases, or by the term *economists*, which was always underlined in manuscript, or printed in italics, so as not to confound the *economists*, disciples of the doctor, with other writers or publicists occupied with economic questions; and we can not do better here than to reproduce a few lines from a production which we published in vol. xxxiii. of the *Journal des Economistes:* "Smith said (in speaking of the disciples of Quesnay, book iv., chap. ix.), 'A few years ago they formed [Smith published his book in 1776] a considerable sect, distinguished in the republic of letters in France by the name *economists*.' J. B. Say continued to designate them 'the sect of economists' in the second edition of his *Traité*, published in 1814, which greatly displeased Dupont de Nemours, who, in a letter dated April 22, 1815, wrote him as follows: "You do not speak of the economists without applying to them the odious name of *sect*, which supposes a mixture of stupidity, folly and stubbornness. This insult from a Grimm would not be offensive; but the expressions of a Say have a different weight.' In a preceding letter, full of animation and good nature, the aged disciple of Quesnay said to the continuer and future emulator of Adam Smith, '-You are an *economist*, my dear Say; I shall take good care not to excommunicate you. On your part,' etc."—J. B. Say, we thus see, although the author of a treatise on political economy, still at that period qualified the physiocrates as economists. The same observation may be made in reading the first work of Sismondi, who, in entitling his book, *De la richesse commerciale, ou Nouveaux principes d'économie politique*, underlined the word *economists*, and applied it only to the disciples of Quesnay. He said (vol. i., p. 5), "Dr. Quesnay and Turgot founded the sect of *economists* about 1760." (This is not altogether accurate, as we shall see.) This repulsion for the name, which Sismondi and J. B. Say exhibited in their first writings, was, till a comparatively recent date, the feeling of those who concerned themselves with political economy, for they called themselves political economists (see Say's *Cours Complet*), or they even avoided giving themselves a name, since, on the one hand, the qualification *political* annoyed them, by causing mistakes and inspiring distrust, and because they feared that the name *economists* alone would cause them to be confounded with the adherents of Quesnay. Nevertheless, the disciples of Fourier and Saint Simon popularized this expression by using it to designate the partisans of economic or liberal ideas, and Fourier had even invented the word *economism*, the better to express his contempt for this science of the civilized (*civilisés*)! On the other hand, the publication in France of

the *Journal des Economistes*, and of the *Collection des Principaux Economistes*, and in England of the weekly journal "The Economist," have made the expression familiar, which is no longer the special designation of the adherents of the sect of Quesnay or the partisans of an exclusive system, but the general designation of all who concern themselves scientifically with economic questions. The fifth edition of the dictionary of the French academy, 1814, does not contain the word *économiste*. It is only the sixth edition, published in 1835, which gave it final sanction with its true meaning, saying: "Economist, one specially occupied with political economy."—It is a remarkable fact that *economists* received this appellation before their science was named, and that this word was taken, not from political economy, but from the adjective *economic*, itself derived from *economy*, which often dropped from the pens of writers during the middle of the last century, in consequence of an intellectual movement which led men to philosophic questions of this order—a movement that called forth a large number of writings, and caused the establishment, in 1754, of a chair of mechanics and commerce at the university of Naples, for the celebrated abbé Genovesi, who was professor in that institution of what he soon called *civil economy* and a chair of *cameralistic sciences* at the Palatine school of Milan, where the no less illustrious Beccaria was professor of *public economy*. As early as the second quarter of the same century, from 1729 to 1747, Hutcheson, the father of Scotch philosophy, inserted in his course of moral philosophy some lectures on *economics*. "These lectures," as Cousin observes, in his *Cours de l'histoire de la philosophie moderne*, "were of no great value in themselves; but it is to this part of Hutcheson's course, perhaps, that Europe is indebted for Adam Smith, the greatest economist of the eighteenth century."—II. *Composition of the School.* Dupont de Nemours speaks as follows of the origin of this school, in a note to his edition of the works of Turgot. "The French economists, who founded the modern science of *political economy*, had as forerunners the duke of Sully, who said, 'Tillage and pasturage are the breasts of the state'; the marquis d'Argenson, author of the excellent maxim, 'Do not govern too much'; and the elder Trudaine, who in practice opposed courageously the prejudices of ministers and the preconceived opinions of his colleagues, the other counselors of state, with that useful maxim. The English and the Dutch had a glimpse of a few truths, which were only faint glimmerings in a night of gloom. The spirit of monopoly arrested the advance of their enlightenment. In other countries, if we except the three notable men whom we have just named, no one had even imagined that governments should pay attention to agriculture in any way, or to commerce except to impose on it arbitrary regulations suggested by the moment, or to subject its operations to taxes, duties and tolls. The science of public administration, pertaining to these interesting labors, did not yet exist. It was not even suspected that they could be the object of a *science*. The great Montesquieu had looked at them so superficially that in his immortal work there is a chapter entitled: 'To what nations it is disadvantageous to engage in commerce.'—Toward 1750 two men of genius, profound and acute observers, led on by the force of a long sustained attention and severe logic, animated by a noble love of country and humanity, Quesnay and de Gournay, labored persistently to ascertain whether the nature of things did not point to a *science of political economy*, and what were the principles of this science; they approached it from different sides, arrived at the same results, and, meeting, congratulated each other, applauded each other, when they saw with what exactness their different but equally true principles led to consequences absolutely similar; a phenomenon always repeated when men are not in error; for there is but one nature which embraces all things, and no one truth can contradict another. While they lived they continued to be, and their disciples have never ceased to be, entirely at one as to the means of advancing agriculture, commerce and finances, of increasing the happiness, the population, the wealth, and the political importance of nations."—De Gournay, son of a merchant, many years a merchant himself, had recognized that manufactures and commerce can only flourish through freedom and competition, which destroy the taste for haphazard undertakings, and lead to reasonable speculation; which prevent monopolies, and limit the private gains of merchants to the good of commerce; which quicken industry, simplify machinery, decrease oppressive rates for transportation and storage, and which lower the rate of interest. From this he concludes that commerce should never be taxed or regulated. From this he drew the following axiom: *Laissez faire, laissez passer*. Quesnay, born on a farm, the son of a landowner who was a skillful agriculturist, and of a mother whose great intellectual powers aided her husband's administration to perfection, turned his attention more especially to agriculture; and seeking to find the source of the wealth of nations, he discovered that wealth is the offspring of those labors in which nature and the divine power second the efforts of man to bring forth or collect new products; so that we can expect the increase of this wealth only from agriculture, fisheries (he held the chase of small account in civilized societies), and the working of mines and quarries.—"The two aspects under which Quesnay and de Gournay had considered the principles of public administration, and from which they inferred precisely the same theory, formed, if we may say so, *two schools*, fraternal none the less, which have had for each other no feeling of jealousy, and which have reciprocally enlightened each other. From the school of de Gournay came de Malesherbes, the abbé Morellet, Herbert, Trudaine de Montigny, d'Invan, Cardinal de Boisgelin, de Cicé, archbishop of Aix, d'Angeul, Dr. Price, Dean Tucker,

and some others. The principal members of the school of Quesnay were Mirabeau, author of *l'Ami des hommes*, Abeille, de Fourqueux, Bertin, Dupont de Nemours, Count Chreptowicz, chancellor of Lithuania, the abbé Roubaud, Le Trosne, Saint-Péravy, de Vauvilliers; and, of a higher rank, the margrave, afterward grand duke of Baden, and the archduke Leopold, since emperor, who governed Tuscany so long and so successfully, le Mercier de La Rivière, and the abbé Baudeau. The two latter constituted a separate branch of de Quesnay's school. Thinking that it would be easier to persuade a prince than a nation, that freedom of trade and labor as well as the true principles of taxation would be introduced sooner by the authority of sovereigns than by the progress of reason, they perhaps favored absolute power too much. They thought that this power would be sufficiently regulated and counterbalanced by general enlightenment. To this branch belonged the emperor Joseph II. Between both of these schools, profiting from both, but avoiding carefully the appearance of adhering to either of them, there appeared certain eclectic philosophers, at the head of whom we must place Turgot and the celebrated Adam Smith, and among whom are deserving of very honorable mention the French translator of Adam Smith, Germain Garnier; and in England, Lord Lansdowne; in Paris, Say; at Geneva, Simonde." — This extract from Dupont de Nemours makes some observations necessary. To begin with, as Dupont wrote in 1808, in commencing the publication of the works of Turgot, it is plain that the other celebrated economists of that century are not mentioned. J. B. Say was not yet a professor; he had only published the first edition of his *Traité* (1803), and his fame was not then great. Sismondi, also, was only at the beginning of his career and reputation; Malthus, Ricardo, Mill, etc., had not written, and the men who were to bear the greatest names in contemporary political economy were still either in their childhood or youth. It is also to be remarked that Dupont does not assign his real place to Adam Smith, who, whatever be the idea formed of the aid which he may have received from the school of the physiocrates, is assuredly something very different from an eclectic writer utilizing the ideas of de Gournay and Quesnay. — As to the two schools founded by these two eminent men, we must not take literally what Dupont de Nemours writes. Vincent de Gournay died early, about the middle of 1759, at the age of 47, when Quesnay had scarcely (about the end of 1758) published his doctrines in a precise manner, in the celebrated *Tableau Economique*, printed in the castle of Versailles under the very eyes of the king. Except the translation, with the assistance of Butel Dumont (1754) of the treatise of Josiah Child on commerce and the interest on money, he had written nothing but memoirs addressed to ministers, and which remained unpublished. It is only from a notice drawn up shortly after his death, by Turgot, for Marmontel, with notes by Dupont, that we know the ideas of de Gournay, and if what Turgot has said of them makes us think that there might have been disagreements between the two philosophers, still we are not authorized to declare, since the proofs are wanting, that de Gournay had a system of doctrines, that is to say, the elements, the raw material, for a school. Still, Turgot, in delineating with some detail de Gournay's opinions relative to the nature and production of value, says, "de Gournay thought that a workman who had manufactured a piece of cloth had added real wealth to the aggregate wealth of the state." Dupont adds, in a note: "This is one of the points in which the doctrine of de Gournay differed from that of Quesnay," and he gives the reasons for this statement. — Although Dupont does not specify the other points in which de Gournay differed from Quesnay, it follows from this passage that the two philosophers did not always agree. Another important remark is, that the analyses of modern economists have shown that de Gournay was right as to the phenomenon of production. De Gournay had a clearer insight of the truth, and if he had demonstrated it and deduced the consequences which flow from it, he would, on certain fundamental points, have surely held a different doctrine from that of Quesnay, and carried off the honor which later came to Adam Smith, of rectifying the school of physiocrates; but we all know that in a question of scientific ideas there is a great difference between the correct feeling of the truth and the introduction of this truth into the domain of a science or simply a philosophic system. To judge from our personal impressions, it appears to us doubtful whether de Gournay followed the celebrated doctor in his exclusive theory of agriculture. But it is evident that these two illustrious men met on the fundamental question of the freedom of labor, and it is probable that they had the same philosophic point of departure. Be this as it may, Dupont is not altogether exact or correctly informed when he seems to say that de Gournay was the first to recognize the legitimateness and fruitfulness of the principle of competition and of the liberty of commerce. Vauban and Boisguillebert, whose writings were published even before de Gournay was born, give proof of their remarkable efforts in favor of this principle. It was from the pen of Boisguillebert, as Eugene Daire rightly says, that the first pleas appeared in France for the free circulation of corn, and he even pointed out *scientifically*, previous to the physiocrates, the excellence of agriculture, which is the pivot on which Quesnay's ideas turn. He also wrote on the nature, production and distribution of wealth, as well as upon the function of money, pages which permit us to think that the school of Quesnay has made great use of his labors.—Dupont de Nemours is too exclusive in not having mentioned other writers on economy, as having made contributions to the edifice of the science, such as Josiah Child, who in 1668 published his "Brief Observations

concerning Trade and the Interest of Money"; Locke, who in 1691 wrote some curious "Considerations on Money"; Dudley North, who proclaimed that same year the principle of free trade; Forbonnais, whose *Eléments de Commerce* dates as far back as 1734; Melon, whose *Essai politique sur le commerce* belongs to the same year; Dutot, whose *Réflexions politiques sur le commerce et les finances* was published in 1738, etc.; and other writers who labored to elucidate economic doctrines contemporaneously with physiocrates such as Hume, whose "Essays" on various economic subjects appeared in 1752, earlier than the writings of Quesnay, and who knew how to free himself from the prejudices of the balance of trade; men like the no less celebrated Genovesi, who, beginning with 1754, delivered a scientific course on questions relative to wealth; Verri, who wrote on these matters in 1768; James Stewart, who published at London, in 1767, four volumes, with the remarkable title "An Inquiry into the Principles of Political Economy"; Beccaria, who began at Milan, in 1769, lectures on the same subject, entitled "Course of Commercial Sciences"; and other writers, Italian and German, whom it would be too tedious to mention; finally, Adam Smith, who, before publishing his book in 1776, had come to Paris in 1764 to have a discussion with philosophic economists, after he had lectured on moral philosophy for fourteen years in the university of Glasgow, part of his labors being devoted to the subjects developed in his "Essay on the Nature and Causes of the Wealth of Nations." On the other hand, we must say that not all the persons whom Dupont de Nemours enrolls under the banner of Quesnay followed the doctrine of the master in every point; some held themselves somewhat aloof from the school. Among these was Morellet. On this point we believe it useful to reproduce certain passages concerning the quarrel of the latter with Linguet, so noted for his literary eccentricities, and his declamations against bread, which he treated as poison. Linguet having advanced several monstrosities, such as the following: that despotic governments are the only ones which render nations happy; that society lives by the destruction of its liberties, as carnivorous animals live on the timid ones, etc.—Morellet answered him sharply, in a pamphlet, entitled *Théorie du paradoxe*. Linguet replied by *Théorie du libelle*, where we read the following details, connected with our subject: "This illustrious pander of science, this invincible champion of the net product, this venerable archimandrite of the order of *brothers of the economic doctrine*, has risen above all eulogy by forcing his heart to outrage a prostrate man, and raising his foot to give him the last kick. If it be asked what the order in question is, we may answer, in order to spare commentators in ages to come a disagreeable task, that it is a new *order*, founded about 1760, under the name of the *Economists Brothers*, by Father *Ques*..., who had a spiritual son, brother *Mirab*..., who begat brother *Baud*..., who begat the A. M., which brought forth the *Théorie des Paradoxes*. The name *Economists* was given to them about the year 1770; they took the place of the *Encyclopædists*, who had succeeded the * * *, who had ousted the * * *, who had come after the *Calvinists*, and so on, going back farther and farther. * * * This order, beginning with 1775, had already produced many great men, such as brother *Dup*.. , brother *Baud*..., brother *Roub*..., brother *Mor*..., etc., all mighty in works and words. Hence, they have filled the universe with the noise of their names and their pamphlets or libels, which are synonymous in their language * * *." Morellet answered: "The author of the *Théorie des Paradoxes* is not an economist. Surely, if the A. M. had been begotten to political economy by the late M. Q., or by some one of the disciples of this estimable man, he would not have denied his origin. The economists are honorable citizens, whose intentions were always upright and their zeal as pure as it was active; men who were the first to teach or render popular many useful truths. They have been reproached with a zeal which has sometimes carried them beyond their object; but it is much better, doubtless, to yield to this impulse, which, after all, can arise in them only from a love of the public good, than to continue in the cowardly indifference to the happiness of their fellow-men which is exhibited by so many persons, or to decry those who are interested in it; but be this as it may with the economists, the A. M. is obliged to confess that he never received any lessons from Dr. Q., nor from M. de M.; and that he busied himself with political economy before Dr. Q. had begotten anybody; that he was never present at any assembly of the disciples; and lastly, since it must be told, that he never understood the economic tableau, nor pretended to make anybody else understand it; a clear profession of faith, and one which puts the author of the *Théorie des Paradoxes* beyond the reach of all blows which L. aims at the economists, blows from which they can defend themselves, if they think it worth the while."—Later, the first consul, in conversation with Morellet, said to him: "You are an economist, are you not? You are in favor of the *impôt unique*, are you not? You are also in favor of the freedom of the corn trade, are you not?" "I answered him," says Morellet (in his *Mémoires*, chap. xxvii.), "that I was not among the purest of them; and that I added certain modifications to their doctrines." Morellet had, indeed, early fought for freedom of labor, and freedom of commerce; but he does not seem to have shared the enthusiasm of some authors for the agricultural theory of their master.—

III. *Economic Philosophy of the Physiocrates.* The doctrine of the physiocrates may be considered in relation to philosophy, political economy and politics. The philosophic ideas of the school are scattered through the different works of the chief and his principal disciples; but they are to be found especially in the short treatise of Quesnay

on natural law, and summed up in his fragments published under the title of *Maximes*. In endeavoring to condense them into a few words, we may imagine Quesnay as saying: The world is governed by immutable physical and moral laws. It is for man, an intelligent and free being, to discover them, and to obey them or to violate them, for his own good or evil. The end assigned to the exercise of his intellectual and physical powers, is the appropriation of matter for the satisfaction of his wants, and the improvement of his condition. But he should accomplish this task conformably to the idea of the just, which is the correlative of the idea of the useful. Man forms an idea of justice and utility, both individual and social, through the notions of duty and right which his nature reveals to him, and which teach him that it is contrary to his good and the general welfare to seek his own advantage in the damage done to others. These ideas enter the minds of individuals and peoples in proportion to the increase of enlightenment, and the advance of civilization: they naturally produce feelings of fraternity among men, and peace among peoples. — The chief manifestations of justice are liberty and property, that is to say, the right of each one to do that which in no way hurts the general interest, and to use at his pleasure the goods which he possesses, the acquirement of which is conformable to the nature of things and to the general utility, since, without liberty and property, there would have been no civilization, and a very much smaller amount of goods at the disposition of men. Liberty and property spring, then, from the nature of man, and are rights so essential that laws or agreements among men should be limited to recognizing them, to formulating them, to sanctioning them. Governments have no mission but to guard these two rights, which, with a correct understanding of things, embrace all the material and moral wants of society. To say that liberty and property are essential rights, is to say that they are in harmony with the general interest of the species; it is to say that with them the land is more fertile, the industry of man in all its manifestations more productive, and the development of all his moral, intellectual, scientific and artistic aptitudes swifter and surer, in the path of the good, the beautiful, the just and the useful; it is to say, further, that man best gathers the fruit of his own efforts, and that he is not at least a victim of the arbitrary laws of his fellow-men.—"Before Quesnay," says Eugene Daire, "nothing was vaguer than the idea of the just and the unjust; and the determination of the natural and indefeasible rights of man had not been touched by any philosopher. It was tacitly agreed that the ideas of justice, applicable only to individual relations, should remain foreign to civil, public, and especially to international law. Morality, since the principles from which it must be deduced were only dimly perceived, seemed fit only to govern private relations, but not those of the state to its members, or those of one people to another, which, it was supposed, should be necessarily subjected solely to the law of force and cunning. Religion did not understand the economy of society, because it concerned itself only with the future life; and politics did not understand it any better, because it did not suspect the intimate connection of the moral with the physical order of the world. Setting out to govern men from the principle of the incompatibility of the useful with the just, it was impossible for the ministers of the one or the other to avoid the most disastrous results even if they had never been guided by any but the purest intentions. Struck with this fact, Quesnay became persuaded that the truth lay in the opposite principle, and interrogating the nature of man and the nature of things, he discovered in them the proof that the three great classes of every civilized society, that is to say, landed proprietors, capitalists and workmen, as well as the various nations into which the human race is divided, have only to lose by violating justice, mutually oppressing and annoying one another. This was to establish social morality, the absence of which produces a false notion of right and wrong in every mind, even in things touching individual relations. It was to free from the clouds of mysticism the great principle of peace and fraternity among men, and set it on the bases most fitted to insure its triumph."—As Passy remarks in his report on the memoir which we have just cited, these maxims were not all equally new; and the most general of them were to be met with already in the works of certain writers; the Gospel itself contained many of them. But up to that time they had never been presented in the form of a broad system, never had there been deduced from them so clearly consequences of social application; which warrants us in saying, with Eugene Daire, that Quesnay was really the first thinker of the eighteenth century who made the organization of society the subject of his meditations; the man who gave to the world the newest doctrine, and at the same time the fittest to exercise a happy influence on the welfare of nations. Montesquieu, Voltaire and Rousseau were great minds, beyond a doubt; but Quesnay served the human race most, in having shown that the happiness of the majority depends much less on the mechanism of governmental forms than on the development of human industry, and that it is impossible to discuss politics rationally without having previously acquired a knowledge of the economy of society. "Of course wealth had not altogether escaped the attention of thinkers and governments previous to this philosophy," remarks Eugene Daire again, "but there is this difference, that, while among the first some only saw, so to speak, a necessary evil, it suggested to others nothing beyond systems of artificial distribution, and to governments merely fiscal inventions to plunder their subjects. Quesnay understood that the whole science of social organization may be summed up in that of the regular production and distribution of the goods of this world, that is to

say, production and distribution effected according to the unchangeable laws established for the preservation, the indefinite increase, the happiness and the improvement of our species. To investigate these laws, by questioning our own nature and its necessary relations with the external world, such is the work which the chief of the school of physiocrates undertakes to accomplish. Instead of following the example of most philosophers, by declaiming against wealth, on which all the affairs of this world turn, he fathomed the laws of wealth, as well as those of human labor. To sum up, Quesnay and the school of physiocrates made a scientific study of the useful, considered men living in society as producers and consumers first of all, and drew the conclusion that the ideas of right, of peace and fraternity among men, do not rest exclusively on the mysterious dogma of a future life, but on the observance of natural laws, which may be obeyed with profit, and are not violated with impunity in this world."— IV. *Political Economy of the Physiocrates.* The philosophy of the physiocrates is, therefore, an economic philosophy; and while endeavoring to sum it up here we have given in part the general data of their political economy. It only remains for us to add a few technical indications of those of their ideas which belong more especially to the economic order. In doing this we shall limit ourselves to setting forth these ideas, because it would be impossible, in the limits granted us, to explain with even partial completeness, in what these ideas may appear to us correct or incorrect, and in what points it has been possible for them to be accepted or opposed by the chief economists. The history of the filiation of economic doctrines, moreover, has not yet been written. — The physiocrates set out with the principle that materiality is the fundamental character of wealth, and from this concluded to measure the value and utility of labor by the quantity alone of the raw material which it was able to produce. The first effect of this theory was to exclude from the domain of political economy an innumerable multitude of services which men render each other. They formed, therefore, an incomplete idea of the value of things, which prevented them from seeing into the phenomenon of production clearly, estimating correctly the position of land, labor and capital, and rendering an exact account of the relative and absolute utility of all the branches of human industry; agricultural industry, manufacturing industry, transportation, commercial industry, and the numerous professions in which men furnish or exchange physical or intellectual labor, that is to say, services. In this way they were led to accord the character of productiveness to agricultural industry only, and to treat as *sterile* the other industries, while they, at the same time, asserted that manufacturing industry, commerce and the liberal professions are essentially *useful.* Their theory, by being squint-eyed at the first, if we may so express ourselves, led them to consequences which they found it difficult to admit in the discussion of questions and application of principles, according as they started from the point of view of the sterility of industries other than agriculture, to which they were obliged to give, both in theory and practice, an exceptional and false position. By virtue of their system, the economists really admitted, as a natural and social necessity, the pre-eminence of landed proprietors over all other classes of citizens. Now, this idea of pre-eminence, agreeing with the prejudices of the nobles, has left more than one trace in economic and political laws. — Their error is explicable at the beginning of the science. It was not given to the physiocrates alone to make all analyses, and to grasp with precision all the differences and resemblances of the various modes of production. On the other hand, it must not be forgotten that they combated the mercantile theory, which made wealth to consist only in the precious metals, and which exaggerated the advantages of foreign commerce; that they combated also the infatuation for the manufacturing system; that they allowed themselves to react too forcibly against these exclusive prejudices, and in turn to become exclusive by their favor for an industry too much ignored, whose excellence they were deeply desirous of demonstrating. — Of Quesnay's works the *Tableau Economique* attracted most attention. Quesnay's object was to describe synoptically the facts relative to the production, distribution, consumption and transformation of values. It is difficult to explain the success of this publication, which is itself not very intelligible. Made up of figures strangely disposed, this *tableau* contributed to throw discredit rather than light on the theory. The explanations of the Marquis Mirabeau rendered it still more cabalistic and mysterious; those of the abbé Baudeau and of Le Trosne, though much clearer, were still not clear enough. We have just read the declaration of Morellet on the subject. In reality, the chiefs of the school wished to prove that society had no other revenue than the net product of the soil, all expenses deducted, including the maintenance of its cultivators; that consequently it had no greater interests than the increase of this revenue; that the power of the state and the progress of civilization depended on it; that this revenue alone should be taxed; that we must not see in the capital in agriculture, industry and commerce, anything but the sacred endowment of labor, without which there would be neither wealth nor landed proprietors; that the expenses of industry and commerce are merely an outlay which should be reduced to the lowest figure by free competition. — On the subject of territorial revenue and net product, the question arises: what did the school mean exactly by these expressions? and in what were their ideas on these these subjects like or unlike those on rent held by Adam Smith, J. B. Say, Ricardo, Malthus, Rossi, M'Culloch, etc.? This is still a question which does not appear to us to have been clearly settled by those who occupied themselves with the subject. We shall state merely that it was through

the impossibility of analyzing the economic phenomena connected with the subject, that Necker and many others cast ridicule on the ideas which the physiocrates advanced. For our own part, we can not give an opinion on the subject without entering into a long discussion, and we therefore refer to the writings of the authors whom we have just cited, and to the explanations given by Eugene Daire in his memoir, and by Passy in his report on this memoir. (See RENT.)—Although the physiocrates did not form an exact idea of the phenomena of production, and consequently of the real nature of value and of exchange of wealth, they had correct notions on the subject of money: to them is due the beginning of the ruin of the mercantile system, and, after Boisguillebert and before Adam Smith, they contributed much to elucidate the principle of the freedom of exchanges. First, they demonstrated that every obstacle to this freedom is a violation of the fundamental rights of labor and of property, and, secondly, that every hindrance to exportation and importation causes an artificial change in the value of products, and the revenue of lands, sometimes at the expense of producers, sometimes at the expense of consumers, by reducing finally public wealth and taxable property. In the question of finances they deduced from the productiveness of agricultural industry (which they considered the only productive one), and the hypothesis admitted by themselves, that taxation always falls on the landed proprietors, whatever be the mode of its collection, the rule directly to tax land rents or net product, that is to say, to establish a single land tax to the exclusion of all personal contributions and all taxes on consumption, which they called, and which we still call, *indirect* taxes.—These are the principal points of the physiocratic theory. Modern science has rectified the idea of wealth and of the productiveness of the different branches of industry; it has accepted the explanation of money and the demonstration of the principle of commercial freedom in opposition to the doctrine of the balance of trade, definitively overthrown. It has not yet pronounced clearly on the theory of net product, although it pays little attention to the famous economic tableau. It hesitates also on the important question of taxation.—But it is just to recognize, in entering into the details of the economic investigations to which the disciples of Quesnay devoted themselves, that we see that they threw a clear light on all parts of the science, even if they started from a false principle or got lost in a false theory; that, for example, of the materiality of wealth, and that of the productiveness of agriculture alone, which did not hinder them from finding, or which perhaps caused them to find, luminous views on different points. It is, however, a common fact in the history of science, that a false theory, elaborated by superior minds, advances them in the path of truth, which it is afterward easier for their successors to follow, and to whom is reserved the honor of finding a sounder and more unimpeachable theory.—If we wish to understand the ideas of the physiocrates, we must begin with the writings of their master, and then take up in succession the works of his principal disciples: Mirabeau, Mercier, Baudeau, Le Trosne and Turgot. To the elder Mirabeau, belongs the honor of having been the first who was aroused to enthusiasm by the lofty reason of Quesnay, of having written, developed and commentated on his principles, and of having introduced them into practical politics and administration. The first exposition of the economic system is found in his *Philosophie Rurale*, published in 1763. It is one of the least unintelligible books of the marquis. Its perusal is of little value except to those who wish to know how the school began; but it must be acknowledged that, in spite of his eccentricities of style and mistiness of thought, this economist philosopher had the talent of causing himself to be read, and of calling public attention to the study of questions which others knew how to explain better than he. Each man has his mission in this world. After the *Philosophie Rurale*, appeared the book of Mercier-La Rivière, who had met Quesnay, at the same time as Gournay and the Marquis de Mirabeau; and who afterward left France to take the place of *intendant* at Martinique for a time; on returning, he renewed his former intimacy with Quesnay, and labored to disseminate his doctrine. Mercier-La Rivière's book is entitled *l'Ordre naturel et essentiel des sociétés politiques;* it appeared in 1767, four years after Mirabeau's work. The title of this book promises a methodical treatise on social economy, a promise it does not fulfill. The first part is a series of rather confused dissertations on the moral order, the politics and the material interests of society. But the author becomes more positive and more interesting in the second part, where he makes a close analysis, according to Quesnay's system, of all the questions of the material economy of society, referring to the peculiar or distinct effects of agriculture, industry and commerce, to the reciprocal relations of different nations, and to the nature and object of public revenue. This work, in spite of its imperfections and an obscure and sometimes ridiculous form, had much success with the philosophic part of the public, whose attention had been attracted to these matters by the sententious and abstract writings of Quesnay and by the dissertations of *l'Ami des hommes*, which were at once tedious and obscure. It was the first time, too, that the doctrine assumed a form intelligible to the common mind; Dupont de Nemours made an analysis of it, a year later, under the title, *Origine et progrès d'une science nouvelle* (1768). By publishing it, Mercier-La Rivière helped spread the ideas of his master; but at the same time he added to it a dangerous theory which was afterward very injurious to the popularity of the economists. We mean his theory of despotism, to which we shall return a little further on.—Five years after Mercier's book, there

appeared another important work, so far as it was a general exposition of physiocratic ideas, that of the abbé Baudeau, a celebrated publicist of the time, who was converted to the doctrine of Quesnay while trying to refute, in his *Ephémérides*, the letters of Le Trosne, barrister of the king in the bailiwick of Orleans, and who wielded at an early day a vigorous pen in the phalanx of the economists. Baudeau published in 1771, *l'Introduction à la Philosophie économique*. It is not only one of the most remarkable of his writings; but in it he surpassed Mercier, and *a fortiori* Mirabeau, in his method, clearness and style. The year before he had published in the *Ephémérides*, and printed separately (but only a small number of copies of it) his *l'Explication du tableau économique*. About the same time there appeared in the *Ephémérides*, whose management Baudeau had intrusted to Dupont de Nemours, two short catechisms of the doctrine, one by Turgot, without his signature, and the other under the name of the margrave of Baden. Turgot's short *Traité* on the formation and distribution of wealth, is remarkable in every way. It is a résumé of the ideas of Quesnay and Gournay, as explained by their most eminent disciple. It would be approximately a résumé of the general principles of the science laid down by Smith, if Turgot had not stopped at the physiocratic theory, on a fundamental point, that of the productiveness of the different kinds of labor, in consequence of which he was led to make the agricultural class the *productive class par excellence*, and the rest of mankind the *salaried class*, excepting, however, landowners, whom he calls the *disposable class*, disposable for the general wants of society, such as war, the administration of justice, etc. Turgot's book, written in 1766, appeared for the first time in vols. 11 and 12 of the *Ephémérides*, toward the end of 1769 and the commencement of 1770.* The brief compendium of the margrave of Baden, published in 1772, in the *Ephémérides du citoyen*, which has also been attributed to Dupont de Nemours, and is perhaps the work of the two disciples, is not of equal importance, but is remarkable in many regards. It contains the principles of the physiocratic school, more abridged than in Turgot's work, condensed into formulæ synoptically arranged, and, as Dupont de Nemours says, in the form of a genealogical tree. The title is a very curious one for the time, and leads us to suppose that the school and its master, who was still living, had abandoned the word *physiocracy* for the title *political economy*, not in the sense of administration as a synonym of *public economy*, the *oiconomia* of Aristotle, which is to society what domestic economy is to the family (in which sense it was employed by Rousseau in 1755, in the article *Economie Politique* of the *Encyclopédie*), but in a scientific sense, to designate the science of the phenomena relating to wealth and human labor; a sense in which it had been used by James Stewart after 1767, who entitled his treatise on these subjects "An Inquiry into the Principles of Political Economy," and, some years before, by Count Verri, in a work published in 1763, and entitled, *Memorie storiche sulla Economia publica dello stato di Milano* (Historical memoirs relative to the political economy of the state of Milan). Verri and Stewart seem to have been the first to adopt the name most generally given to the science in our time, a name which Turgot did not employ, which was scarcely ever used by Adam Smith, and which appeared only in the dictionary of the French academy in 1814, although it appeared in a book at the commencement of the sixteenth century, which, however, does not answer to its title, the *Traité de l'Œconomie politique*, by Antoyne de Montchrétien. — After these various authoritative publications of the physiocratic school we cite, in conclusion, the principal work of Le Trosne; which appeared in 1777, under the title, *De l'ordre social*, followed by an elementary treatise on value, circulation, industry, and home and foreign commerce. This work contains two very distinct parts: the first, consisting of a series of lectures, is a dogmatic exposition of the principles of the school. In the second part, which bears the special title *De l'Intérêt social*, Le Trosne treats of value, circulation, industry, home and foreign commerce, with a remarkable understanding of these different subjects. — This was the last general manifesto of the pure physiocratic school, properly so called. When it appeared, Quesnay was dead; Turgot was a minister, and had anticipated great reforms in the constitution of labor, which were to be effected by the constituent assembly, and Adam Smith had published his book after ten years of retirement, and of meditation on this great work. — V. *Political Ideas of the Physiocrates.* Having reached this point in our historical deduction concerning the physiocrates, we must direct the attention of the reader for an instant to the political ideas held by this phalanx of philosophers, or which were attributed to them. Mercier-La Rivière, discussing the purely political question of the form of government, decided in favor of the power of one man.* Dupont explains to us the principal motive which, according to him, Mercier-La Rivière and the abbé Baudeau had in accepting such a doctrine, "thinking," he says, "that it would be easier to persuade a prince than

* The date of this publication is important in the history of the science. We have remarked, in an essay relating to the origin and filiation of the term political economy (*Journal des Economistes*, vol. xxiii., pp. 11, 217): "Eugene Daire, after stating (xlv. of his Introduction to the 'Works of Turgot,' in the *Collection des principaux Economistes*) that this work was printed about 1766, inclines us to believe in the notice of Mercier de la Rivière (same vol., p. 430), that this date is not exact, and that Turgot's treatise appeared later. Eugene Daire was mistaken a second time; we have before us a copy of the edition of 1766 in 12mo." If Eugene Daire was mistaken, it was only in part, and we ourselves are also mistaken. The volume of which we speak, bore the last date which we mention; but this date points to the time when Turgot was writing, during his intendancy. The first edition seems to have been the separate one formed of the article in the *Ephémérides*, part of which appeared in the 11th vol., at the end of 1769, and a part in the 12th vol., at the commencement of 1770.

a nation," and that one man would be quicker to put in practice the teachings of science. We do not wish to stop and ask ourselves whether Mercier and Baudeau were right or wrong, or what are the dangers of despotism and the drawbacks of mixed or representative governments. We wish to say simply that Mercier-La Rivière was careful to distinguish between *arbitrary despotism*, or despotism proper, which he rejects, and *legal despotism*, which he favors, and a counterpoise for which he finds in the authority of the magistracy; the form and invariable proportion of the taxes, "the evidence" of the truths of natural law made familiar to the mass of citizens by national education, and the interest of sovereigns, to be just in a system such as he conceived it. It is not difficult to see, in reading this philosopher, that he was of a liberal mind. It must also be remembered that he wrote a hundred years ago, when the theory and practice of free government were still in their infancy. However this may be, it is to be regretted that he was led to construct a political theory not necessarily connected with his subject, which was an explanation of the general principles of law and justice, common to all societies, independent of the form and mechanism of their governments; it is especially to be regretted that to designate the power of a single man, he used a word to which usage has given a bad meaning, which does not express his thought, and which has served as a pretext to many of his adversaries, who, in order to divert attention from his economic ideas and the reforms which they demanded, accused those ideas of being and professing to be the upholders of despotism. — The question has been raised whether Mercier-La Rivière was under the influence of Quesnay, or whether he expresses his personal ideas and those of Baudeau. It is difficult to say what was precisely the idea of the master on this subject; but it is certainly true that if Quesnay and the marquis de Mirabeau inclined to the executive and legislative power of one man, all their writings show that in their minds and hearts there never could be a question of sacrificing to a family or to an aristocracy the interests of the masses, who were the object which preoccupied their noble thoughts. We can not appeal, on this point, to the practice of their lives. Quesnay died in 1774; the marquis de Mirabeau, on the eve of the revolution, in 1788; Baudeau and Mercier-La Rivière lived on, the one till 1792, the other till 1794, it is said; but they were not of the age to mix in the questions of the time. Moreover, if we admit, which is far from being proved, that any physiocrates went astray, on this point, in theory—the political life of Malesherbes and Turgot; the administrative acts of the latter, of the Gournays and Trudaines; the parliamentary career of Dupont de Nemours; the manly and impartial writings against feudal abuses; monopoly of the finances and other monopolies, as well as the biographical details which have been preserved concerning the public conduct of all those who have been put on the witness stand, prove that true political progress would have had warm friends in each one of these zealous promoters of economic progress (whatever might have been the party with which they were connected), the more useful to the cause of humanity for being better informed on the real wants of men living in society, and imbued with the principles of a sounder philosophy based on the better natural foundation of human affairs. Just here we would make a general observation, to wit: that one of the results of economic studies is to lessen the importance of one form of government or another in the minds of men devoted to these studies. But is not this a benefit? The day when the governing and the governed shall understand better what they owe each other; the day when governments shall know how to restrict their action to their natural sphere, the maintenance of security and the guarantee of justice, property and liberty; the day when the governed will no longer believe in fantastic promises, and no longer demand the fulfillment of impracticable programmes; on that day civilization will have made a great step in the way of progress. — VI. *The Physiocrates as the Founders of Economic Science, and their Influence on the Economic Progress attained.* It is always difficult to tell precisely how far the influence of a philosophic and scientific school reaches, because in such a subject causes and effects often escape the mind of the observer. After what we have said, however, a sufficient estimate can be made of the importance of the labors of the physiocratic school in philosophy and in morals, and of the services which it rendered in the ranks of the philosophic school, by its studies and its knowledge of society. As to political economy proper, the details into which we have entered show that if the physiocrates were not the first and only founders of the science, as has been frequently asserted, they deserve to figure in the front rank of its founders, and here we recoil from a task which remains yet to be accomplished, and which consists in investigating and describing the reciprocal influence which Adam Smith may have had upon the physiocrates during his visit to Paris, and which the physiocrates may have had upon him by their conversation and writings. We are unable here to settle the question of priority between the Scotch philosopher and the French philosophers; but we may state, with Cousin, that it is difficult to answer it in favor of them rather than of him while we believe it our duty to acknowledge that the physiocrates and Adam Smith are under great obligations to certain writers who preceded them in their career, Boisguillebert, David Hume, etc., whom we have cited above. Be this as it may, account must be taken of this important fact, that while writing his book, Smith was able to take advantage of the principal works of the school, especially those of Quesnay, and that its most important utterances were published earlier than the appearance of the "Inquiry into the Nature and Causes of the Wealth of Nations." — The question raised as to

the sequence of facts, that is to say, the legislative traces which the physiocratic school has left after it, its action and its propagandism, might also be made the subject of very interesting research which has not, we think, been made. We can, however, give a satisfactory account, in résumé, of this influence. In a general way the physiocratic school contributed greatly to overthrow the spirit of administrative routine which progress always encounters in its path; to overthrow the spirit of regulation and prohibition which had thrown a deadening net of hindrances over every branch of human activity; it contributed greatly to effect the suppression of provincial customs duties, and to help the freedom of internal commerce; it aided the fall of the system of *corporations*, and the freedom of labor; it abolished the *corvée;* and finally, it contributed to all the liberal and progressive measures of the constituent assembly. The majority of that assembly voted under the influence of the economic ideas which several members had gained by meeting and reading the works of the physiocratic philosophers, while they incriminated, and allowed others to incriminate, the economists, as Dupont de Nemours says, just as has often happened since in other assemblies. During the twenty years which preceded the revolution, it was in their writings and their ideas that many influential men, princes, ministers, governors, intendants of provinces, inspectors of manufactures, etc., found inspiration, both to establish the financial system and to improve the internal administration and the management of foreign affairs; it was they who won the freedom of the corn trade, on which the school published a score of books. It was not, therefore, their fault (Droz has shown this well in his *Histoire de Louis XVI.*) that the economic, financial, and even political reforms were not accomplished in season, in peace and without revolution. Every one has read of the brilliant efforts of Turgot. — The physiocratic school has exercised its influence not in France alone, but in all Europe. This influence may be traced in Italy, and especially in Tuscany, which owes its prosperity to the principles of industrial and commercial freedom, put in practice by the grand duke Leopold, assisted by intelligent ministers, such as Gianni and Fabroni; in several states of the north and Germany, particularly in Austria, where the administration of the emperor Joseph II., as well as that of this same Leopold, have left such regretable souvenirs. Gustavus III., king of Sweden, Stanislaus Augustus, king of Poland, the margrave of Baden, and the dauphin son of Louis XV., were inclined to the ideas of the economists. We know that Catherine of Russia desired to consult Mercier-La Rivière, and although the meeting of the philosopher and the empress came to a rather grotesque conclusion, she testified to the credit of the school. This influence was also felt in international relations and treaties. After the conclusion of the treaty of 1786 between France and England, on liberal and rational bases, whatever may have been systematically said of it in a private and ill-advised interest, Lord Lansdowne, prime minister of Great Britain, who, up to that time, was opposed to the peace, declared that he had been converted to better political and economic opinions by the reasoning and influence of the abbé Morellet, whom he had known at Paris, and whose principles, as we have said, were no other than those of Gournay and Quesnay. — The labors of the physiocratic school have also given indirectly a vigorous impulse to statistics. It was in answer to *l'Ami des hommes* that La Michodière and Messence undertook the investigations which are among the first monuments of modern statistics. — VII. *Adversaries and Partisans of the Physiocrates.* The economists, with their enthusiasm for their master, and intolerance, born of the spirit of sect and the inflexibility of principles, so naturally consequent on a fixed conviction and conscientious studies, drew on themselves many attacks, either from the circle of philosophers of which they themselves formed a part, from men of letters, or from all those whose ideas, prejudices or interests they opposed. Specimens of the polemics of the time are found in the writings of Grimm, Mallet-Dupan, Linguet and others, an example of which we produced above. Voltaire directed against them the satire of *l'Homme aux quarante écus*, more witty than solid; the aged philosopher, however, felt dominated by the genius of Turgot, and we know that he took up his pen to aid him against the numerous and unjust attacks of which he was the object on account of his measures to secure the free circulation of corn. — Among the most prominent we must cite *les Doutes proposés aux philosophes économistes*, by Mably, 1768; a book by Graslin, in 1767; the famous "Dialogues" of the abbé Galiani concerning legislation on corn (1770), and a work on the same subject, by Necker, 1770. The first two, though more serious, have no great value. Necker's work, which Turgot's enemies praised to the skies, was a political maneuvre which does no honor to the celebrated minister, for it is full of communistic sophisms. Galiani's book, much lauded for its style and wit, has no scientific value, and does not even reach a conclusion on the special point of the exportation of corn, a crime of the economists, which he did not entirely disapprove. — Some modern economists have taken sides with the physiocrates in their theory of the nature of wealth and agriculture: we mention Dutens, in France, who published a new explanation of the doctrines of Quesnay, under the title of *Philosophie d'Economie politique*, 1885; and Schmalz in Germany, who undertook the same task, ten years earlier. — Malthus, in his "Principles of Political Economy," started out with the materiality of value, and dwelt much on rent; and Eugene Daire, who has left remarkable notices and notes on the physiocrates, Turgot and Adam Smith, in the *Collection des Principaux Economistes*, also maintains the materiality of value, and undertakes to show not only the truth of these principles, but

also that of the agricultural theory of Quesnay, as well as the analogy between Smith's ideas and those of Turgot and Quesnay. We shall not enter into this long and delicate discussion: we shall only say that Smith has not pronounced very positively in favor of the materiality of value, although there is on this point a want of clearness as to his opinion; that he has only tried to show the productiveness of all industries, and has devoted several chapters to opposing the physiocratic doctrine of land. Whether he has succeeded, as the majority of economists pretend, or nearly failed, as others pretend, is a question which can be answered only in a course on political economy, and for that there is no place here. — The reader will find the subject which we have just treated further developed in the lives of the men we have named. We can refer also to a chapter, too brief, unfortunately, in Blanqui's "History of Political Economy" [translated by Miss Emily J. Leonard]; to the lectures in which Rossi treats of land; to the notices by Eugene Daire, in the *Collection des Principaux Economistes;* to his memoir in answer to the questions offered for competition, crowned in 1847 by the academy of moral and political science, a statement from which, inserted in the *Journal des Economistes*, we have reproduced above; to the report of Passy on this memoir, published in the same collection; and to a paper on the philosophy of the physiocrates, published in the same collection, by H. Baudrillart. JOSEPH GARNIER.

PICKERING, Timothy, was born at Salem, Mass., July 17, 1745, and died there, Jan. 29, 1829. He was graduated at Harvard in 1763, was admitted to the bar, entered the revolutionary army, and became adjutant general and quartermaster general. (See also ORDINANCE OF 1787.) Under the administrations of Washington and John Adams he was successively postmaster general, secretary of war, and secretary of state. (See ADMINISTRATIONS, I.-III.) After a brief retirement to a farm in Pennsylvania, he returned to Massachusetts in 1802, and served as United States senator (federalist) 1803–11, and congressman 1813–17. He then retired permanently from politics. — From 1798 until his death, Pickering's political life was a perennial conflict with the Adams family. He had been dismissed from John Adams' cabinet for endeavoring to force the president into the Hamilton policy. (See ADAMS, JOHN; X Y Z MISSION.) As senator, he and his colleague, John Quincy Adams, quarreled over the latter's support of the embargo. Thereafter he was engaged in frequent newspaper and pamphlet wars with both of his old opponents. The particulars may be found in the "Correspondence between John Adams and William Cunningham," published in 1823, and Pickering's "Observations" upon it, in 1824. Pickering is the New England federalist most strongly suspected of favoring secession in 1805–9. (See SECESSION, I.) — See Upham and Pickering's *Life of Pickering; North American Review*, July, 1874; 9 John Adams' *Works*, 55. A personal description of Pickering is in 1 Schouler's *United States*, 191, 302. ALEXANDER JOHNSTON.

PIERCE, Franklin, president of the United States 1853–7, was born at Hillsborough, N. H., Nov. 23, 1804, and died at Concord, N. H., Oct. 8, 1869. He was graduated at Bowdoin in 1824, was admitted to the bar in 1827, and immediately entered politics as a democrat, serving in the lower house of the state legislature 1829–33, as congressman 1833–7, and as United States senator 1837–42. In the Mexican war he became brigadier general. In 1852 he was elected president. (See DEMOCRATIC-REPUBLICAN PARTY, V.; ELECTORAL VOTES, XVII.) For the leading events of his term, see KANSAS-NEBRASKA BILL; KANSAS; FILIBUSTERING; OSTEND MANIFESTO; UNITED STATES, III. After the close of his term he remained in retirement until his death, except for certain letters and addresses during the rebellion, passionately denouncing the coercion of the seceding states and the general conduct of the war. — See Bartlett's *Life of Pierce* (1852); Hawthorne's *Life of Pierce* (1852); 3 *Statesman's Manual*, 1993. ALEXANDER JOHNSTON.

PINCKNEY, Charles Cotesworth, son of chief justice Pinckney, of South Carolina, was born at Charleston, S. C., ———, 1746, and died there Aug. 16, 1825. He was educated at Westminster and Oxford, studied law at the Temple, and began practice in South Carolina in 1769. He distinguished himself in the revolutionary war, being thereafter known as Gen. Pinckney; and was a member of the convention of 1787. Under the new government he declined successively the positions of supreme court justice in 1789; secretary of war in 1795, and secretary of state in the same year. In 1797–8 he was minister and commissioner to France (see X Y Z MISSION), and while there is said to have given the reply to French demands for money: "Millions for defense, but not one cent for tribute." In 1800 he was the alternate federalist candidate for the presidency. The democrats in the South Carolina legislature offered to unite with the federalists in casting the electoral vote of the state for Jefferson and Pinckney, which would have made the latter vice-president, but Pinckney refused the offer, and was defeated with Adams. In 1804 and 1808 the federalist votes were given for him as candidate for president. (See FEDERAL PARTY, II.) — See Allen's *Biographical Dictionary*. ALEXANDER JOHNSTON.

PINCKNEY, Thomas, brother of the preceding, was born at Charleston, S. C., Oct. 23, 1750, and died there Nov. 2, 1828. He was graduated at Oxford, studied law at the Temple in London, returned to South Carolina, and began practice there in 1773. He was governor of his state 1787–9, minister to Great Britain 1792–6, and minister to Spain 1794–5. In 1796 he was the

federalist candidate, alternate to John Adams, for the presidency (see CAUCUS, CONGRESSIONAL; ELECTORAL VOTES); and he was a federalist congressman 1797–1801. During the war of 1812 he was major general in command of the southern military division. — See Allen's *Biographical Dictionary*. ALEXANDER JOHNSTON.

PIRACY is robbery committed by force of arms at sea. It was formerly much more frequent than it is now. It still exists, however, and it is likely that so long as there shall be highwaymen, there will be pirates; although it is much more difficult to equip a vessel to scour the ocean than to lie in ambush at the edge of a road or at the corner of the deserted streets of a large town, to rob a passer-by. Even in comparatively late years the Chinese seas were infested with pirates. This sort of robbery can be practiced only by an association of criminals; it has, too, this peculiarity, that entire hordes have been known to take to it, notably in the Barbary states before the conquest of Algeria, and even now from time to time on the Morocco coasts. Thus, it is always liable to happen, at the very time when Christian nations believe that safety reigns over all the seas, that buccaneers will dash from some unsuspected lair, and before repression can be organized, will have had time to plunder a large number of peaceable merchants. Within a few centuries, doubtless, when European civilization, enlightening even the remotest lands, shall have civilized the entire world, no barbarous tribe will be longer able to escape the action of a regular government, and piracy will lose many of its chances of success; but it may also, by an excess of audacity, organize in the midst of a civilized nation; and consequently, notwithstanding the gradual disappearance of this scourge, it can not be asserted that we shall ever attain to an absolute riddance of it. — The early Greeks were nearly all pirates. M. Cauchy remarks (*Droit Maritime International*, 1862, vol. i., p. 180) that in ancient times the slave trade was one of the most powerful incentives to piracy, both public and private. Neither the Grecian states, when they had become civilized, nor Rome, appears to have had a naval force intended to protect their commerce against sea robbers. Piracy flourished also in the Mediterranean; it attained an extraordinary development during the civil wars of the Roman republic. These robbers formed at this period an immense confederation, the headquarters of which were on the hilly shores of Cilicia. They came very near starving Rome by intercepting the convoys of corn, and Pompey had to be charged with the destruction of their power. In order to prevent the recurrence of so disastrous a state of affairs, the Roman emperors maintained public fleets (M. Cauchy, *loc. cit.*, p. 115), as all modern nations have done since. If we should cease to plow the seas with ships of war, it is probable that piracy would be revived in many parts of the world. Privateering gave rise, at the end of the seventeenth century, to an association of buccaneers, in parts of the Antilles, whose ravages rivaled the robberies of the ancient pirates of Cilicia. The difference between the corsair and the buccaneer is not sufficiently obvious in respect to these bold adventurers; for if the former carries his sovereign's flag, while the latter is outside of international law, both fight for booty. The abolition of privateering, proclaimed by the declaration of April 16, 1856, will thus aid in causing piracy to disappear more and more. — The repression of piracy concerns international law as well as the public law of each nation. It generally happens, indeed, that the pirate and the captor are not subjects of the same sovereign, and that the crime has been committed on the vast expanse of sea which has no master and where no jurisdiction exists. The principal laws of the *ancien régime* in France, against piracy, are the decree of March, 1584, the declaration of Feb. 1, 1650, and the naval *ordonnance* of 1681; since the French revolution the matter has been regulated by the order of the second of prairial, year XI., and the law of April 10, 1825, entitled, "Law for the safety of navigation and maritime commerce." The *ordonnance* of 1681 and the law of 1825 have solved the difficulty which we have just indicated, by putting pirates outside of international law; they are considered as public enemies, and are amenable to the tribunals of their captor. Any vessel taking to piracy without letters of marque from any prince, or with letters of marque from two princes, is liable to seizure as a pirate. And further, the vessel which commits hostilities under any other flag than that under which it is commissioned, is to be regarded as a pirate. The laws respecting piracy are made by each nation in the interest of all the others. It matters little that the captor has not been attacked. The pirate may be justly seized for having attacked any vessel whatsoever, even foreign to the nationality of the captor. This is the remarkable feature in the legislation on piracy. The law appears to us unjust which punishes as a pirate a vessel to which nothing could be imputed but the lack of papers. It must be observed, however, that there is in such a case only a presumption, which must yield to proof of the contrary, but this is already too much, and here, as in all penal law, guilt is not to be assumed, and it is for the accuser, not the accused, to furnish the proof. — Grotius thinks (book ii., chap. xx., § 40) that a government has the right not only to avenge its wrongs, but even the offenses which violate international law, whomsoever they may concern. "And it is even," says he, "as much more praiseworthy to avenge the wrongs of others rather than one's own, as it is to be feared, in those which affect us, that the resentment which we feel might make us pass beyond the limits of a just vengeance." We adopt fully this principle of the illustrious publicist, proclaimed before him by St. Augustine in the "City of God," which appears to us one of the foundations of international law.

A nation has the right to declare war against a government which violates international justice, even when such violation does not directly harm it. Thus, any nation may lawfully make war on a piratical people, even if its commerce has not suffered from their depredations.*—BIBLIOGRAPHY. Broglie, *Sur la piraterie* (*Ecrits*, vol. iii., p. 335); Phillimore, *International Law*, vol. i., pp. 394–406; Wildman, *International Law*, vol. ii., p. 150; Wheaton, *International Law*, § 124; Heffter, *Völkerrecht*, § 104; Esperson, *Diritto diplomatico*, vol. ii., pp. 2, 12; Gareis, *Das heutige Volkerrecht u. der Menschenhandel*, 1879. F. A. HELIE.

* Kent, in his Commentaries (vol. i., p. 183), gives the following definition of piracy: "Piracy is robbery, or a forcible depredation on the high seas, without lawful authority, and done *animo furandi*, and in the spirit and intention of universal hostility. It is the same offense at sea with robbery on land; and all the writers on the law of nations, and on the maritime law of Europe, agree in this definition of piracy." Further on he continues: "They (pirates) acquire no rights by conquest; and the law of nations, and the municipal law of every country, authorize the true owner to reclaim his property taken by pirates, wherever it can be found; and they do not recognize any title to be derived from an act of piracy. The principle, that *a piratis et latronibus capta dominium non mutant*, is the received opinion of ancient civilians and modern writers on general jurisprudence; and the same doctrine was maintained in the English courts of common law, prior to the great modern improvements made in the science of the law of nations."—By the constitution of the United States, congress is authorized to define and punish piracies and felonies committed on the high seas, and offenses against the law of nations. In pursuance of this authority it was declared, by the act of congress of April 30, 1790, c. 9, sec. 8, that murder or robbery, committed on the high seas, or in any river, haven or bay, out of the jurisdiction of any particular state, or any other offense which, if committed within the body of a county, would, by the laws of the United States, be punishable with death, should be adjudged to be piracy and felony, and punishable with death. It was further declared, that if any captain or mariner should piratically and feloniously run away with any vessel, or any goods or merchandise to the value of fifty dollars, or should yield up any such vessel voluntarily to pirates; or if any seaman should forcibly endeavor to hinder his commander from defending the ship or goods committed to his trust, or should make a revolt in the ship—every such offender should be adjudged a pirate and felon, and be punishable with death. [By the act of congress of March 3, 1835, c. 313, the offense of making a revolt in a ship is no longer punishable as a capital offense, but only by fine, and imprisonment at hard labor.] Accessories to such piracies before the fact are punishable in like manner; but accessories after the fact are only punishable by fine and imprisonment. And by the act of March 3, 1819, c. 76, sec. 5, congress declared, that if any person on the high seas should commit the crime of *piracy, as defined by the law of nations*, he should, on conviction, suffer death. This act was but temporary in its limitation, and has expired; but it was again declared, and essentially to the same effect, by the act of congress of May 15, 1820, c. 113, sec. 3, that "if any person, upon the high seas, or in any open roadstead, or bay, or river, where the sea ebbs and flows, commits the crime of robbery in and upon any vessel, or the lading thereof, or the crew, he shall be adjudged a pirate. So, if any person engaged in any piratical enterprise, or belonging to the crew of any piratical vessel, should land and commit robbery on shore, such an offender shall also be adjudged a pirate." According to a decision of the United States supreme court, robbery on the high seas is piracy by the act of congress, as well as by the law of nations.—Kent holds, that it is of no importance, for the purpose of giving jurisdiction, on *whom* or *where* a piratical offense has been committed. "A pirate, who is one by the law of nations, may be tried and punished in any country where he may be found, for he is reputed to be out of the protection of all laws and privileges. The statute of any government may declare an offense committed on board its own vessels to be piracy, and such an offense will be punishable exclusively by the nation which passes the statute. But piracy, under the law of nations, is an offense against all nations, and punishable by all." "An alien, under the sanction of a national commission, can not commit piracy while he pursues his authority. His acts may be hostile, and his nation responsible for them. They may amount to a lawful cause of war, but they are never to be regarded as piracy." "If a natural-born subject was to take prizes belonging to his native country in pursuance of a foreign commission, he would, on general principles, be protected by his commission from the charge of piracy. But to prevent the mischief of such conduct, the United States have followed the provisions of the English statute of 11 and 12 William III., c. 7, and the general practice of other nations, and have, by the act of congress of April 30, 1790, sec. 9, declared, that, if any citizen should commit any act of hostility against the United States, or any citizen thereof, upon the high seas, under color of any commission from any foreign prince or state, or on pretense of authority from any person, such offender shall be adjudged to be a pirate, felon and robber, and, on being thereof convicted, shall suffer death. The act of congress not only authorizes a capture, but a condemnation in the courts of the United States, for all piratical aggressions by foreign vessels; and whatever may be the responsibility incurred by the nation to foreign powers, in executing such laws, there can be no doubt that courts of justice are bound to obey and administer them. All such hostile and criminal aggressions on the high seas, under the flag of any power, render property taken *in delicto* subject to confiscation by the law of nations."—By the ancient common law of England, piracy, if committed by a *subject*, was held to be a species of treason, being contrary to his natural allegiance; and by an *alien* to be felony only: but since the statute of treasons (25 Edw. III., c. 2), it is held to be only felony in a subject. Formerly this offense was only cognizable by the admiralty courts, which proceed by the rules of the civil law; but it being inconsistent with the liberties of the nation that a man's life should be taken away unless by the judgment of his peers, the statute 28 Henry VIII., c. 15, established a new jurisdiction for this purpose, which proceeds according to the course of the common law. It was formerly a question whether the Algerines and other African states should be considered pirates; but however exceptionable their conduct might have been on many occasions, and however hostile their policy might be to the interests of humanity, still, as they had been subjected to what may be called regular governments, and admitted to enter into treaties with other powers, they could not be treated as pirates. (M'Culloch.)—What constitutes piracy, in violation of the law of nations, is not uniformly fixed everywhere. It is questioned whether (as according to English common law) self-interested design must be the motive of the attack. A majority of modern writers have answered this question in the negative. Another undecided question is, whether piracy may be committed by a mutinous crew against the vessel on which they serve. Acts of violence committed by duly authorized privateers against hostile, or, *bona fide*, against neutral, merchantmen, are not considered as piracy. Different from the crime of piracy, in violation of the law of nations, is the crime of piracy which is mentioned in and punished by the criminal laws of some countries. The description of the facts which constitute these two different kinds of crime may become doubtful, as when a party, being in a state of insurrection, and recognized as "belligerent" by the neutral powers, injures the maritime commerce of the other party in the course of a civil war. The slave trade, too, is to be considered piracy, according to the laws of seafaring nations, and according to the treaties which have been concluded for the purpose of suppressing that nefarious trade; but where the right to search suspected vessels on the high seas is denied to vessels under foreign flags, the punishing of the guilty in accordance with the provisions in relation to piracy can not be carried out practically. It is a strange fact, as compared with other codes, that sec. 4 of the German criminal code does not enumerate piracy among the crimes committed in foreign countries, which may be punished. (Holtzendorff.)

PLENTY AND DEARTH. Political economy, in so far as it is an exposition of principles and facts, is a vast and noble science, searching into the affairs of the social mechanism and the functions of each of the parts composing those animate and marvelous organizations called human societies. It studies the general laws in accordance with which the human race increases in numbers, wealth, intelligence and morality; and yet, recognizing a social as well as a personal freedom of will, it shows how the laws of Providence may be misunderstood and set at naught, what a terrible responsibility there is on those who tamper with them, and how, as the result of so doing, civilization may be checked, impeded, driven back, and stifled for a long time. — Incredible as it may seem, this science, so vast and lofty as an exposition of principles and facts, is, when controverted and compelled to become polemical, nearly reduced to the ungrateful task of demonstrating the proposition, almost childish in its simplicity, that "Plenty is better than dearth": because, looked at closely, it will be seen that the greater number of the objections to, and doubts concerning, political economy, involve the principle that dearth or scarcity is preferable to plenty, which is the real meaning to be deduced from the phrases, once and in part still so popular, such as "Production is excessive," "We are being destroyed by plethora," "All the markets are overstocked, and every business and profession is overcrowded," "The capacity to consume can no longer keep pace with the power to produce," etc. — These ideas, too, are not confined to any class. One man opposes the use of machines on the ground that those triumphs of human ingenuity multiply indefinitely the power of production. What does he fear? Abundance. A second favors protection, lamenting the liberality of nature's gifts to other lands, dreading that through the influence of free trade his own should share it, and thinking that were it to do so it would be afflicted by the scourge of the invasion and inundation of foreign products. What does he fear? Abundance. Statesmen, even, are not free from the hallucination, though they fear abundance for a different reason. Their dread is, that the masses, as the result of being too well off, will become revolutionary and seditious, and as a means of repressing them, they look to heavy taxation, vast armies, a lavish expenditure, and a powerful aristocracy charged with the task of remedying by its pomp and profusion the intrusive abundance of human industry. What do such statesmen fear? Abundance. Finally, we have logicians who, disdaining all by-paths, go straight to the point, and advise periodical destruction of large cities by fire or otherwise, that labor may have the opportunity to rebuild them. What do they fear? Abundance.— It seems impossible that such ideas should come into the minds of men, and sometimes even prevail, not in the personal practice of men, but in their theories and in their legislation. For, if there be anything evidently true, it is this, that, so far at least as useful articles are concerned, it is better to have than to be without them; and if it is incontestable that plenty is an evil when it exists in things that are mischievous, destructive and troublesome, such as grasshoppers, caterpillars, vermin, vices and malarial vapors, it must be equally true that it is a blessing as regards things which meet wants and satisfy desires; things which man seeks, strives for, with the sweat of his brow; things which he is willing to buy by work or exchange, and which possess a real value, such as food, clothing, shelter, works of art, means of locomotion, of communication, of instruction, and of amusement; in a word, all that political economy busies itself with. — If it be desired to compare the civilization of two peoples, or of two ages, statistics are appealed to, to inform us which had, in proportion to its population, most means of subsistence, the greatest returns in agricultural products, in industries or art, most roads, most canals, most libraries and museums; and the question is settled in accordance with the comparative activity of consumption, that is to say, by plenty or abundance. — It may, perhaps, be said that it is not sufficient for products to be abundant; that it is further necessary that they be equitably distributed. There is nothing truer than this, but questions must not be confounded. When we defend abundance, and our opponents decry it, we both take as understood the words *cæteris paribus*, all else being equal; that is, equity of distribution is presupposed.— Further, it must be observed, that abundance is in itself the cause of proper distribution. The more abundant anything is, the less value it possesses; the less its value, the more it is within the reach of every one, the more men are on an equality with regard to it. We are all equal in respect to the air, because it exists relatively to our needs and wants in inexhaustible abundance; we are a little less equal in regard to water, because being less plentiful, it possesses a certain value; still less so with regard to wheat, delicate fruits, early vegetables, rarities, their benefit becoming confined to fewer, in an inverse ratio to their abundance. — It may be added, to satisfy the sentimental scruples of our times, that plenty is not a merely material good. Wants arise among men in regular order; they are not all equally pressing, and it may be said that their order of priority is not the order of dignity. The coarser wants must first be appeased, because their satisfaction involves our existence, and because, as rhetoricians say, "Before living worthily, we must live somehow." *Primo vivere, deinde philosophari.* —Hence it follows, that it is the abundance of the things necessary for the supply of the commonest wants which permits man more and more to spiritualize his enjoyments, and to raise himself into the region of the true and the beautiful. He can only devote to the perfecting of form, to the cultivation of art, or to the investigations of thought, the time and the energies which, as a consequence of

progress are no longer absorbed by the demands of his animal existence. Abundance, the result of long labor and patient economy, can not be universal at the first formation of society, nor can it, at the same time, exist as to all possible products, but it follows a regular order, commencing with the material wants, and ending with the spiritual. Unhappy the nations when external forces, such as governments, violently invert this natural sequence, substitute for desires—coarse, it is true, but imperious — others of a loftier nature, prematurely awakened, change the natural direction of labor, and disturb the equilibrium between wants and the means of satisfying them, an equilibrium which is the cause of all social stability. — Moreover, were abundance a scourge, it would be as strange as unfortunate, for easy as the remedy is (what is easier than to abstain from producing, or to destroy?) no one is willing to adopt it. It is in vain that people inveigh against plenty, superabundance, plethora; it is in vain that they enunciate the theory of restricted supply, that they obtain for it the support of the law, that they proscribe machinery, that they disturb, interfere with and impede commerce; all this keeps no one from working to acquire abundance. On all the earth not a man is to be met with whose practice is not a perpetual protest against these vain theories; not one is to be found whose sole endeavor is not to make the most of his powers, to foster them, to husband them, and to increase their productive capability by the co-operation of natural forces; not one who decries freedom in trade, but who acts on this principle (however eager he may be to deny others the same privilege): to buy in cheapest market, and to sell in the dearest; so much so, that the theory of a restricted supply, which is so common in books, in the newspapers, in conversation, in parliament, and by the way in laws, is negatived and stultified by the actions of every individual without exception, composing the human race, which is the most incontrovertible refutation the mind can well imagine. — But if abundance is better than scarcity, how does it happen that men, after having virtually decided in favor of abundance by their action, by their labor, and their commerce, constitute themselves theoretically the champions of restriction, to such an extent that they bring popular opinion to that view, and are the originators of all sorts of restrictive and illiberal laws? This it remains for us to explain. At bottom, what we are all aiming at is, that each of our efforts should realize for us the greatest possible amount of benefit. If we were not by nature sociable, if we lived in individual isolation, we could know one rule only for attaining this object, to *work more and better*, which implies progressive abundance. But, by means of exchange and its consequence, the division of labor, it is not directly to ourselves but to others that we consecrate our labor, our efforts, our productions and our services. Hence it follows, that without losing sight of the rule, *produce more*, we have another always present to our minds, *produce more value*; for on that depends the amount of remuneration which we shall receive for our services. Now, *to produce more, and to produce more value*, are by no means one and the same thing. It is manifest that if by force or stratagem we succeed in making greatly scarcer the special service or product which constitutes our occupation, we would grow richer without adding to our labor either in quantity or quality. Suppose, for example, a shoemaker could, by a mere effort of will, cause the sudden annihilation of all the shoes in the world, excepting only those in his own shop; or strike with paralysis every one who knew how to use the shoemaker's tools, he would become a Crœsus; his lot would be improved, not together with the general lot of mankind, but in an inverse ratio to the prosperity of all. This is the whole secret of the theory of a scarcity as it shows itself in restrictions, monopolies and privileges. It only veils, by the use of scientific language, that selfish sentiment which finds a place deep in the hearts of all: competitors annoy me. — When any product is brought to market, there are two circumstances which tend equally to enhance its value: first, that there is in the market a great abundance of articles for which it may be exchanged, that is, a great abundance of everything; and second, a great scarcity of articles of the same product. Now, neither of ourselves nor through the intervention of laws and public power, are we able to influence in the least the first of these circumstances. Unfortunately universal plenty can not be produced by act of parliament; it must be obtained in some other way; legislators, customs officials and restriction can do nothing toward it. If, then, we wish artificially to raise the value of any article, we must bring our energies to bear on the other element in its value. Here individual effort is not quite so powerless. With laws *ad hoc*, an arbitrary use of power, bayonets, chains and fetters, punishment and persecution, it is not impossible to drive out competition, and to create that scarcity and artificial increase in value which is desired. This being the condition of things, it is easy to understand what not only can but must happen in an age of ignorance, of barbarism, and of unrestrained greed. Every one turns to the legislature and through its intervention to public force, demanding of it the artificial creation, by all the means at its disposal, of a *scarcity* in the article he produces. The farmer demands scarcity of corn, the cattle raiser of cattle, the iron master of iron, the colonist of sugar, the cloth manufacturer of cloth, etc., etc. Each one gives the same reasons for his demand, and the result is a body of doctrine which may be called, the *theory of scarcity*, and public force employs fire and sword to secure its triumph. — But, leaving the masses thus forced to undergo the regimen of universal dearth, it is easy to comprehend what a labyrinth the inventors of this scheme get involved in, and what a terrible retribution awaits their unscrupulous rapacity. It has been shown that as regards each

special production there are two elements of value: first, the scarcity of similar articles; and, second, the abundance of all which are not similar. Now, we call special attention to this: by the very fact that the government, the slave of individual selfishness, endeavors to realize the first of these elements of value, it destroys the second. It has satisfied in succession the wishes of the farmer, the cattle raiser, the iron master, the manufacturer, the colonist, by artificially producing a scarcity of corn, or meat, of iron, of cloth, or of sugar, but what is that but destroying that *general abundance* which is the second condition of value in each separate product. Thus, after having submitted the community to actual privation, which scarcity implies, it is discovered that it has not succeeded in catching this shadow, in laying this spectre, in raising this nominal value, because by just so much as the scarcity of the article in question operates in its favor, in the same way the scarcity of others neutralizes it. Is it, then, so hard to understand that the shoemaker, of whom we spoke above, should he succeed in destroying, by a simple wish, all the shoes in existence except those made by himself, would find himself no better off, even from the ridiculous point of view of nominal value, if at the same time, every other thing against which shoes can be exchanged became proportionately scarce? The only change would be, that every man, our shoemaker included, would be worse shod, worse clothed, worse fed, and worse lodged, even if products maintained toward each other the same relative value. — It is necessarily so. What would become of society, if injustice, oppression, egotism, greed and ignorance brought no punishment with them? Luckily, it is not possible for a few men, without its recoiling on themselves, to turn public force and the apparatus of government to the profit of prohibitive legislation, and to check the universal impulse of humanity toward abundance.

FRÉDÉRIC BASTIAT.

POLAND. I. *Historical.* Poland is a vast plain, the centre of which is at Warsaw, on the Vistula, and which forms the northwestern region of a plateau two-thirds larger, bounded by the Baltic sea, the Oder, the Carpathian mountains, the Black Sea, the Borysthenes and the Dwina. The boundaries of the state of Poland have changed, in a thousand years, from the belt formed by the tributary rivers of the Vistula to the circumference of the whole plain. But the country occupied by the Polish nation has never extended beyond the Carpathian mountains at the south and east. No mountains traverse Poland, only sandy hills. In the east there are marshes; the centre is covered with forests. The soil contains mineral wealth, copper, silver, and the largest mines of rock salt in Europe. The climate is cold in the north, and temperate in the south; the soil is everywhere fertile, but nothing but wheat is produced. — The Polish population had its origin (independently of the Finnish or Turanian elements of pre-historic Europe) in the Slavic tribe of the Lecks, established on the banks of the Vistula at the beginning of the middle ages: they are called the Slaves of the plain. They annexed to themselves, in course of time, other Slavic nations, the principal of which are the Lithuanians, who occupy to the northeast of Poland a region of almost equal extent; and the lesser Russians, established at the east and south, in the countries called later Podolia and Galicia. The aggregate of these nations constituted, without any considerable variation, the Polish nationality; but the power of this state extended in the west over states almost wholly Germanic; and in the southeast over nations of Turkish or Tartar origin, such as the Cossacks of the Ukrania. The time of the greatest territorial extent of Poland was the year 1772. It was then composed of four states: *Great Poland*, comprising Greater Poland proper, Cujavia, Mazovia and Western Prussia; *Little Poland* comprising Little Poland proper, Podlaquia, Red Russia, and the Ukraine; *Lithuania*, comprising Lithuania proper, White Russia, the Black Russia of Lithuania, Iamogitia; and finally the *feudatory countries*, that is to say, the duchy of Courland and the Pomeranian districts of Butow and Lauenburg, fiefs in the hands of the king of Prussia. And it was precisely this year 1772 which saw the first dismemberment of Poland accomplished, and the political ruin of the nation precipitated. The causes which led to the dissolution of the most flourishing state of eastern Europe are now well known. They may be summed up in the insufficiency of public authority at the time when Poland was surrounded by three military states subject to a rigorous centralization. — The origin of this anarchy lay primarily in the elective character of the king. The last Piast, a king of the first dynasty, was able to secure the throne to his nephew only by allowing the nobility to force a stipulation upon him by which they arrogated to themselves several prerogatives, such as exemption from taxation. From that time on, the nobility asserted their right of election, and, after the extinction of the Jagellons, enforced it. They swore their kings to the *pacta conventa*, the basis of that Polish constitution by which, to use Voltaire's expression, the nobility and the clergy defended their liberty against their king, and took liberty away from the rest of the nation: "There the peasant sows not for himself, but for lords, to whom he and his land and all the labor of his hands belong, and who can sell him or slay him with the beasts of the field. All who are of gentle blood depend only on themselves. To try them in a criminal matter, a general assembly of the nation is necessary; and they can be arrested only after having been condemned. Besides, they are scarcely ever punished. Many of the gentry are poor, and accept service with those who are wealthy; they receive a salary from them, perform the lowest offices, and prefer to serve their equals to enriching themselves by trade." Another peculiarity of this constitution was the famous right of *veto* granted to the deputies or nuncios in the diets.

"Each deputy enjoys the right which the tribunes of the people had at Rome, of opposing the laws of the senate. A single gentleman who says, *I protest*, invalidates by this one word the unanimous resolutions of the rest, and if he departs from the place where the diet is being held, it must then dissolve. The remedy provided for the disorders which arise from this law is more dangerous still. Poland is seldom without two factions. Unanimity in the diets being thus impossible, each party forms a confederation, in which they decide by a plurality of votes, without any regard to the protests of the minority. These assemblies, illegal, according to the laws, but authorized by the laws, are held in the king's name, although often without his consent, and against his interests. When the dissensions are over, it belongs to the general diets to confirm or to annul the acts of these confederations." (Voltaire.) Such a system offered only too easy pretexts and opportunities for the intervention of neighboring states. From the beginning of the elective kingship the discord was such that a foreign prince was generally elected king, and when, at the end of the eighteenth century, the throne was given to a Pole, the choice was dictated by foreign influence. Russia ruled for nearly a century in the Polish councils. Her last intervention had for its chief motive to bring forward the situation of Russians of the Greek church, subjects of Poland in the eastern provinces, whose religious liberty was restricted or disregarded. It was Russia which took the principal part in the military operations against Poland, although the first idea of the division appears to have been expressed by Frederick II., king of Prussia. — The first dismemberment took place in 1772. Austria and Prussia signed treaties with Poland which restored to Russia, Livonia, Polotsk, Witebsk, Meislaw and Minsk; to Prussia, a part of Posnania, Pomerania and Warnia; and to Austria, Galicia and Lodomiria. Poland, reduced to these limits, abolished her ancient government, and adopted, by a constitution copied from that which France had just voted (1791), hereditary royalty, national representation, with two houses, the re-establishment of urban franchise, and the abolition of serfdom. But this constitution having been taxed with illegality by the confederation of Tarjowice, assembled by the advice of Catherine II., and at which the old sovereignty of the equestrian order was reclaimed, the disturbances which followed this transformation led to the interference of the Russian armies, and the second partition of Poland (1791), which took from her half of Lithuania, Posnania, Thorn, and Dantzic. Poland rose in arms the following year, and took part in the European war, but her defeat was followed by the third partition (1794). — A nation can not be all at once suppressed, especially in modern times, without the conquest giving rise to the protests of the states which have not shared in the spoliation, and which then exert themselves for the re-establishment of the dismembered nation. Poland was the subject of two of these at least partial restorations. The first was the work of Napoleon I., who constituted, by the treaty of Tilsit (1807), as an independent state, at most the ancient country of the Lecks, the basin of the Vistula, under the title of grand duchy of Warsaw. This territory was taken almost entire from Prussia, defeated at Friedland. The grand duke was the king of Saxony. The constitution of 1792 was preserved, in form, at all events. This creation of the grand duchy of Warsaw was dated at Tilsit, 1807; Prussia had nothing of Poland, but Russia kept all the east, and Austria all the south. The war with Austria having been renewed, the Poles reconquered Galicia; but they were obliged in 1809 to cede a part of it to Russia, by a treaty approved of by France. The second restoration of Poland was the work of Europe, assembled at the congress of Vienna. — The treaties of 1815, while keeping Posnania for Prussia, and Galicia for Austria, gave an independent existence to the greater portion of Poland, which, under the name of kingdom of Poland, was governed by the emperor of Russia on the principle of *personal union*. This kingdom received a constitution, Nov. 15–27, 1815, by virtue of which the senate and the chamber of nuncios of the nobility and of deputies of the commons shared in the legislation. The chambers had a certain initiative, and suffrage was established on a much broader basis than in the *French chartres*. The Roman Catholic religion, professed by the greater part of the inhabitants of the kingdom of Poland, was to be the object of the peculiar care of the government, without detracting in any way from the liberty of other forms of religion, all of which, without exception, might be practiced freely and publicly, and enjoy the protection of the government. Difference in the forms of worship made no difference as to the enjoyment of civil and political rights. The senate of the kingdom of Poland was to have as many bishops of the Roman Catholic church as the law should establish palatinates; a bishop of the Greek church had a seat in it also. All public administrative affairs, judicial and military, without exception, were to be conducted in the Polish language. Public places, both civil and military, could be filled only by Poles. Cracow, with its suburbs, was also constituted a republic. The direction of its affairs was conducted by a senate, and the legislative power by an assembly of representatives. (Constitution of May 3, 1815.) But a commission appointed by the three joint powers decided everything. — The system established by the constitution of 1815, upon a more liberal basis than the charters of that period, and the application of which would not have been without difficulty under a national dynasty, was naturally still more precarious in a country lately conquered, and the dependence of which was but slightly disguised by the so-called system of *personal union*. From this time on, Poland saw the possibility of liberty only in com-

plete separation, and sought it in four insurrections, the failure of which each time aggravated the situation of the country. The first took place in 1830, and was crushed the year following in the battle of Ostrolenka and the capture of Warsaw. The Russian government adopted a series of measures to efface the Polish nationality, the principal of which were the abolition of judicial power in Lithuania and Ruthenia, the suppression of Catholic churches, forced conversions, the education of the children in the Russian religion (in Poland as well as in Lithuania), the substitution of the Russian language for the Polish in public documents and in the schools, the transportation to St. Petersburg of the library of Warsaw, the forced enrollment of Poles in the Russian army, their transportation to the Caucasus, the confiscation of their goods, the inquisition of officials in families, and the transportation and forced enrollment of children. A large number of Poles emigrated, either to other European countries, principally France and England, or to the republic of Cracow, on the faith of its constitution. The Austro-Prusso-Russian commission, which had held the town since 1815, and which had the letter of the treaties in its favor, exacted their expulsion from the senate, and, as the senate refused to obey, took their expulsion upon itself. The accumulation of resentment burst out in a revolution some years afterward (1846). Associations covering all Poland, delegated authority to a dictatorship of five, who proclaimed, at Cracow, on the 22d of February, the national government of the Polish republic. The movement extended everywhere, and was everywhere crushed out in blood; it was then that the massacre of the Poles in Galicia took place, by peasants of Russian origin, whom the Austrian government was accused of having excited to the deed, and which it at all events did not restrain. The republic of Cracow was suppressed, and Austria, Prussia and Russia signed, on the 6th of November, a treaty which incorporated Cracow with Austria. France and England entered a protest, for form's sake. A third insurrection took place in 1848, and was quelled the same year. — In 1861 the Russian government seemed to wish to adopt free institutions in Poland. A council of state or of administration, and councils of districts and of municipalities, were instituted; the use of the Polish language in official documents was permitted, and the right of petition recognized. It is certain that the national agronomical society carried its labors beyond the object for which it was established; it was dissolved, as well as the urban delegations. The fourth insurrection was thenceforth fully resolved upon; it lasted until 1863 and 1864, and was, like the previous ones, reduced by force. France and England interposed by diplomatic notes, to the legality and conclusions of which the Russian government took exceptions; the intervening powers did not push any further the measure which had encouraged the Poles without giving them any real support; the character of belligerents, which was accorded to the confederate states of America, was not granted to them. After the suppression of this last insurrection, Poland lost even the nominal existence which had been conceded to her by virtue of the treaties of 1815; she was incorporated into the Russian empire, and in 1867 the very name of Poland disappeared; there remain, administratively at least, only the ten western governments of the empire. J. DE B. — II. *General Considerations.* The Polish question is at once easy to state, and difficult to solve. We have to do with a nation whose territory and independence have been taken away, which has fought with heroism and perseverance to recover those inestimable possessions, which has been conquered, and has suffered martyrdom rather than abjure its rights. This is the statement of the question; what will be the solution of it? Russia, Austria, Prussia, will never restore the provinces which they have taken; that appears to us certain. Let any one ask no matter what country to cede a part of its territory without "previous and just indemnity," and the answer would be the same. Only a war can bring about the re-establishment of Poland; but unless extraordinary circumstances should arise to aid its liberators, success would be too doubtful for any one willingly to run the risks of an aggression. — Many persons believe that there is an interest, if not European, at least French and German, in the reconstruction of Poland on the banks of the Vistula. But as this Poland would be intended as a barrier against Russia, the latter would spend her last rouble and her last man rather than permit its establishment, and in this emergency the government would find the Russian nation ready for any sacrifice. The interest of Prussia and of Austria is open to discussion: but, however threatening Russia may appear to them, these two powers will always think that the portions of Poland which they have annexed will be more useful to them as provinces than as allies. In view of these difficulties, we will not venture any prophecy as to the future of Poland. It is, however, self-evident that the efforts of a handful of brave men will not suffice to vanquish the numerous and well-disciplined battalions of Russia. Enthusiasm will not supply the place of numbers, and neither Poland nor civilization has anything to gain from a rising, the result of which must seem like suicide. — We can not leave this subject without drawing from the history of Poland the political lesson which it contains. And firstly, the elective system, applied to royalty, has borne such sad fruit on the banks of the Vistula, that it would forever be condemned if men profited by the lessons of history. Besides, it is known that Germany herself has not had too much reason to be satisfied with her "elective empire," although it was during several centuries elective only in form. Republics will continue to replace their chief magistrates periodically, and at short intervals, but monarchies will remain hereditary. It is true that Poland called herself a *republic.* —

Then, the *liberum veto*, the unanimity required for the choice of a king and in other cases, rendered all regular decision impossible. This requirement could not be in any way justified. At the present day, sovereign powers alone maintain such a requirement, which may be sustained to a certain extent by states coming freely together in conference, but has its inconveniences even in a confederacy; it is necessary that in the greater number of cases the majority should prevail. A small number of persons, filled with the desire of coming to an understanding, succeed at last in agreeing by a series of compromises. States assembled in conference are rarely numerous, while Poland had 40,000 nobles with the right to vote; how could they agree? It is easily understood that with this multitude of petty sovereigns anarchy should have found its way into the country and excited the covetousness of its neighbors. We have no intention of extenuating what is odious in the act of partition, by saying that the Poles provoked it by the unintelligent organization of their government. The thief can not be declared innocent because the owner neglected to shut his door, but the owner has none the less himself to blame. — But if these mistakes have had such terrible results to the victims of them, the states which took part in the spoliation have felt the consequences of their unjust act; and it is not impossible that they may yet suffer further from it, for moral evil is nearly always followed by a series of troubles. (See NATIONALITIES, LAW OF; RUSSIA.) MAURICE BLOCK.

POLICE. By the term police, we here mean the coercive power of the state in the domain of home administration. Morality, on the other hand, is the rule, the dictate of duty in the conscience of the individual, over his will, and the free action of that will. This rule or supremacy can be founded only on the freedom of the individual. It is a fact of psychic life which can not be produced by outward coercion, but, at the same time, which can not be prevented. Since power, in the sense in which the term is used in this article, can exercise only external compulsion, it follows that it has not the means of directly influencing the morality of individuals. It may prevent individuals from doing certain definite acts, and by threats of penalty compel the individual to perform certain public duties; but it is unable to create or transform the sentiment from which the supremacy of the dictates of duty over the will of man springs. For moral freedom is a domain inaccessible to the police power. This cardinal truth has made its way to full recognition, only slowly. Only in modern times has the state refused to make its subjects moral by means of public ordinances and prohibitions, and by the enforcement of compulsory police measures. In the ancient world, and chiefly among the Greeks, the conviction prevailed, that the state should assume the task of educating the individual in morality, and that the individual could only become moral in the state and through the state. Plato and Aristotle, different as their doctrines of the state are in other points, agreed with the then prevailing opinion, that the state should regulate both the inner and the outward life of its citizens, in order to guide them toward the highest good, to morality. In the legislation of the ancients the law, as a consequence, encroached on the domain of morality, and the codes of law which subjected individuals most to guardianship in this matter, in order to educate them in morality, were those that enjoyed the highest reputation. (Cf. Hermann, *Lehrbuch der Griech Privatalterthümer*, 2d ed., 1870, p. 473, etc.; Schömann, *Griech Alterthümer*, 3d ed., 1871, vol. i., p. 113, etc.; Fustel de Coulanges, *La cité antique*, p. 281, etc.) — The Roman law was the first to assume an independent attitude in relation to morality, and to frame itself in accordance with its own laws. But the Roman state not only demanded of the citizen that he should live according to law, and perform all his legal duties, it also expected the citizen, by his moral private life, and a well-regulated private household, to contribute to the well-being of the community. Any one, who through immoral conduct injured his own worth as a citizen, and, as a member of the commonwealth, injured the community, did not, therefore, violate the law, but he exposed himself to reproof by the state, and forfeited his political honor, because he had failed to fulfill his moral obligations toward the state. In the public census, that occurred every fifth year, the censors were required not only to examine into the rights of the citizens, their capacity for taxation, and bearing arms; they were also required to subject the moral conduct of individuals to a thorough investigation, and, without any legal restraint, they might inflict the *nota* of infamy on any citizen who had done anything "contrary to public morality, and contrary to the interests of the community." The delinquent, according to his rank, was then either expelled from the *tribus*, or, if *eques*, condemned to lose his horse, or to be deprived of his seat in the senate. The censorial *nota*, which had to be ratified by both censors, remained valid only until the expiration of the *lustrum*, that is, until the period of the next census. (Cf Mommsen *Römisches Staatsrecht*, 2d ed., 1877, vol. ii., p. 363, etc.) This remarkable institution of moral censorship may not have been able to render the Romans more moral, but it certainly contributed to strengthen the sense of civil honor, and, for a limited time at least, it was able to oppose a barrier to the outward decay of morality. The censorship perished under the empire, and the imperial penal laws against immorality and luxury proved inadequate substitutes for the *censure*, which, "by the magnitude of its power, boundlessness of its arbitrariness, its lofty moral nobleness, and local patriotic egotism, was a genuine expression of the Roman republic." (Mommsen, vol. ii., p. 327.) — During the middle ages the prevailing theory of the

church assigned to the state the task of employing its political power in the execution of ecclesiastical decrees, and of compelling the observance of the moral precepts sanctioned by the church. But, at that time, by reason of the inconsiderable part taken by the state in legislation and in internal administration, it was only in isolated cases and unsystematically that the state could undertake the task assigned it by the church. Not till the close of the middle ages did the public authorities, in an unsystematic manner, it is true, begin extensively to oppose immorality by threats of punishment, and to remove certain immoral excrescences in isolated cases. Laws were enacted against luxury, cursing and swearing, excessive drinking, against beggary, and the keeping of concubines. In Germany the imperial police regulations of the sixteenth century present a long and varied series of police regulations and prohibitions, which were afterward kept up, and still further extended in the other German states by legislation. When, later, in the eighteenth century, enlightened despotism had attained to power, governments, by a close supervision of the subjects of the state, and by the legislative regulation of their private life, did their best to lead them, if not to morality, at least to temporal well-being. Without recognizing the moral freedom of the individual, active police legislation sought to subject the whole life and endeavors of individuals to regulations. Only since the close of the past and the beginning of this century has a more correct understanding of the true nature of morality and of moral freedom begun to exert its influence on the legislation and administration of the state. By degrees the police laws, which interfered with the private life of the subject, not with a view of preventing violations of the law, or to protect the community from danger, but solely to compel the individual to greater morality or economical foresight, were expressly abrogated, or fell into complete oblivion for want of enforcement. The state at last came to understand that it must refuse to endeavor to educate its citizens morally by the employment of coercive means, and that it should promote their moral education by aiding the whole economic and intellectual culture of the people in so far as that culture requires the aid of the state. The state has further understood, that in itself immorality is not punishable, because the state can pass judgment only on external acts and behavior, not on things which belong to the inner psychic life of man. An act in itself is neither moral nor immoral; it is moral or immoral only in so far as the disposition or intention, whose outward expression it is, is moral or immoral. The state is justified in opposing, and obliged to oppose, and, when possible, to prevent, immoral acts, only in so far as such acts are an injury to the goods of individuals or of the community protected by the state, or when there is danger that immoral acts may cause such injury. In such cases the state interferes, not because the intention, from which the acts proceed, is immoral, but because such acts either injure, or threaten to injure, the goods, which are under the legal protection of the state. It is only external acts, therefore, which belong to the police supervision of the state, and not morality or immorality of intention. —Acts proceeding from an immoral character or intention, followed by injury to goods protected by the law, draw after them legal consequences, which are determined by the different parts of the law, particularly by the criminal or penal law. The object of police regulations for the public security is the prevention of these violations of the law. Police regulations in the interest of morality, on the contrary, concern themselves only with those acts which of themselves are not an injury to interests recognized by the law, to property, etc.; which do not even always expose such interests to injury; but which, by the spread and encouragement of an immoral character in the community, are apt to cause injury or expose to danger the goods of individuals or of the community. Police regulations in the interests of morality, therefore, are not aimed at the immoral intention itself, but at the spread and encouragement of the immoral character; and even in this case only when such spread and encouragement threatens injury to legally protected interests. It hence results, that the sphere of such regulations in the modern state is a very narrow one, and that it is confined to a limited number of external immoral acts. And, as these regulations do not oppose immorality because immoral, but because it is the cause of injury to the community, it follows that the legal provisions of states in the matter of public morality will be different in different states, according as the prevalence of such injury is greater or less. The diversity of the stages of culture, of the character, of the customs and economic conditions in different nations, produces a diversity in the police regulations relating to morality. The objects with which police regulations in the interests of morality are chiefly concerned, are drunkenness, gambling and sexual profligacy. In recent times these regulations have rightly been extended so as to make them cover cruelty to animals. —I. *Drunkenness.* The indulgence in intoxicating beverages, which is to be found among almost all nations of the past and of the present, is not in itself immoral, but becomes immoral when, through excess, it begins to exert an injurious effect on the body and on the mind. Man then undermines his bodily and his mental powers, in order to afford a momentary gratification to the senses. But in so far as the individual, by excessive indulgence in intoxicating beverages, injures only himself, it is not the duty of the state to interfere with him. The state is not bound to relieve its adult subjects of their moral responsibility, nor to protect them against the consequences of their own individual immorality. But when drunkenness no longer appears as an isolated phenomenon; when, over the whole people, or over any single class of the population, it asserts its lament-

able power, its injurious effects are not limited to the individual who is its slave, but are felt by the family, by society, and by the state, and it imperils the very foundations of the family, and the life of the state. Recent investigations have proved that excessive indulgence in intoxicants not only acts injuriously on the organism, that it not only increases the liability to sickness, and increases the mortality of drinkers, but also, that through the influence of alcoholism, many symptoms of degeneracy are transmitted to offspring. Although the statistical data are here somewhat defective, it is an incontestable fact, that the drunkenness of parents transmits to their progeny the tendency to a number of serious diseases, under which the latter sooner or later succumb. The destruction of family life, caused by alcoholism, and the effects of habitual parental drunkenness on the children, can not be shown statistically, but these effects are so manifest that statistics are superfluous. The consequences of intemperance extend far beyond the family circle, when it has become a vice of the nation, or of any class of society. There is no doubt whatever that intemperance is a fruitful source of the increase of crime and of criminals. "Poverty, ignorance, sensuality, irreligion and immorality are greatly favored by alcoholism, and proportionately diminished by the temperate habits of the people." In this sense alcoholism very perceptibly influences the increase of crime. We are convinced that drunkenness and alcoholism render man inclined to commit unlawful acts, which differ according to time, place and circumstances; because under their influence he is unable to control any transient impulse of the will, and can not subject it, as when he is sober, to the control of the judgment. It is a truth that, with the increase of intemperance and of drunkards—which is not altogether identical with the increase of the consumption of alcohol in general—the number of crimes and of criminals also increases. And in this opinion all those agree who are best acquainted with the lives of criminals, to wit, the judges and magistrates of all countries.* We certainly must not here overlook the fact, that a number of crimes, committed by drunkards or in a state of drunkenness, would probably have been committed, even if the perpetrators had not been addicted to drink; still, it is certain that intemperance and drunkenness in very many instances are the element but for the presence of which these crimes would not have been committed. — As to the number of drunkards among prisoners, and the number of crimes committed under the influence of alcohol, we possess statistical proof showing the influence of intemperance in producing crime. On the other hand, we lack sufficient data to show the precise influence of intemperance on the number of those who claim public assistance. In spite of this absence of statistical proof, we may safely assume that in numerous cases pauperism has its source in the intemperance of the assisted individual, or of his parents. The cause of pauperism lies in the disturbance of domestic economic conditions. The loss of bodily and intellectual power renders it impossible, or at least extremely difficult, for the person impoverished by intemperance to rehabilitate himself. — In this way intemperance exercises highly injurious effects on family and national life, as well as on the state. We must accordingly regard it as the duty of the state to protect itself against the dangers by which it is threatened from intemperance. In several countries the efforts of society, unsupported by the state, have been able, for a time at least, to stop the progress of intemperance. Thus, the temperance and total abstinence societies in the United States and Great Britain have exercised a beneficent influence. In the year 1808 a temperance society was founded at Moreau, in the state of New York, but it failed of any marked success. But a temperance society, which was finally established in 1827, and whose members pledged themselves to total abstinence from all alcoholic beverages, rapidly gained a vast number of adherents. In 1828 there had been formed 280 temperance societies, with 30,000 members; in 1835 the number of the societies had increased to 8,000, with 1,500,000 members. More than 4,000 whisky distilleries were closed, and more than 8,000 merchants had given up the traffic in spirits. In recent times, however, these temperance societies have decreased. In England, the first temperance society was established in 1829. In that country, above all, the teetotal temperance society, established in 1835, had a large membership, while in 1840, and subsequently, Father Mathew, both in Ireland and in England, gained honorable distinction in his warfare against intemperance. At present there exist in Great Britain many large societies, with abundant means at their command, among which the national temperance league seems to be the most important. In Germany, beginning with the year 1838, and chiefly in Prussia, Hanover, Oldenburg, etc., several temperance societies were formed, which, in spite of violent opposition, gained a large number of adherents. Nevertheless, after 1846, the activity of these societies daily diminished; most of them ultimately dissolved, and the few that have survived until the present, have dragged out a sickly existence. The history of these associations in Germany proves that the action of society does not suffice for the suppression of intemperance. Hence, even the successful societies in England and the United States have felt the necessity of invoking the aid of the state, of the police and of the legislature. The state can

* Bär, p. 341, etc. According to Bär (p. 343), the most experienced judges, magistrates and prison officials in England have declared, that three-fourths to four-fifths of all crimes are the result of intemperance. In the year 1877, before a parliamentary committee, nineteen prison superintendents and clergymen stated that the number of prisoners who were victims of intemperance amounted to 60-90 per cent. of all criminals (p. 344). In Germany, according to Bär (p. 348), in the year 1875, of 32,837 prisoners, there were 13,706 drunkards (41.7 per cent.), 7,269 occasional drinkers (22.1 per cent.), and 6,437 habitual drunkards (19.6 per cent.).

not refuse to grant this aid. Still, in granting it, the legislator should bear in mind that it is not the task of the state to make individuals moral. It should only seek, as far as possible, to protect society from the damage, and prevent the injury, caused by intemperance. To this end, the state may put obstacles in the way of temptation to intemperance, and, by the imposition of suitable penalties, oppose the spread of intemperance. — The most important means at the command of the state, to oppose the temptation to intemperance, is the limitation and surveillance of drinking places, and of the retail trade in spirits.* — The adoption of the so-called "police hour" (closing time) has also proved a means to prevent the spread of intemperance, by restricting the sale of intoxicants to certain hours. The legislatures of several states of the Union have resorted to still more effective measures. Through the influence of the temperance societies in the state of Maine, a law was passed, which forbids the sale of all intoxicating drinks, with the exception of cider and native wine. In the years following, Maine's example was imitated by many other states, which subsequently revoked the prohibition. Experience has shown that the state is unable to enforce a law of this kind, and that the real good which it may effect is more than counterbalanced by the hypocrisy and demoralization which it causes. In other states of the Union an effort has been made to turn the saloon keepers themselves into instruments to oppose intemperance, by rendering them liable for all the consequences of intemperance. It is provided, that any one who by the sale of intoxicants shall have caused the drunkenness of another, shall be responsible for the injury which the drunkard, his family, etc., may have suffered in their property, means of subsistence, or in their persons. In England (Law of 1872, art. 3), in France (Law of Jan. 23, 1878, art. 4), in Sweden (Law of 1869, § 29), and in The Netherlands (Law of June, 1881, art. 17), it is forbidden to publicans to sell intoxicants to individuals already drunk, or to minors under the age of sixteen. — Finally, the state may threaten the excesses of intemperance with punishment. In Germany, the penal law of the empire punishes by imprisonment all persons who abandon themselves to drink to such a degree that they fall into a condition such that they must appeal to the authorities for their own support, or for the sustenance of those whom they naturally are obliged to support. By virtue of this law the police authorities may also obtain the power to place the sentenced person, at the expiration of his punishment, for two years in a workhouse, or to employ him in works of public utility. But even these provisions may not prove sufficient. Under these laws the interposition of the state does not take place before the drunkard has reached such a degree of moral depravity that his cure is impossible. The sojourn in a workhouse, moreover, is but seldom favorable to the improvement of the habitual drunkard, and the threat of punishment can scarcely produce any deterrent effect on him. The penal police laws in several German states, as well as the legislation of Sweden (Penal Code of Feb. 16, 1864, § 15), of England (Law of 1872, art. 12), of France (Law of Jan. 23, 1873), of Austria (Law of July 19, 1879, valid only in Galicia and Bukowina), of The Netherlands (Law of 1881, art. 22, 23), go still further, and threaten with punishment all who are found in taverns, in the street, or in other public places, in a condition

* The general economic principle, that the production accommodates itself to the demand for the article produced, is incorrect in so far as the number of drinking places and the retail trade in spirits are concerned, for the reason that the temptations to intemperance are increased by the frequency, convenience and cheapness of the opportunities offered for the gratification of the taste for intoxicants. Where taverns or "saloons" and the retail trade in spirits are completely free, the number of taverns, etc., is not proportioned to the want, but to the power of resistance of the people to the desire, for strong drink. The less this power for resistance is, the greater will be the number of "saloons," and the more rapidly will intemperance spread. For this reason the retailing of spirituous liquors has in all states been subjected to police regulations, and where these regulations have been abolished, a speedy return to severer ones has been necessary. In England the public houses have to be licensed, and the license can be granted only by a permanent committee of the justices of the peace of the county, or of the city, and must be renewed every year. The license is granted only for one definite public house, on which a special tax is laid. (Laws of 1828 and 1872.) In France, by a decree of Dec. 29, 1851, a tavern or inn can be opened only by virtue of a license, issued by the prefect. The prefect may close a tavern, from motives of public security, or because the keeper thereof has been sentenced for a transgression of the regulations governing his traffic. The prefects are instructed to grant new licenses only after an extremely careful examination into the character of the person and of the demand, and to close a public house as soon as the keeper has become guilty of even the smallest transgression of the police regulations. (Ministerial Circular of March 6, 1872.) A peculiar system, and one worthy of attention, prevails in Sweden and Norway. In Sweden the laws of 1857 and 1869 provided, that in every parish the number of taverns should be determined by boards cooperating with the parish authorities, and that they should be leased to the highest bidder. In 1865 there was formed, in the city of Gothenburgh a joint stock company, which rented all the taverns in the city, with a view to limiting the retailing of spirituous liquors and opposing intemperance. All the profits of the business, by the by-laws of the society, go to the treasury of the parish. The highly favorable results obtained by this company caused societies of the same kind to be formed in many other cities. In the year 1871, in Norway, a similar law was enacted, and the so-called Gothenburgh system was introduced there. This system, however, has its disadvantages; for a great number of secret drinking places were opened, and the police but seldom succeeded in suppressing them. In Germany an ordinance of June 21, 1869, makes the business of taverns, as well as the retail trade in brandy and spirits, dependent on the obtaining of a license. The license, however, can be denied: 1, when there is reason to believe that the person asking it is likely to abuse it for the encouragement of excessive drinking, gambling, or of immorality; 2, when the place intended for the trade, by reason of its position, etc., does not satisfy the requirements of the police. When it is not contrary to territorial laws, the territorial administrations may make the permission to retail intoxicants dependent on proof of actual public demand. This is the case in Prussia, Saxony, Mecklenburg, Brunswick, Saxe-Meiningen, Saxe-Coburg-Gotha, Saxe-Altenburg, Reuss and Schaumburg-Lippe. Nevertheless, the ordinance caused a notable increase in the number of retail shops for the sale of intoxicants.

of evident or scandalous intoxication. — The state can also, in an indirect way, effect a diminution of the use of intoxicants, by raising the price of whisky, etc., the most injurious of all, by taxation. Still, in the warfare against intemperance, this expedient does not deserve to have the importance attached to it which it has enjoyed. Experience has thus far shown that the taxation of whisky, etc., which exceeds a certain limit, has only ruinous consequences, because it leads to fraud, and efforts to evade the law; it favors the secret consumption of whisky, and causes a diminution in the revenues of the state. All these measures owe their origin to the opinion that intemperance is a vice when public, and that it must be combated by the state, by reason of its dangers to the community. Careful observations and investigations, however, have demonstrated that intemperance, when it reaches a certain degree, becomes a real disease, which destroys the empire of reason over the will to such an extent that its victim becomes unable to resist his passion for strong drink. But experience has shown that in many cases a cure of the disease can be effected by skillful professional treatment, and through a complete denial to the patient of all alcoholic drinks.* — II. *Gambling.* The economic and moral evils produced by a love for gambling among a people are so evident that they require no proof. The state does not assume the task of freeing the individual from the passion or vice of gambling, but it is its duty to oppose open temptations to gambling, and, above all, not to induce its citizens to engage in games of hazard. In states also which from financial motives do not believe themselves able to abolish the state lotteries, as in Italy, Austria and in several German states, there is no doubt as to the injury done by such institutions. In the German empire the legislature has, by the following provisions, sought to prevent open temptations to gambling. 1. Public gambling houses shall neither be licensed nor tolerated. On Dec. 31, 1872, the last houses of the kind that existed in Germany were closed under the law of July 1, 1868. 2. Public lotteries and public raffling of movable or immovable goods can take place only with the permission of the authorities (Penal Code of the Empire, § 286); the law also forbids the sale or offer of tickets in foreign lotteries, unless allowed by the government of the country. 3. Only the authorities can permit games of hazard on the high road (street, square), or in a public place or inn. Inn keepers who permit games of hazard in their places, or connive at such games played secretly, are also liable to punishment. 4. The business of games of hazard for purposes of gain is forbidden, and may be severely punished. Persons violating these laws are punished by imprisonment for a term of two years; besides which a pecuniary fine of from 300 to 6,000 marks, with the loss of certain civil rights, may also be inflicted on them. If the person sentenced is a foreigner the police authorities may expel him from the federal territory. — Provided the above regulations are respected, games, and even games of hazard, are not forbidden in the German empire. As in the case of the drunkard, the gambler is threatened with punishment by the penal code of the empire when his case is analogous to the drunkard's. When sentenced to imprisonment, the police authorities may be empowered to send him, at the expiration of his term of punishment, to a workhouse for two years, or to employ him in works of common utility. — III. *Prostitution.* Changed ideas in reference to the attitude of the state toward immorality are nowhere so evident as in the legal treatment of sexual profligacy. While from the seventeenth century until the middle of the eighteenth the state declared all sexual immorality punishable, and threatened it with heavy punishments,† since that time, chiefly owing to the influence of Beccaria, the opinion has prevailed that sexual immorality should be treated as a crime only when it is accompanied by the violation of a legally protected right; but that the state should not punish immorality as such. The police of public morality should, according to this view, oppose only seduction, and the public scandal caused by immorality.‡ Modern penal codes in the main adopt this view, as does also the penal code of the German empire. There are, however, certain exceptional crimes against chastity which involve no violation of a legally protected right, but which are punished, even when there can be no question of public scandal. To these exceptions belong the unnatural crimes of sodomy, etc. Leaving these exceptions out of consideration, the state proceeds against sexual incontinence, which does not violate a legally protected right, such as the freedom and honor of the person, the family, etc., only from motives of order. But moral police reasons are not here the only controlling ones. It is well known that syphilis, which preys on the very marrow of nations, has been propagated chiefly by sexual profligacy. Even if it be no concern of the state to protect individuals against the injurious consequences of

* To this effect, asylums for the inebriate were established in the United States (in 1857 in Boston), asylums in which cures are frequently effected. It has been claimed that in the asylums in the United States cures have been effected in 35 per cent. of the cases.

† In the middle ages the church used to punish every kind of unchastity as an ecclesiastic transgression, but it is known how widespread sexual profligacy was in the middle ages among the clergy and laity, and how openly it was practiced. Loose women were not only tolerated, but public brothels were considered necessary institutions in a city. They frequently were the property of the lords of the country or city; they were leased out by them, or kept for them by brothel masters or mistresses whom they appointed. Private brothels were licensed, and stood under the protection of public authority, but had to pay certain taxes. In most German cities brothels had to be tolerated under police supervision, and the laws against simple prostitution, as a rule, remained void of effect.

‡ In Germany it was mainly the work of Cella on crimes and transgressions in the matter of unchastity (1786), that paved the way for the opinion that simple incontinence, which appears only as vice, without offending the rights of others, or creating public scandal, is not punishable.

immorality, it must be remembered that syphilis does not confine its ravages to those who have brought it upon themselves by their profligacy. It may be transmitted in various other ways (particularly through wet-nurses to infants) and by inheritance it bequeaths destruction to future generations. Here, public moral police must go hand in hand with sanitary police. — The state should see to it, that the moral sense of the people, and public decorum, are not outraged by indecent public exhibitions. The following, therefore, should be punished: 1, persons who cause public scandal by indecent acts; 2, persons selling indecent writings, pictures or drawings, who distribute them, or who exhibit or affix them in places frequented by the public; 3, fornication, when it causes a public scandal. The state should punish, not only treacherous inducements to incontinence or to unchastity when accompanied by the violation of particular duties, and the seduction of minors, or girls under sixteen, but also seduction when it assumes a character dangerous to the interests of the community. It is not the duty of the state to make the individual moral, or to protect her against temptations to immorality; but it should endeavor to prevent all acts of immorality calculated to poison family life and the life of the nation. The law, therefore, rightly punishes procurers or panders, that is, the intentional enticement of others to unchastity. Still, it is very questionable to what extent the state should declare panders punishable. In this matter the provisions of law in different countries are very different. In France (*Code pénal*, art. 334), habitual panderage is punished only when it facilitates the seduction of minors; but, according to the penal code of the German empire, those persons are punished for panderage who, habitually or from motives of gain, through their mediation, or through the affording of opportunities, promote unchastity. According to this, the keeping of loose women in brothels for purposes of prostitution is punishable. But it is questionable whether this prohibition can be reconciled with the requirements of sanitary police. Sanitary police, which must prevent the spread of syphilis, can only perform this task by subjecting to a strict control all women who carry on prostitution as a trade. This control is unquestionably facilitated when ordinary prostitution, in the larger cities at least, is confined to relatively few brothels, and when the police seek to suppress all prostitution outside of these houses. It is not proper to assume that the state acts contrary to duty when it tolerates houses of prostitution, for it has not to combat vice as such, but only to react against the spread of incontinence as a common danger.* By the toleration of brothels the state does not lend support to vice, but it leaves the temptation to vice unpunished, only because from its suppression there would result greater disadvantages than advantages to the community. — There is no need here of closely examining the question, whether or not sanitary police requires the toleration and strict supervision of brothels; but, if it does, there exists in principle no objection against it, from the point of view of the police of public morality.† Simple sexual incontinence may not be forbidden by the state, but the state should oppose the trade in unchastity by loose women; for there result therefrom great dangers both to health and public morality. — Prostitution as a trade leads easily to seduction, which is socially dangerous, and to the causing of public scandal; and, on the other hand, it favors the spread of syphilis. The penal code of the German empire therefore forbids the trade of prostitution to women who are not subject to police supervision, and punishes prostitutes under police supervision if they neglect the regulations of the police that have been made in the interest of health, of public order and public decorum. — The task of the police regulations in the interest of public morality is, accordingly, to suppress all prostitution that seeks to escape police supervision, and, through proper police regulations and their enforcement, to bring it about that vice should not escape the obscurity which alone beseems it. The task of sanitary police, while seeking to prevent the spread of syphilis through prostitution, is more difficult. Dancing "saloons" should also be subjected to special police supervision, as they frequently lead to seduction and incontinence, and to the disturbance of public peace and order. — IV. *Cruelty to Animals.* The state interferes to prevent cruelty to animals, in order to prevent the moral sense of the people being shocked by such cruelty perpetrated on animals, and to afford a protection to the animals themselves against any unnecessary, and hence immoral, cruelty of that nature. In France this protection extends only to domestic animals (*animaux domestiques*). The law of July 2, 1850, threatens with punishment any one who publicly unseemingly (*abusivement*) maltreats domestic animals. In England, as early as the year 1828, a law was passed against cruelty to animals. The laws in force there at present are those of 1850 and 1855 (12 and 13 Vict., ch. 92; 17 and 18 Vict:, chap. 60): they threaten all ill treatment of domestic animals with punishment. Under the influence of an unhealthy sentimental movement, a law was also passed, in 1870, against scientific experiments on live animals (vivisection; 39 and 40 Vict., ch. 77). According to this law, any painful experiments on live animals are permitted only to persons who have received an authorization from the minister, which, however,

* For this reason, Mohl, on principle, advocates the toleration of brothels. V. Oettingen (Moral Statistik, p. 171, etc.) agrees with him in this.

† Where brothels are tolerated, they should be subjected to strict supervision, not only in the interest of sanitary police, but, above all, to prevent their becoming hot-beds of vice. It is desirable to give prostitutes the possibility of emancipating themselves from the control of panders and brothel-keepers. The strongest objection against the toleration of brothels consists in this, that in most cases the return to a good life is rendered impossible to their inmates.

may at any time be revoked. Vivisection can only be practiced under the conditions imposed by the law. In granting the license the minister may also add any other conditions at will. The efforts to prevent scientific investigations by a law of this kind have hitherto proved vain in Germany.

EDGAR LOENING.

POLICE POWER OF A STATE. The police power of the state is an authority conferred by the American constitutional system upon the individual states, through which they are enabled to establish a special department of police; adopt such regulations as tend to prevent the commission of fraud, violence, or other offenses against the state; aid in the arrest of criminals, and secure generally the comfort, health and prosperity of the state, by preserving the public order, preventing a conflict of rights in the common intercourse of the citizen, and insuring to each an uninterrupted enjoyment of all the privileges conferred upon him by the laws of his country. The organization of a state police, which shall fulfill its functions effectively, and yet leave to the individual unimpaired freedom under the liberal laws of a republican form of government, is one of the most delicate tasks ever intrusted to the lawgiver.—Blackstone defines the system to be "the due regulation and domestic order of the kingdom, whereby the inhabitants of a state, like members of a well-governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood and good manners, and to be decent, industrious and inoffensive in their respective stations." (4 Bl. Com., 162.)—Jeremy Bentham, in his "General View of Public Offenses," defines it to be a system of precaution for the prevention of crimes or of calamities.—With regard to its effect upon the use and enjoyment of property, the object being to exhibit the universality of its presence, and to define the limits which settled principles of constitutional law assign to its interference, Chief Justice Shaw declares it to be a settled principle (Commonwealth *vs.* Alger, 7 Cushing, 84), that every holder of property, however absolute may be his title, holds it under an implied liability that its use shall not be injurious to the equal rights of another in the enjoyment of his property; nor injurious to the rights of the people of a community. And the right to adopt regulations necessary to enforce this limitation by legislative enactments under the controlling power vested in them by the national constitution, differs from the right of *eminent domain*, which only permits a government to possess itself of private property whenever the public needs require it, on the condition of granting a reasonable compensation therefor. It is less difficult to conceive of the existence and sources of this power which permits the adoption of various laws, statutes and ordinances for the good and welfare of the community, than to define its limits and lay down the rules for its exercise.—It is a recognized principle that the national government can not, through any of its departments, invade the reserved rights of the states, and assume the power of supervising their police regulations, when they do not conflict with the national sovereignty and the exercise of federal authority conferred by the constitution. Nevertheless, the powers of the states may be so employed as to conflict with the jurisdiction of the national government, and serious questions have arisen between the police power of the state and the authority conferred upon congress by the constitution. To prevent the state from operating within the sphere of the national government, in the exercise of this conferred power, its limits can be extended no further than a just regulation of its rights demands for the protection of the citizen of the state in the enjoyment of life, liberty, health and property. Says Cooley (Con. Lim., 574), "This subject has often been considered in its bearings upon the clause of the constitution of the United States, which forbids the states passing any laws violating the obligations of contracts; and invariably it has been held that this clause does not so far remove from state control the rights and properties which depend for their existence on enforcement of contracts, as to relieve them from the operation of such general regulations for the good government of the state and the protection of the rights of individuals as may be deemed important. All contracts and all rights, it is held, are subject to this power; and regulations which affect them may not only be established by the state, but must also be subject to change from time to time, with reference to the general well-being of the community, as circumstances change, or as experience demonstrates the necessity."—Perhaps the most striking illustration of the principle here stated, will be found among the judicial decisions which hold that the rights insured to private corporations by their charters, and the manner of their exercise, are subject to such new regulations as from time to time may be made by the state, with a view to the public protection, health and safety, and to properly guard the rights of other individuals and corporations. Although these charters are considered as contracts, and their rights held inviolable, it does not follow that they are removed from state regulation. Nevertheless, there must be a limit to the exercise of the police power of the state. The regulating ordinances must have reference to the comfort, safety or welfare of society; they must not conflict with any provisions of the charter, nor take from the corporation any of the essential rights and privileges which the charter confers. They must, in fact, be police regulations, and not amendments to the charter itself, as, where a corporation was chartered with the right to exact toll from passengers, a subsequent statute authorizing a certain class of passengers to travel free over the road was held to be void. (Pingrey *vs.* Washburn, 1 Aiken, 268.) The rule has been further held, that, while the corporate charter itself contained a provision empowering a

legislature to alter, modify or repeal it, such a provision would not, on pretext of amendment or police regulation, have the effect to appropriate any portion of the corporate property to the public ouse. Nr would it justify an act requiring a railroad company to cause a proposed new street or highway to be taken across their track and all labor and materials necessary for the same to be furnished at their own expense. (Miller *vs.* New York & Erie R. R. Co., 21 Barb., 513.) Nor can a corporation be held liable for the obstruction of a river, by a subsequent amendment to a charter granting them the right to erect a bridge over a navigable stream, which must necessarily obstruct the said river. Nor can the police power of a state, in regulating the speed of railway carriages, extend further than the streets and public grounds of a city. But it can require all railroad corporations to fence their tracks, and hold them liable for the loss of all domestic animals killed thereon, and for the double reason of protection to domestic animals and to persons being transported in railway carriages. Under the common law rule, where a corporation has failed to obey the regulations adopted for its government, and injury has resulted therefrom, such disobedience would not make the corporation liable to the party injured, if his own negligence aided that of the corporation in producing the injury. Nevertheless, under the police power of the state, a legislature may enact such a law as shall hold the corporation liable for the animals thus destroyed, notwithstanding the negligence of the party injured. The state may likewise, under the same power, regulate the grade of railroads, and prescribe the way in which railroads shall cross each other, and apportion the expense of such crossings among the corporations owning the roads. It may also establish regulations requiring existing railroads to ring the bell and blow the whistle of their engines at all places on their roads where their approach might be dangerous to travel. And it has been held that the power may extend so far as to make such corporations liable as insurers for the safety of their passengers in the same manner they are by law liable as common carriers. (Thorpe *vs.* Rutland & Burlington R. R. Co., 27 Vt., 152.) And those statutes of the various states which grant an action to the representatives of persons killed by the neglect, default or wrongful act of another, may apply to corporations already chartered. and give a remedy for a wrong which the common law fails to supply.—Another point where the police power of the state has by some been held to conflict with the federal constitution is, where by statute the sale of intoxicating liquors has been altogether prohibited. The weight of authority, however, determines the question thus: when these statutes merely assume to regulate and to prohibit sales by other persons than those licensed by public authority, there can be no question of a conflict with constitutional power entertained, as they are but simple police regulations of the same character as those which any state or community might adopt for the regulation of any class of trade or employment. Those which prohibit entirely the manufacture and sale of intoxicating liquors as a beverage, have been attacked as subversive of fundamental rights, and urged to be in violation of express provisions of the federal constitution relating to the commerce of the states. This view of the case, however, although strongly advocated, was not sustained by the supreme court of the United States in the noted license cases. The majority of the court expressed the opinion that the introduction into a state of imported liquors could not be prevented, as it would be in conflict with the act of congress regulating commerce and levying imposts; but it ceased to be an impost when broken up for retail, and at once became subject to the laws of the state, and amenable to taxation and regulation by the state, the same as other property; and further, that the power to regulate commerce between the states did not exclude regulations by the state save when they conflicted with the laws of congress. — It would thus appear that the state laws, known as prohibitory liquor laws, are not held void, as in conflict with national authority, in the regulation of commerce between the states. The same laws have been sustained when urged to be in conflict with state constitutions, on the ground that they are police regulations established by the legislature for the prevention of intemperance, vagrancy and crime. The power to declare the sale of liquor to be a nuisance has been determined by the court, and it has been held competent to provide legal process for its destruction, and for the seizure and condemnation of the building in which it is sold, as a nuisance, provided the fundamental principle of protection which surrounds persons and dwellings relating to seizure and search shall not be invaded, and that the right of trial shall be granted before condemnation. Says Cooley (Con. Lim., p. 583): "Perhaps there is no instance in which the power of the legislature to make such regulations as may destroy the value of property without compensation to the owner, appears in a more striking light than in the cases of these statutes. The trade in alcoholic drinks being lawful, and the capital employed in it being fully protected by law, the legislature then steps in, and for general reasons of public utility annihilates the traffic, destroys altogether the employment, and reduces to a nominal value the property on hand. The sale of liquor becomes a criminal offense, and the merchant of yesterday becomes the criminal of to-day, and the very building in which he lives, and conducts the business which at that moment was lawful, becomes a nuisance, if the statute shall so declare, and liable to be proceeded against for a forfeiture. Statutes which can do this must be justified upon the highest reasons of public benefit; but whether satisfactory or not, they rest exclusively in the legislative wisdom." — Other matters affecting commerce, in which the police power of the state may be invoked in behalf of the public interests, are quar-

antine regulations, and health laws in all forms. These latter may be so far extended as to embrace the destruction of private property when infected by disease, or dangerous in other particulars. Inspection laws may be adopted and duties levied to make them operative. Regulations may also be enforced regarding the time and manner of transacting business to promote trade, establish order and prevent confusion. These regulations embrace the right to control the movements and station of ships and vessels in the harbors of cities, and streams lying within the limits of cities and seaport towns, and the wharves thereof, and to remove such vessels as had discharged or received their cargoes to enable others to perform the same essential labor; and penalties may be inflicted upon all such as refuse to obey the directions of the harbor masters who are vested with the authority to determine such matters. (Vanderbilt *vs.* Adams, 7 Cow., 851.) Congress, however, may establish police regulations, as well as the states, relating to all subjects where control is given by the constitution, but as this power can be more satisfactorily exercised by local authority, and the jurisdiction to arrest collision is confined to the United States courts, congress has generally relegated this power to the states. — Questions have arisen with regard to the power of a state to enact laws requiring importers of foreign goods to take out a license, and in case of refusal, to inflict penalties and forfeitures. Such acts have been held void as not partaking of the principles of mere police regulations such as might require the payment of a license fee to cover expenses of enforcing harbor regulations, but rather of the power of taxation to raise revenue for the state, and therefore in conflict with the provision of the constitution which prohibits a state from laying imposts or levying duties, and likewise with the provision that congress alone shall possess the power to regulate commerce. But the police power of a state has been sustained (City of New York *vs.* Miln, 11 Peters, 102), inflicting a penalty upon the master of every foreign vessel who should not report, upon arrival in port, to the mayor or recorder of the city, an account of the names, places of birth, business, etc., of his passengers; this police regulation having been adopted to prevent the city of New York from being burdened by persons shipped as paupers or criminals by foreign governments. Notwithstanding the fact that congress can adopt all laws regulating pilots and pilotage, a state regulation relating to the same has been held unobjectionable, when such power had not been exercised by that body. — With regard to the power of a state to enact such laws as shall compel all persons to refrain from labor during the first day of the week, it has been held by the courts that such laws were not encroachments upon the religious liberty of persons who do not regard that day as sacred, nor in conflict with the constitution because acting as a restraint upon the trade and commerce of a community, or rendering void a contract for Sunday services. — An important part of the jurisdiction of a state is the control of its highways. These are constructed by the state, and the state has full power to adopt all police regulations for the public good controlling the actions of those who use them, and to alter and change them as the proper authorities consider best for the general interest. This power enables a state to determine the mode of travel; regulate the speed; cause parties meeting to turn each to their right; prevent a public nuisance; prohibit animals from running at large under penalty of fine and confiscation; require the owners of incorporated property to construct, and keep in repair and free from obstruction, the sidewalks in front of it, and, in case of failure, to perform such work at the expense of the owner, the courts having held such acts not to be in the nature of taxation, on account of the paramount interest which the owners have in the performance of the work, and their peculiar ability to perform it promptly in accordance with the necessity of the community; and for similar reasons require the owners of adjacent lands, where the country was liable to be overflowed by a stream of considerable size, to construct levees upon their river front at their own expense, and in default thereof, to cause such work to be done under the direction of the public authorities, and to assess the expense upon the lands of such owners. — Navigable waters are declared public highways, and as such are under the control of the states. At common law, only those streams were held to be navigable where the tide ebbed and flowed, but all streams of sufficient depth of water to render them capable of navigation for useful purposes were known as *public*, and became subject to the same general rules governing the public highways on land. In this country the rule has been adopted to consider all streams public whose capacity is sufficient for channels of commerce in floating the products of the soil, forests and mines of the country through which they flow, although at stated periods of the year they may become too shallow for navigable purposes, such as the floating of logs and rafts of timber. Therefore, as public highways, all such streams are under the control of the state authority, and subject to all proper police regulations, as much so as a land highway. But if a stream, in its natural condition, is not thus useful, and has been created so by the subsequent labor of the owners of the soil, it is not public property nor liable to police regulations as such; and it remains in the nature of a private way or easement, unless the owner chooses to dedicate it to public use. It has been held that a legislature may determine what streams within the boundaries of a state are navigable, and subject to police regulations as highways (Glover *vs.* Powell, 2 Stockt., 211); still, this proposition is combated with the rule of law that the legislature can not, by a simple declaration, appropriate private property to public use without just compensation. — While general control and regulation of navigable streams rest with

the state authorities, there are certain restrictions upon this right emanating from the constitutional power of congress over commerce with foreign nations and between the states. Wherever a river forms a highway upon which foreign commerce or that between the states is conducted, it passes under the control of congress, on account of this constitutional restriction. But, as already observed, should congress fail for any reason to exert this power, or if, having exercised it, the state law should not conflict with the national, the fact that a stream is navigable would not *bar* a state from adopting just regulations for its use and control. — Under the decisions of the federal courts, a state can not grant an exclusive monopoly for the navigation of any part of the waters within its jurisdiction upon which commerce is conducted under coasting licenses by authority of congress, as such grant would conflict with the power which congress has exercised. But if the upper waters of a stream lying within its limits are wholly separated from tide water by impassable falls, and are not a continuous stream open to foreign or state commerce, a state law granting exclusive control to a party to navigate them can not be voided on the ground of conflict with the authority of congress to regulate commerce. — It is competent for a state to exact toll from all commerce passing through its navigable waters for the benefit of any improvement by the state where it has expended money, although the stream may be one over which the regulations of commerce extend, because the state has the same right to improve a water as a land highway. — A state may direct the construction of bridges over navigable streams for highway purposes, although they may in some degree interfere with free navigation. If congress has no control over the stream, the right can not be questioned at all on the ground of public inconvenience. If the stream is under the control of congress, it becomes necessary to determine whether or not the construction of such a bridge will conflict with its regulations. Although the bridge to some extent may prove a hindrance to commerce, it is not absolutely unlawful for a state to construct it, if the general traffic of the country be aided rather than depressed by its construction; as the navigation of a stream may be far less important than the construction of a bridge, and its obstruction be a much lighter burden upon the people than a break in the line of railroad travel by compelling the use of a ferry, with its dilatory operations, especially when draws are so constructed as to admit the passage of vessels through the bridges with but slight inconvenience and loss of time. The decision of the question, however, does not rest with the state authority as to the relative character of obstructions, but with the federal courts, which have jurisdiction to determine the same, and cause the removal of the obstruction if it be found to unnecessarily impede or destroy the traffic upon the stream. — As ferries over navigable streams are but the creation of highways, the states may lawfully establish them, grant licenses for keeping the same, and prohibit persons from engaging in such occupations without such license, and it does not impair the right of a state to enact such laws, though a part of the waters be without the jurisdiction of the state, or a highway for interstate or foreign commerce. — Dams may also be constructed by state authority across navigable streams; and such as involve no question of federal authority are exempt from being declared a nuisance, through legislative consent to construct them; and so long as the builder confines himself to the provisions of the legislative charter, he likewise is exempt from any liability to private action for injury to river navigation. — A state possesses the same power to regulate the speed, mode of travel and general conduct of ships and other vessels upon its water highways that it does upon its land highways, subject, however, to the limitation that its ordinances must not conflict with the laws of congress for the regulation of foreign and domestic commerce. — There are some extreme points to which the police power of a state may extend, where the control of property by individual owners may be interfered with and even destroyed by public authority, when the owners themselves have performed all the duties of good citizenship, and in no way violated a law or defied public authority. Such cases are to be cited, when the public exigency is so great, and the public interests so overwhelming, as to justify its seizure and destruction, on the highest grounds of public interest. Such would be the seizure and destruction of private property to prevent the spread of flames, the advance of a pestilence or an invading army, or any other great calamity where the highest interests of the public are involved. In all such cases the rights of individuals, which in times of peace and health and order are inalienable, in periods of public calamity sink out of sight, and in all things relating to the public danger private rights yield instantly to the inexorable law of public necessity. — The police power of a state enables a community to protect itself by the establishment of precautionary measures against the destruction of life or health or property, by the enactment of ordinances defining the limits, within the denser portions of towns, cities and villages, within which buildings composed of inflammable materials can not be erected. Wharf lines may be established, although they may prevent the owners of water fronts from erecting buildings on that which constitutes private property. For the protection of a harbor, a legislative enactment may prevent the removal of stones, sand or gravel from the beach, under penalties, applicable to the owners of the soil equally with all other persons. — Under the police power of a state, a special use of property may at times be prohibited, where, by the change of circumstances surrounding it, and without any offense or even dereliction of duty by the owner, that which was once lawful and unobjectionable becomes a public nuisance and inimical to the life and health

of the community. Bridges and mill dams that occasion overflows or accrete such substances as produce miasmatic growths of vegetation, may be removed or destroyed for this cause. Cemeteries and graveyards, and bone boiling and refining establishments, whose *locus in quo* was once remote from the heart of a city, but which from swift urban growth have become incorporated within the limits of the same, and hence detrimental to the health of the population, are liable to be closed for such purposes. The keeping of gunpowder in large quantities, or dynamite in towns, villages or cities, may by law be prohibited; the sale of poisonous drugs, unless properly labeled or by order of a practicing physician; the keeping for sale of unwholesome provisions and all other deleterious substances; unmuzzled dogs running at large, and all such acts, are liable to be forbidden under the authority granted the state to provide for the abatement of nuisances, whether occasioned by the offense of the individual or not. — Another matter of great public importance, over which the police power of a state has full and complete jurisdiction, is the preservation of the public morals. Under this power the legislature may, by special enactment, prohibit the keeping, sale or exhibition of indecent or immoral books or pictures, and cause the seizure and destruction of the same, wherever found; close up places of amusement where gaming is resorted to, or regulate them by license, or forbid the keeping of gaming implements for gaming purposes. It may likewise provide such regulations as will prevent the keeping and use of stallions or other breeding animals in public places. It may likewise provide for the compulsory observance of the Christian Sabbath on the first day of the week. — Under this power, markets may be regulated, special places assigned for the venders of special articles, licenses granted, weights and measures established, and merchants and dealers compelled, under penalty, to comply with all such regulations. — Such are some of the police powers of the state. They are of such intricacy as to pervade all conditions of business and society. Those enumerated are sufficient to illustrate the authority of the state to establish varied and far-reaching regulations as to the time, manner and circumstances under which its citizens shall maintain and enjoy their rights without conflicting with these great constitutional principles which have been finally settled for the defense of private rights and property.

JNO. W. CLAMPITT.

POLITICAL ARITHMETIC. (See ARITHMETIC, POLITICAL.)

POLITICAL ASSESSMENTS. (See ASSESSMENTS, POLITICAL.)

POLITICAL ECONOMY. I. *Preliminary Considerations.* In a Cyclopædia like the present it would seem that the article "Political Economy" should form one of the central points of the whole work. It would perhaps be such, if we desired to embrace under this term the various considerations which commend the study of economic science to those whom it interests, and to set forth the many advantages which may be derived from it. It would be so likewise, if in the article "Political Economy" we attempted to touch upon all the subjects which the science embraces, either for the purpose of showing their importance or their connection. We can not enter into such detail here. We wish simply to define political economy, to give it a point of departure, a formula; to determine its character and object, and to indicate, as far as possible, its extent and limits. — It would be mistaking the nature of such a task to suppose that it can be performed in a few lines. It is not as easy as one might think at first to give an exact definition of political economy, or at least a satisfactory one, one around which all adepts in the science might rally. Many authors, beginning with Adam Smith, have attempted it, but no one seems to have succeeded. Whatever may be the real merit of certain definitions hitherto given, it is certain that, up to the present time, not a single one has been accepted without dispute. It has even frequently happened (and this is a more serious matter) that the very ones who furnished them, subsequently contradicted or modified them in the course of their works. It would perhaps be more correct to say that there is not one of these definitions to which its author himself remained faithful in the manner in which he conceived and treated his subject. This has caused some of the later teachers of the science to say, that political economy has yet to be defined. "Even if we must blush for the science," says Rossi, "the economist must confess that the first question still to be examined is this: 'What is political economy? what is its object, its extent, its limits?'" There is no reason to blush, we think, for being still obliged to put such a question, when we consider the natural difficulties it presents; but we must agree, with Rossi, that it is still awaiting a solution. A Belgian writer, Arrivabene, has called attention to this truth in his introduction to a translation of Senior's "Lectures on Political Economy," in terms more emphatic than those used by Rossi, bitterly deploring the vagueness, the obscurity, the incoherence, and especially the insufficiency, of all the definitions hazarded by the masters of the science, and calling loudly for a more satisfactory and precise formula. To make this clear, we here reproduce some of the definitions furnished by economists generally considered to be of the highest authority. — Adam Smith was usually very sparing of definitions. He, however, gave a few here and there, and they characterized or defined, in the course of his work, the science which he treated. "Political economy, considered as a branch of the science of a statesman or legislator, proposes two distinct objects: first, to supply a plentiful revenue or subsistence for the people, or, more properly, to enable them to pro-

vide such a revenue or subsistence for themselves; and secondly, to supply, the state or commonwealth with a revenue sufficient for the public services. It proposes to enrich both the people and the sovereign." ("Wealth of Nations," book iv., introduction.) Without discussing the relative merit of this definition, we shall simply remark that it has in view much less a science than an art, although the idea of a science is put forward in it, and although the word "science" is to be found in it. The author, in fact, appears to enunciate a series of precepts which would indeed constitute an art; but not an exposition or an explanation of certain natural phenomena, which alone can constitute a science. In substance, if not in form, Adam Smith's definition is nearly like that given by J. J. Rousseau under the term *économie politique*, in the *Encyclopédie*. We know, however, how widely Adam Smith differed from Rousseau, not only in his conclusions, but especially in his manner of treating his subject. On the other hand, his definition differs greatly, as we shall see, from that of J. B. Say, who followed in his footsteps, and looked on the science as Smith himself had done. — J. B. Say, in the beginning of his treatise, and even as title to this treatise, gave his principal definition of political economy, the one which has since been most frequently reproduced: "A Treatise on Political Economy, or a simple exposition of the manner in which wealth is produced, distributed and consumed." Whatever may be thought of this formula, it is at least very much superior to that of Adam Smith, in this especially, that it suggests the idea of a real science, and not merely of an art, since it describes an exposition or explanation of certain phenomena presented to our observation. But is this formula really satisfactory? and will it be final? Assuredly not. Men may still disagree as to the nature of the phenomena which it presents for the study of economists, as well as to the extent of the field which it opens to their exploration. And this all the more, since on this last point especially J. B. Say has not always been consistent with himself. In the formula which we have just quoted, he seems to confine the economist to a study of the material facts relating to the production and distribution of wealth; but elsewhere, notably in his *Cours*, he brings into its domain all facts relating to social life. "The object of political economy," he says, "seems till now to have been restricted to a knowledge of the laws which govern the production, distribution and consumption of wealth. This is how I considered it myself in my *Traité d'Economie Politique*." "Still," he adds, "it may be seen, even in that work, that the science touches everything in human society, and embraces the whole social system." (*Cours d'économie politique*, p. 4.) We might add, that in other parts of his works J. B. Say again defines political economy in a way altogether different from that in which he defined it in his *Traité* and his *Cours*. The following, for instance, taken from manuscript notes found after his death, has sometimes been quoted: "Political economy is *the* science of the interests of society, and like every real science is founded on experience, the results of which, grouped and arranged methodically, are principles and general truths." But it is evident that this is less a definition than a qualification, such as every author has the right to introduce in the course of his works, in order to bring out the dignity and importance of the subject he is treating. — According to Sismondi, "the physical well-being of man, so far as it can be the work of his government, is the object of political economy." This is very different from J. B. Say's first definition. In the first place, it takes us out of the realm of science into the realm of art; for, according to this formula, political economy must be merely a series of rules intended to instruct governments how to insure the physical well-being of man; it is therefore an art, a branch of the art of government. Very much limited, from a certain point of view, since governments alone can practice it, this art is, in other respects, without assignable limits; for what are the acts of a government that have not to do, more or less, with the physical well-being of man? — According to Storch, "Political economy is the science of the natural laws which determine the prosperity of nations, that is to say, their wealth and their civilization." Preferable to Sismondi's, because it suggests at least the idea of a science, this definition is still very imperfect. "The natural laws which determine the prosperity of nations," present, to our thinking, too complex an idea, and, in any case, a very vague one; and as to civilization, it certainly includes, in its general expression, things with which an economist, as such, has nothing to do. — There is nothing in Malthus or Ricardo which can be taken as a precise definition of political economy. In the case of Ricardo the reason may be, that in his "Principles of Political Economy and Taxation," being confined, as he says himself in his preface, to defining the laws regulating the distribution of revenue among the various classes of society, he did not consider the science as a whole. It may, however, be inferred from these words, that, if he had had to define science in a general manner, he would have defined it very nearly as J. B. Say had done in his *Traité*. — As to Rossi, after he had discussed and rejected, one after another, all the definitions given before his time, he, absolutely speaking, gave nothing in their stead. He contents himself with saying that there are phenomena of a certain order relating to wealth which are not confounded with those of any other order, and that these are just what economic science should study. Political economy is, therefore, in his eyes, as he says elsewhere, purely and simply the "science of wealth." Hence, he thinks, that, setting aside the strangeness of the words, one might call economists chrysologists, chrematisticians or *divitiaries*, without giving them cause of complaint. — We may here close our review of the definitions of

political economy. What we have stated suffices to show how far the definition of economic science, or the general formula which covers it, is from being finally fixed. — Now, should we be ashamed of this uncertainty, as Rossi seemed to think? Must we lament it, with Arrivabene and some other writers? We do not think so. A science does not depend on the definition given of it; it is not regulated by an arbitrary formula which may be more or less happy, more or less exact; on the contrary, it is the definition which should come after, mould itself, so to speak, to the science as it exists. So much the worse for writers who cultivate a certain branch of human knowledge, if they are unable to grasp its general data and clothe these data with a fitting expression; but this does not in any way impair the stock of truth which they have to bring to light. — "A science," says J. B. Say, "makes real progress only when its masters have succeeded in determining the territory over which they may extend their researches, and what should be the object of their research." (*Traité, Discours Préliminaire.*) There is doubtless some truth in this statement. It is well, perhaps even necessary, that the object of a science and the field it covers should be properly determined; but it is not absolutely necessary that this determination should result from definitions hazarded by authors: it is enough if it results from the very nature of their labors. Now, it may well happen that the nature of these labors may be essentially the same for all, while the definitions are different; each author having been led by a kind of instinct to confine himself to a certain order of phenomena, without afterward being able to render an account to himself of the precise object of his researches, or to measure exactly the field he has gone over. And this is really what takes place. We have just seen how much the authors cited differ in regard to the definition of the science, and still the sum and substance of their works are always the same. Who does not know that this is the case with Adam Smith and J. B. Say? It is the case, too, with all the others, in spite of a few slight differences as to the greater or less extent of the ground they embrace. — It is one thing to feel or express, and another to conceive or define. It is sometimes very difficult to clothe a single thought in a just expression or a fitting formula; the difficulty is much greater when there is question of including a great number of ideas and facts in a single formula. It is not to be wondered at that many writers have failed in this task, in this sense, that the definitions which they give are nothing but more or less unfaithful translations of their own conceptions. J. B. Say acknowledges that this is true in his own case, since he recognizes that his *Traité* went everywhere beyond the limits, if the expression be allowed, marked out by his definition. And still he is, perhaps, of all economists, the one who has remained the most faithful to the formula which he had adopted. There is much more to be reprehended in Adam Smith and Sismondi in this regard. If we look, for example, at the manner in which the latter defines the science, we might think he was going to confine himself, as J. J. Rousseau had done, to laying down the rules which governments should observe in regard to the material interests of the people; and still, like all other economists since Quesnay, Turgot and Adam Smith, he has discussed the questions of exchange, division of labor, accumulation, savings, the production and distribution of wealth, the laws regulating the value of things, those determining the rate of wages, profits, etc., etc.; things in which governments have almost nothing to do. So true is it that his definition is simply an error, and an error of no consequence, an ill-chosen but empty formula, which in no way influences the real character of his labors.— It would be very desirable, however, to find for political economy a more satisfactory definition than those hitherto given, a formula at once more comprehensive and more precise, in which the whole science might, so to speak, be reflected in a few words. Will this formula be found? Perhaps. Without flattering ourselves with having found it, we shall try to point out the road to its formulation by determining, as far as possible, the real object which the science proposes to itself, and the extent of its domain. — The first question to be solved is, whether political economy belongs to the category of science, or merely to the category of art. We have already seen, from what precedes, that the question is not an idle one, especially not idle since the distinction to be made between science and art does not appear to be generally understood. — II. *To what order does Political Economy belong? Is it a Science or an Art?* "An art," says Destutt de Tracy, "is a collection of maxims or practical precepts, the observance of which leads to success in doing a thing, no matter what it may be; a science consists in the truths resulting from the examination of any subject whatever. Art consists, therefore, in a series of precepts or rules to be followed; science, in the knowledge of certain phenomena or certain observed and revealed relations." We are not concerned here with examining which of the two is superior to the other, art or science; both may have equal merits, each in its place; it is solely a question of showing in what they differ as to their object and methods of procedure. Art counsels, prescribes, directs; science observes, exposes, explains. When an astronomer observes and describes the course of the stars, he cultivates science; but when, his observations made, he deduces from them rules to be applied in navigation, he is engaged in art. He may be equally right in the two cases; but his object is different, as well as his method of working. Hence, observing and describing real phenomena is science; dictating precepts, laying down rules, is art. — Art and science often have close connections, in this sense especially, that the precepts of art must be derived as far as possible from the observations of science, but they are none the less different from it on

that account. Notwithstanding this, they are confounded every day. A man striving to build up an art gives it emphatically the name of science, believing that by doing so he gives a high idea of the correctness of its precepts. It is notoriously the weak side of physicians to call medicine a science. They are mistaken in the use of the word. If medicine were as certain in its prescriptions as it is uncertain, it would still be no more than an art,* the art of healing, since it consists in a collection of rules applicable to the cure of human diseases. But anatomy is a science; physiology is a science; because anatomy and physiology both have as their object a *knowledge* of the human body, which they study, the one in its structure, the other in the play of its organs. — Rossi grasped this distinction between science and art well, though he abused it by improperly confounding it with the distinction which is made frequently enough between theory and practice.† "Properly speaking," he says, "science has no object. The moment we try to discover what use can be made of it, what profit may be drawn from it, we leave science and come to art. Science is in all cases nothing more or less than the possession of truth, the well-considered knowledge of relations inherent in the nature of things." Here we have, under another form, the same thought so accurately expressed by Destutt de Tracy. — This distinction being well drawn between science and art, we may now ask, to which of the two orders of ideas does political economy belong? Is it a collection of precepts, a theory of action, or only an assemblage of truths borrowed from the observation of actual phenomena? Does it show us how to do something? or does it explain what takes place? In other words, is it a science, or an art? We need not hesitate to answer that, in its present condition, political economy is both the one and the other; that is to say, in the direction of economic labors and studies a common name is still given to things which might and should be kept distinct. It is evident, in fact, that in the general treatises on political economy, composed since Adam Smith's time, a great number of really scientific observations are met with, that is to say, observations whose sole object is to tell us what takes place, or what exists. One might even say that observations of this kind predominate. But the directions, precepts, rules to be followed, are also met with in such treatises very frequently. Art is therefore constantly mixed up with science. But it is very different with a multitude of special treatises, or those particular dissertations whose object is to solve certain questions relating to industry, commerce or the economic administration of states; questions of taxation, credit, finance, foreign commerce, etc. Here it is always art that predominates. Counsels, precepts, rules to be followed, all things that pertain by their nature to the domain of art, follow each other in quick succession, while really scientific observations scarcely appear at long intervals. And still all this, without distinction, bears the name of political economy. So true is it that the name still belongs to two orders of labor, and of very different kinds. — We are far from complaining or finding it strange that from scientific truth once clearly established men should endeavor to draw rules applicable to the conduct of human affairs. It is not well that scientific truths should remain fruitless, and the only way of utilizing them is to base art upon them. There are close ties of relationship, as we have already said, between science and art. Science lends its lights to art, corrects its processes, enlightens and directs its course. Without the aid of science, art would have to feel its way, stumbling at every step. On the other hand, art gives a value to the truths which science has discovered, and science without art would be barren. Art is almost always the principal motor in the labors of science. Man rarely studies for the sole pleasure of knowledge; in general, his research and labor have generally a useful end in view, and it is through art alone that he finds that end. — In view of all this, who can fail to see how different art is from science? The distance is great between a truth discovered by observation, and a rule deduced from that truth with the intent of giving it an application; the one belongs to nature, to God; man only discovers and states it; the other is the act of man, and it always retains something of him. Everything is absolute in scientific data; they are either false or true, there is no half way; this simply means that the student of science has observed either well or ill, has seen correctly or incorrectly what he communicates. There are, it is true, incomplete data, exact on one side, inexact on the other; but, even then, the true side is true, the false side is false. On the contrary, everything is relative in the rules and the methods of art. As something human is always involved in them, they can not pretend to infallibility, they are always susceptible of more or less variation between the two extreme limits

* We may use the expression *medical sciences*, because medicine, the art of healing, is aided by several sciences, specially cultivated for its use: anatomy, physiology, pathology, therapeutics; but we should not say the *science of medicine*.

† The very real distinction which we establish between science and art has nothing in common with that which, rightly or wrongly, is made between theory and practice. There are theories of art, as there are of science, and it is only of the former that we may say, they are sometimes in opposition to practice. Art dictates rules, but general rules; and it is not unreasonable to suppose that these general rules, though correct, may sometimes disagree with the practice in certain particular instances. But this is not the case with science, which neither ordains, counsels nor prescribes anything, which limits itself to observing and explaining. In what sense, then, can it be in opposition to practice? There is, to our thinking, a double error in the following passage from Rossi: "The school of Quesnay has been too much reproached with its *laissez faire, laissez passer*. It was pure science." No, it was not pure science; it was art, since it was a maxim, a precept, a rule to follow. As to the maxim itself, although susceptible, like all general rules, of many restrictions in practice, instead of saying, like Rossi, that it approached too nearly the school of Quesnay, we should say that it has not been sufficiently lauded, because not sufficiently understood.

of radical vice and absolute perfection. Finally, scientific truths are immutable as the laws of nature whose revelation they are; while rules of art are changeable, either by reason of the wants they have in view or by reason of the changing views of the men who apply them. — There is so much the more reason to insist on the distinction which we have just established, viz., that if science and art have frequently many points of contact, their radii and their circumferences are far from being identical. The data furnished by a science may sometimes be utilized in many different arts. Thus, geometry, or the science of the relations of extension, enlightens and directs the work of the surveyor, the engineer, the artillery officer, the navigator, the shipbuilder, the architect, etc., etc. Chemistry comes to the aid of the druggist as well as the dyer, and to a great number of the industrial professions. Who can tell how many different arts make use of the general data of physics? And, so, an art may gain information from the data furnished by many sciences; and it is in this way, to cite but one example, that medicine, or the art of healing, simultaneously consults anatomy, physiology, chemistry, physics, botany, etc. — It is necessary, therefore, in every respect to distinguish art from science, and to indicate clearly the line separating them. This has been carefully done in certain branches of human knowledge. Mathematicians, for example, distinguish carefully pure mathematics, or science properly speaking, from its various applications. So do physicists and chemists. And the distinction exists not in books alone, it is transferred even to instruction, where the study of science and that of the arts depending on it have different chairs. It is thus that a polytechnic school is, if we be permitted to say so, the sanctuary of pure science. It is only after graduating from it that the students, each in his specialty, study the art to which they are to apply the scientific knowledge acquired. — We could wish that what has been so well done in so many other divisions of study might also be done in the order of economic studies and labors. But, it must be confessed, it has not been done up to the present. The labors of art and the studies of science continue to be, if not altogether mingled, at least embraced, under a common denomination. Sometimes it has been attempted to separate them by giving certain labors, which belong especially to art, the name of *public economy*, to distinguish them from others. But these attempts, ill directed, and made, in the majority of cases, without a clear view of the results to be obtained, have not succeeded thus far, so that at present, in the order of economic studies, art and science are still mingled and confounded. Whence comes this confusion? It comes, first of all, from the immaturity of the science, which has not yet had time to disengage itself from the art or arts connected with it. It results also, in a certain measure, from the pressing and ever present interest of the subjects that economic science embraces, an interest which has not allowed those who study it to devote themselves entirely to the contemplation of scientific truths, neglecting, for the moment, the artistical deductions, that is to say, the practical maxims, which they might draw from it. — Political economy was an art before it became a science, and even the etymology of its name shows this; furthermore, before it was an art, that is to say, before it was formulated in general maxims and precepts, it was blind practice in the hands of governments. Such is, however, the course of human things. In the logical order, science precedes art, which should be only a deduction from science; and art precedes practice, which should be only a more or less exact application of the general rules of art. This is the ordinary course followed in our schools, in which the logical order is followed. But in their historic sequence, things take another course: they are generally found there in an inverse order. There practice precedes art, and art science. This is true of almost all the branches of knowledge, and particularly of that which interests us most. Hurried to act, because he must act, man goes straight to action, to practice, without studying deeply that which he undertakes, and with no other guide than his instinct. It is only later, that, by rectifying and correcting the errors of this practice, with the aid of a little acquired experience, he forms rules or general maxims which he erects into an art; and it is later still that the idea comes to him of correcting the errors of this art itself, by the aid of a scientific study of the subject which he has in view. There were physicians before there was an art of healing; men acted at hazard, inspired most frequently by blind superstition, and the art of healing, based at first on a certain acquired experience, existed much earlier than anatomy, physiology, therapeutics, that is to say, earlier than a scientific knowledge of the subject on which it was desired to operate, and of the remedies employed for his cure. Huts were built before the art of building was reduced to rules, and the art of building was subjected to rules, if not written, at least transmitted from mouth to mouth, before it received the mathematical and physical sciences as a foundation. Political economy advanced in the same way. The most ancient governments, as Blanqui very justly says in his history, treated political economy after their own fashion, long before they knew what they did, or were able to give an account of the result of their measures. Later, it was attempted to give an account of these results by the aid of acquired experience, and with the data of these experiences, well or ill understood, an art was created. Sully and Colbert had reached this stage. It was only in the last resort that men undertook to study scientifically this subject, that is to say, general industry, on which they were to operate. — Now, this liberation of economic science is quite recent; it scarcely dates from the middle of the last century. It was the school of Quesnay which first endeavored to construct in

this order of ideas a real science; up to his time there were merely scattered observations, and even final success in building up the science belongs only to Adam Smith. It is not very surprising, therefore, that the science of political economy has not yet been able to free itself entirely from the restrictions of the art from which it sprung. — It was our wish and duty to state, as we have done, that under the general name of political economy two things are at present understood, things very different in their nature, though tending in many respects to the same end. It has seemed to us all the more important to note this confusion of ideas, since, to our thinking, it is the real cause of the incoherence in the definitions of the science, of the deviations to which it is subject in its course, and the species of discord which reigns almost always in its beginnings. Shall we attempt, on that account, henceforth to make a clearer division between the science and the art, by giving them different names? We confine ourselves to drawing the distinction clearly, time and a better knowledge of the subject will do the rest. — III. *First Idea or General Conception of Economic Science. Do the Facts of Human Industry afford Material for the formation of a real Science?* It will doubtless be asked, with some astonishment, how economic science was born so late, how political economy in action could exist so long without a systematic, scientific study of the subject itself on which men had to operate. This astonishment will cease, perhaps, if we consider for a moment the internal nature of a science, and the point of view at which men place themselves on all subjects before the light of science appears. — A science does not consist merely in a knowledge of certain external facts isolated from each other, for it is an abuse of words to give the name science to a simple collection of facts. Science consists rather in the knowledge of the relations which connect these facts with one another, and of the laws which govern them. A tie, a connection, is necessary, a linking of the phenomena which it takes up and observes, and it is the knowledge of this connection which is its principal study. An incoherent collection of facts without connection may constitute the baggage of a man of erudition, but can never constitute a science. Astronomy would not merit the name if it merely limited itself to noting and naming, one by one, the stars which wander in the deserts of space; it is worthy of the name only because it renders an account of the movements of the stars and the constancy of their evolution. Similarly, in all the other branches of human knowledge, a collection of facts does not constitute a science; we must, further, be able to tell the constant relations which connect, and the general laws which govern, them. — But the first condition of the study of the laws governing certain phenomena is to suspect their existence; to believe that these phenomena are not governed by chance, and that certain constant relations exist between them. Now, on all subjects, the first impression of men who have not yet submitted facts to continuous observation or patient analysis, is to see in them merely the play of blind chance. It is only much later that they come to suspect that these facts may be subject to a certain order; and it is then only that the idea is gained of studying the laws that govern them. Let us take the ignorant and rude man of primitive ages. All the phenomena of nature are to him disordered and capricious. Wherever he looks, he sees merely accidents without cause, facts without connection or relation. If he looks at the heavens, he sees the stars scattered at hazard, as he thinks, like thistles in a field. In all things that strike him he sees nothing but the play of blind chance, unless, indeed, he supposes the mysterious influence of some occult power. Later, as he gains in knowledge, natural phenomena, at least those of a certain order, range themselves before his eyes; he sees that they are subject to certain rules, he observes the constancy of their relations; here he recognizes law. But always, even in the course of time, and ages of enlightenment, the first impression of men is the same in relation to facts which they have not yet observed. If they come, therefore, so late to study the natural laws which govern phenomena, it is because they had not previously even suspected that there were natural laws to be studied. — A remarkable example of this is to be found in the case of geological facts. Why did geology, a science so interesting and beautiful, appear so late in the world? Was it impossible to discover and study it sooner? Were the ancients less capable of pursuing that study than the moderns? They were not: geological facts are not of the nature of those which hide themselves from attentive examination, or which demand a distant search. The ancients were as well able to discover and analyze them as we, and they had, besides, almost an equal interest in doing so. This analysis supposes, it is true, certain other preliminary studies, but these studies they could either have pursued themselves or made up for without too much labor. Why did they not do so? Only, as it seems to us, because they did not even suspect that there were in the bowels of the earth which we inhabit natural laws to be studied. During many centuries men had lived in the idea that the earth, whose surface they occupied, was in its composition merely a formless and confused mass, *rudis indigestaque moles*, whose materials were piled up pell-mell, without order and without law. They did not suspect that there was any order there to be found, any scientific study to be made of the earth; and this is the reason they did not even think of attempting that study. The same thing has taken place with regard to industry, concerning which similar ideas were for a long time held. It was not suspected in ancient times, nor even in the middle ages, that there was any order in the industrial world, the centre of economic facts, the focus of labor, at that time relegated to so low a place. At first view, everything there seemed to be surrendered to the

struggle of individual and opposing wills. Only a disordered combination of heterogeneous elements was perceived, a sort of confused conflict, a *rudis indigestaque moles;* and how could any one conceive the idea of searching there for rules, principles, laws, the ordinary outfit of a real science? In all subjects, we repeat, the first step toward building up a science is to gain the idea that the elements of that science exist, and this idea had not yet suggested itself. It was born only much later, when, by dint of occupation, from the governmental point of view, with industry whose importance men began to understand, they remarked, almost involuntarily, sometimes in one direction and sometimes in another, the regularity of its movements and the constancy of its relations. — And why should we be astonished that this was the case in the past, when even to-day, after the labors of Quesnay, Adam Smith and his successors, we see that many people misunderstand this industrial order, to which science has already borne witness. Not infrequently we hear at the present time men of some weight, and fairly well informed on other points, assert that industry is a prey to disorder and anarchy. Such, in general, is the rallying cry of the schools called socialistic. They all declare that the industrial world is given up to the struggle of individual wills, conflicting with and crossing each other in terrible confusion, with no trace of organization and order. All rule is absent from the circle in which industry works, and chance alone controls everything. On this account all the socialistic sects conclude, naturally enough, that the industrial world needs some organization imposed by a power above it. Thus, they vie with each other in drawing up and proposing plans of social reconstruction. — If the premises of this reasoning were correct, if it were true that industry, in its present condition, were given up to anarchy, having no trace of organization and order, political economy, considered as a science, would indeed have little to do; it would not even have a *raison d'être*. This would not suffice to make us adopt or even discuss seriously any one of these plans of organization proposed to us, persuaded, as we shall always be, that it is not in the power of human intelligence to regulate, even in a tolerable manner, so many interests, and labors so varied; but it would suffice to make us conclude, at least, that science, properly speaking, had no place in such a field. The rôle of the economist, if he had still a rôle to fill, would be limited, in this case, to a barren registration of disconnected facts, without his being able to deduce any principle from them. In vain would he seek to ascend from effects to causes, where chance alone governed everything. Vainly would he endeavor to establish relations between observed phenomena, and discover the laws that ruled them; for how could he find constant relations in disorder, or law in chaos? Happily, we already know our position with reference to these assertions thrown out *a priori* by men still unenlightened by science. We know that for them all is confusion and disorder. To the man who knows not the discoveries of geology, even from hearsay, the earth is still that confused mass which the ancients called *rudis indigestaque moles*. To the savage, who has never observed the course of the stars, anarchy reigns in the vault of heaven. — After all, it must be confessed that the illusion is a natural one. When we cast our eyes at hazard on the moving picture of the industrial world, it is difficult indeed to perceive, at first sight, anything but a confused struggle. A consideration, plausible enough, seems even to justify this first view; it is thus that in industry everything seems abandoned to the arbitrary and capricious impulses of individual wills, without any common principle governing and uniting these wills. And how, it is asked, can anything but disorder and chaos result from the shock of so many divergent, if not opposing, wills? When we see so many millions of stars moving in the deserts of space with perfect harmony and unchangeable constancy, nothing prevents our admitting that a single and sovereign will presides over their movements, and imposes on them its laws. But where is the principle which forces so many free beings to move in unison, each one of whom feels the motive of his action in himself? This is a strong consideration, it must be confessed; it would force economists themselves to doubt the reality of industrial order, if this order were not for them already established and demonstrated. — And still, even without the aid of science, if we look at industry with a more serious and attentive eye, it is difficult not to recognize in it at once, under the cover of apparent disorder, certain characteristics of harmony and order. Phenomena appear, whose regularity strikes and astonishes us. We gradually catch glimpses, vague at first and then more definite, of constant relations, of invariable movements. As the stars fail not to subordinate themselves to each other in their evolutions, though they seem to wander at chance, and to hasten on without order, so we see that the myriads of individuals moving in the field of industry also connect, arrange and subordinate their labors to each other, in such a way that, in spite of their apparent confusion, they all concur, each in his own way, to produce certain given results. Little by little, chaos is seen not to exist; order appears; laws are recognized. — Even if economic science had not for a long time noted the existence of certain regulating laws in the industrial world, it would seem that the appearance alone of the results offered would cause us at least to suspect their existence. An immense multitude of human beings, some scattered here and there over the surface of the earth, others grouped in irregular masses in towns, wait every day for general industry to bring them what is necessary for the infinite variety of their wants; and every day industry, active and watchful, answers without fail to all the wants which call upon it: millions of kinds of labor, all different from one another, call on every side, and at all the

sources of production, for workmen, and nowhere are the hands of workmen wanting for the kind of labor which calls them; all these different kinds of labor cross each other; more than that, they are corrected and held in union; they complete each other; they form together an immense chain, not a single link of which can be broken without injury to the whole; but nowhere does the chain break or stop; it seems that a mysterious power watches unceasingly to keep in repair its invisible links. Then, by virtue of the principle of exchange, an infinite variety of products circulates continually in every direction over the surface of the earth, and all these products go direct, without loss of time, and without sensible deviation, through countless hands, to the consumers waiting for them. All this takes place under our eyes and is renewed every day, and it is in presence of such a spectacle that men are unaware of the regularity of industrial movements subject to law. In presence of this daily miracle of regularity and order, men talk about industrial anarchy and disorder! What, then, are harmony, and order? Even if certain partial disorders, the causes of which are almost always easily assigned, happen here and there to disturb this beautiful mechanism, would that be sufficient to warrant us to deny the harmony of the whole? Would it not suffice to justify us in concluding triumphantly, that, after all, industry taken as a whole accomplishes with regularity the complex task with which it is charged?—There is really little philosophy in denying, even *a priori*, the existence of industrial order. Remember how many surprises nature reserves for man, who is always too ready to appeal to chance. The empire of chance is narrower than is supposed; every day its boundaries become smaller in proportion as our knowledge extends; those boundaries will become still narrower in the future. But, it is asked, is there anything in industry but divergent individual wills? and what is that but confusion or chance? We answer, that individual wills, no matter how free they may appear in the domain of language, or in the domain of industry, are bound to conform to a certain order. In the work of forming languages the initiative and invention may belong to individuals; but supreme control belongs to the masses. Individuals invent words, particular forms or expressions; each one brings his contribution to the language; hence the inexhaustible wealth and the admirable variety of form which are the property of human language. But the mass controls, purifies, corrects; it rejects, with that sure instinct which controls it, everything not conformable to certain analogies or certain laws, and every one is bound to submit to its decisions under pain of not being understood. Hence, the regularity and harmony impressed on all human languages. In like manner the initiative belongs to individuals in industry, but control to the masses. Every one is at liberty to work after his own fashion, but on condition, first, of fitting the result of his labors, which is the first condition of order, to his surroundings; then, to adjust his labors to those of other men, without whose aid he can do nothing; and lastly, on condition of submitting to the whole, and yielding in all things to the decisions of the sovereign public. From the initiative of the individual and the sovereign control of the masses, arises, on the one hand, the infinity of detail, and, on the other, the harmony of the whole, which constitute the two essential characteristics of human industry. If, by supposing the impossible, confusion should be established in language, no two men would be able any longer to understand each other. An assembly of men would then be but a repetition of the confusion of the tower of Babel. If, in like manner, this anarchy should come upon industry, for merely a few days, the irregularity of production would put the very existence of men in peril. No one being able to count upon another for the satisfaction of his wants, each would work for himself and refuse to take part in the division of labor and exchange, and humanity would quickly return to the barbarism of primitive times. — But the existence of laws governing the industrial world is no longer a mystery. Industrial science has for a long time noted and verified a great number of them. We have ourselves tried to show in the article COMPETITION, the general principle from which they spring. If among those which men have tried to explain, there are some which may still be a matter of discussion or misunderstood, there are others which no one, not even those who deny in principle the regularity of industrial movements, would dare to call in question. We can therefore conclude boldly that the field of the science of political economy is open, and that the elements of that science exist. — Since, then, human industry is subject to laws; since it discloses to us constant relations, a regular movement, in a word, order, it is this order, these relations, these laws, which we must study. This is the peculiar field of political economy as a science. To explain how industry is organized in its whole and in its parts; to describe the order of its evolutions and its progress; to refer its movements to their principle, and deduce from it their immediate consequences: such is the object which economic science, carefully distinguished from art, should always propose to itself. What, in this order of ideas, should be the extent of its investigations, and what their limits? We shall examine this directly. But we must first justify the preceding definition, if it is one, in so far as it does not conform to those most frequently given of political economy. — IV. *Is Wealth the Object of Economic Science, or Industry the Source of Wealth?* In defining or characterizing economic science as we have above, we have spoken of industry and the general laws which govern it. It is evident that in this we have departed, if not in essence, at least in form, from the definitions generally received, and which relate, more or less, not to industry, but to the wealth which industry produces. Which of the two

formulæ is the more truthful? We think that wealth is continually put forward as the subject of political economy, without reason. Wealth is merely a result; and in reality it is labor, human industry, the source of wealth, which is the true subject of investigation in political economy. It must be understood, however, that in saying this we have no idea of changing the basis of the science, which we accept as it exists. — We have already seen that J. B. Say defines political economy, even in the title of his work, as "a simple exposition of the manner in which wealth is produced, distributed and consumed." Still, he draws a distinction from the very beginning of his book, which we must note. There are, he says, two kinds of wealth: one natural, that is to say, that which man receives from nature itself, without his being obliged to produce it, and which does not appear in the market, because nature gives it to all; the other is industrial or social wealth; and he declares that this last is the only one which economic science should consider. Why this distinction, if the definition is correct? If it is really wealth with which we are concerned, what do we care from whence it comes? Is what nature gives us for nothing, and gives to all, less real, of less value, than other wealth? Why should we not take account of it too? The distinction established by J. B. Say is nevertheless correct, whatever Rossi may say of it. Why? Because it is not true that political economy studies wealth as its subject; because it has only industry in view, and consequently it should not touch upon wealth, except in so far as it is a product of industry, in so far as it is either produced or distributed by industry. All this portion of J. B. Say's work is very painful, because his starting point is not correct. Still, the author displays a wonderful sagacity in coming back, by force of attention and correctness of judgment, to the real subject from which he departed in his definition. But the subtle distinctions to which he has been obliged to have recourse could not fail to lead to controversy, as the sequel has shown. — What is true of J. B. Say is equally true of all those economists, and their number is great, who have expressly admitted with him that political economy has only to do with exchangeable value. It is different with Adam Smith, who did not commence his work, like most of his successors, by a dissertation on the nature of wealth and value. He prefers in the beginning to speak of industry, of man; in which, as it appears to us, he was very happy, although he too thinks, and says frequently, that wealth is the chief subject of his studies. In the course of his work he states nowhere, in an absolute manner, that the only wealth with which he is concerned is that which is convertible into exchangeable value; but when, at the end of chapter iv. of book i., he remarks that the word "value" has a double meaning, or that there are two kinds of values, and calls one "value in use," and the other "salable or exchangeable value," without declaring expressly that the latter is the only one which it is his mission to study, he contents himself with saying that he will examine "the principles which regulate the exchangeable values of merchandise," and as to its value in use he is silent. He has followed, in this, the same path that J. B. Say, his successor, traced out afterward in a more systematic manner. — Some economists, however, at whose head we must place Rossi, have protested loudly against this view. They contend that the utility of things, or what they call their value in use, is in itself too considerable, too important a fact, to allow an economist to omit taking account of it. Let us remark just here, that no one has said, no one can say, that the *real* utility of things can be despised. It is, first of all, the original basis of exchangeable value; it is, besides, the principal motive or the final object of the labors of man; for men labor only to procure what is of use to them, that is to say, what contributes to the satisfaction of their wants. It has only been said, which is true, that utility alone, when not transformed into exchangeable value, no matter how interesting it may be in other regards, is not an economic fact, and only becomes such in so far as it gives things a value, a price. But it is precisely against this conclusion that Rossi protests. The opinion of such a man has too much weight not to delay us a moment in order to examine its motives. — "There are many authors," he says, "for whom value in exchange is the only economic fact; they regard the notion of value in use as a pure generality, to which, at most, the honor of mentioning it may be given in passing without paying any attention to it afterward. *For them, political economy is more the science of exchange than the science of wealth.*" We have underlined these last words, because they correspond exactly to what we have said above. It is very true, that, to the authors of whom Rossi speaks, as well as to us, and we shall add directly to Rossi himself, political economy is not the science of wealth, although the word "wealth" is inscribed in large letters on their banners. We have defined it, provisionally, as *the science of the laws of the industrial world.* One may say, however, if he wishes, shortening the expression a little, that it is *the science of exchanges;* for exchanges are, in the industrial system, the primordial fact which engenders all the others; but the expression which we have used seems to us at once more noble, more comprehensive, and more exact. — But to return to Rossi's argument. — First of all, it is not correct to say that the authors of whom he speaks merely mention the utility of things in passing. On the contrary, they maintain that the utility of things is the first if not the only condition of value in exchange; that things not useful in any respect would be neither asked for nor accepted by any one; and in consequence they would have no value, no price. But they add also that this utility, necessary everywhere, does not become an economic fact until, combining with other conditions, it is changed into exchangeable value.

This is precisely what Rossi does not admit. "It is an error," he says, "which attacks the science in its very bases, which mutilates it, and destroys its nature" Why? This is his answer: "Value in use," he continues, "is the expression of a relation which belongs to all times and all places. Value in exchange is in its nature eventual. Not only it can not exist unless the wants of men cease, in a certain measure at least, to be satisfied, but *it will disappear completely when the wants of all find unlimited means of satisfaction. No one will then have recourse to exchange.*" We shall soon find this last argument under another form. Rossi considers it very conclusive in his favor, and consequently reproduces it again. We shall see directly how conclusive it is against him. Now, let us continue our quotation. "I say, that in the system of those who pretend to occupy themselves only with value in exchange, science is mutilated: a great number of economic facts remain without explanation. Why are certain markets glutted with articles which never meet a demand for them? Only because the producers have not studied sufficiently what could be, in a given country, the value in use of such or such kinds of merchandise. The man who sent a cargo of skates to Brazil had forgotten that their value in use, arising from the pleasure which is felt in gliding over an icy surface, is nothing in a country where there is no ice. When publishers prepared immense shiploads of books for South America, they should have remembered that the want of books is only felt by those who know how to read. It is in the absence of value in use that these economic facts find their explanation." Without doubt, it is in the absence of value in use, or of utility, that these facts find their explanation. But how can this embarrass the authors whom Rossi is combating? What difficulty is there in accounting for such facts according to their system? None. They have said, and repeated, that the utility of things is the first condition of their exchangeable value; this condition had been omitted in the cases mentioned above, and consequently the products could not be exchanged. What more simple? The authors in question account for these facts quite as well as Rossi. Only they add that the condition of utility, though primary and essential, is not the only one which gives objects an exchangeable value; that, in addition, a certain degree of scarcity is required; that things found in profusion in nature, such as air, will have no exchangeable value, no matter how useful they may be; and that in this case economists need not busy themselves with them. — Among the arguments which Rossi heaps up at pleasure against this last conclusion, with very remarkable dialectic power, there are many which square exactly with the one which we have just noted. They merely reproduce the same thought under other forms. We may therefore omit them. But here is one which seems to differ from the others. "The study of value in use, is the study of the wants of men in their relations to economic facts." The study of value in use is the study of the wants of men; this we admit: but is the study of the wants of men the object of political economy? It is not. In the eyes of the economist every man is the judge of his own wants, which he expresses in his own way by the demand which he makes for certain products. It is the sole fact of this demand that the economist meets by following it in its consequences. He sees, on one side, men expressing their wants; on the other, workers studying to divine these wants, and to satisfy them by supplying such articles as they produce; and he studies the very extensive and complex relations arising from this demand and supply. The study of the demand, considered in itself, in its nature and principle, is perhaps the affair of the moralist; but the economist, as an economist, has nothing to do with it. — If, in the course of his laborious argument, Rossi triumphs in places, it is when he lays stress on the meaning and the use of the word "wealth." He has the advantage, we admit, when he reproaches those with whom he argues, with abusing the term. "Wealth," he rightly says, "is a generic word, which includes all objects in which this relation can be verified. If an object is capable of satisfying our desires, there is a value in it. The object itself is wealth." Rossi is certainly right here; he is right again when he adds, further on: "Ask any sensible man if, in such or such circumstances, such a man or such a country is rich or not, if it is less rich than a certain other country; ask him if the soil of the kingdom of Naples is more or less rich than the soil of Lapland; all will give you the same answer. Economists also, when they do not use the language of their particular systems, call the country rich in which natural goods abound, and in which natural agents are most active. They extend the word wealth to something more than what they call wealth when they give us their systematic definitions." All this is quite correct; but what does it all prove? Only one thing: that the word "wealth" has been very inaptly employed to designate the object of economic science. Let us say what is true, that economic science studies industry, or the relations which industry produces, and all these difficulties will disappear. — What, in fact, is wealth? A result, and nothing more. It is a fruit of the liberality of nature, or of the labor of man; a fruit which has only to be enjoyed, and which affords no aliment to observation. What is there to be studied in such a fact? Nothing. But the means that men employ to acquire that wealth, when nature does not give it in sufficient quantity, are another matter entirely. This is a great, an important fact, worthy of all the attention of the philosopher, and it is the only one the study of which political economy can dwell upon. — If a decisive proof of this is required, we shall find it in this last argument of Rossi's, of which we have already spoken. After having laid down this principle, *that general wealth is increased by the low price of merchandise and all kinds of prod-*

ucts, he adds: "If the price falls to zero, evidently the general wealth will be infinite; there will be no more exchanges; each having all that he can desire, exchange becomes impossible. How, then, could wealth be an exchangeable value, since it would be infinite, if there were no value in exchange?" This, we believe, is decisive against those economists who do not wish to consider wealth as anything else than exchangeable value.* But does it prove in the same way that political economy should occupy itself with value in use, devoid of exchangeable value? Let us suppose Rossi's somewhat forced hypothesis realized, the prices of everything at zero, and general wealth infinite. What would happen? It is true there would be no exchangeable value, but neither would there be any political economy. Value in exchange, as Rossi correctly says, *would disappear completely as soon as the wants of each one found unlimited means of satisfaction. No one would then have recourse to exchange.* Nothing is truer; no one would have recourse to exchange, nor even to labor; but neither would any one think of studying political economy, because political economy itself would not have anything to study. The entire earth would present the picture of the Elysian fields described by Fenelon, in his "Adventures of Telemachus." All the wants of men would be satisfied. There would be no wants to express, and consequently no efforts to be made to provide for them. But what would the economist have to do in such an environment? Nothing, but to survey at his ease a picture of universal happiness, and thank God for his goodness. Political economy would disappear with exchangeable value and the realization of universal wealth: so true is it that it is not wealth that it studies, but exchange, with the division of labor and all the important phenomena that accompany it. — Rossi himself, as we have said, has not studied anything else. And, in reality, once out of these discussions on wealth and value, which embarrass him in the commencement of his work, he goes through the same route already passed over by his predecessors. He follows, in their developments, the phenomena of exchange, the division of labor, the combination and subordination of the different kinds of labor, as well as the complex relations which these phenomena engender. He investigates the laws which determine the exchangeable value of things: those which regulate the rate of wages, the rate of profits, and revenues of every sort. He does not stop a moment, whatever he may have stated at the outset, to consider the absolute and inherent utility of things, or what he calls their value in use, independent of the relative value which they acquire in the great market of labor. Neither does he stop to consider the reason of our wants, admitting, with all economists, that individuals are the only judges of their respective wants, and that they express them sufficiently by the demand which they make for certain products. — We can, then, say of Rossi what we have said of all the other economists, that it is the industrial movement which he studies, with all its developments and all its consequences, and by no means the simple result, *wealth*, which would offer no material to his observations. When he frees himself for a moment from the too great anxiety which the word "wealth" causes him, he defines the subject as we ourselves have done. For example, after explaining the series of economic phenomena, he adds: "They appear in all this continued action of men on the material world; they are all embraced in this incessant rotation of labor, of consumption, of reproduction and of exchange." Yes, it is in the continual action of men on the material world that all economic phenomena are included, and it is precisely on this account that the wealth which is not derived from this action of man, or which has not felt that action, that is to say, which does not enter into the current of exchanges, is not an economic fact. — We should have dwelt less upon this error if it related only to words; but it has had its consequences. It has not precisely changed the basis of economic studies, since, after all, economists have generally continued unfaithful to the definition which they have adopted; but it has given an ambiguous character to the science, which has produced distrust in the minds of those who only half understood it, and it has given too much advantage to the adversaries of political economy. It has, besides, overloaded, especially in the outset, the science with subtle distinctions and vain abstractions, which have become, for economists themselves, an inexhaustible source of barren debates. We shall soon return to these consequences, but it is proper to go first to the source itself of the error which we have just pointed out. — V. *Why Wealth rather than Human Industry has been assigned to Political Economy as a Study. Consequences of this Error.* We have already seen that political economy, before it became a science, was, for a long time, an art. It was a branch of the art of governing, an art which concerned especially the material interests of nations. Hence its name, which evidently designates an art. Hence, also, the formula which serves to designate the special object of its labors. Things have changed, the art has given birth to a science; it has been transformed itself, changing in character and object; but the name and formula have been preserved. This is why political economy bears to-day names so inappropriate to its real character. — The chief tendency of this ancient art, which preceded the science, was, whenever it had not the regulation of taxes and the finances of the state as its sole object, to act directly on the public wealth; to create wealth, if it is permitted to say so, by means of governmental measures or by the mechanism of legislation. All writers who pretended to be economists, therefore, thought themselves called on to furnish

* It is, however, proper to remark that these economists do not say precisely that there is no wealth except exchangeable values, but that exchangeable value is the only wealth which political economy can take into account.

methods or receipes calculated to enrich the nation for whose benefit they wrote. We find a curious and sad example of this in the system so unfortunately applied, in France, by the Scotchman, John Law, and which had been preceded, in England, Spain and France, by many other systems, which, if not similar, were at least conceived in the same spirit. Some wished to enrich their country by specially favoring agriculture, considering the direct products of the soil as more abundant and reliable than all the wealth procured by manufacturing industry or commerce; others, generally infected by the idea that people become rich only at the expense of others, placed all the hope of a nation, either in the forced extension of foreign markets or in the exclusion of foreign products; and these last turned their attention mainly toward manufacturing industry and commerce. In other respects they differed from each other, in the nature of the means proposed; some only thought of acting on foreign commerce through the tariff, while others were occupied with the internal management, the organization itself, of industry; but whatever might have been the difference in their principles or their methods, they invariably tended toward the same end, the immediate increase of public wealth. They would have considered that they had done nothing if they had not invented some sovereign recipe, some speedy and marvelous method. Thus, in 1664, one of the most celebrated economists of the seventeenth century, Thomas Mun, published in England a work under the following title, which indicates clearly enough its object and tendency: "England's Treasure by Foreign Trade; or, the balance of our foreign trade is the rule of our treasure." Another writer, Davenant, published in 1699 a book under the no less significant title of "An Essay on the probable method of making the people gainers in the balance of trade." In another style, but guided by the same spirit, W. Potter published, in London, in 1659, a work entitled "The Tradesman's Jewel; or, a safe, easy, speedy and effectual means for the incredible advancement of trade and multiplication of riches, etc., by making bills become current instead of money." The seventeenth century, and even the commencement of the eighteenth, abounded in similar writings, in France, as well as in England and Spain. Projects of this kind are not rare, even in our day; but they are at present merely eccentricities, while then they formed the only basis of economic works. Thus, wealth was the direct object of these works, to such a degree that all writings on political economy which date from that period might be summed up in this general formula: "How must we proceed to enrich a people?" It is true, then, that political economy had wealth as its direct object, and so many economists did not deceive themselves as to the real tendency of their studies when they inscribed the word "wealth" on their banners. — It was from these unfortunate attempts that the real science came. By force of studying industry and commerce in order to subject them to adventurous plans and govern them according to their views, publicists became accustomed by degrees to observe industry and commerce. They remarked their most striking peculiarities and their most ordinary characteristics. Struck by the regularity of some of the phenomena which took place in this then new world, they caught a glimpse of the existence of certain laws, which they half noted. In this way scientific observations slipped insensibly into these artificial combinations, the unfortunate fruits of the imagination of their authors, and these observations increasing by degrees, in proportion as attention was directed to the subject, ended by impregnating, so to speak, with rather a strong dose of science, the very works composed in view of an art. This infusion of science into art is very evident in some of the writings which date from the end of the seventeenth century and the commencement of the eighteenth. If precepts still abound in them, to the point of predominating everywhere, scientific observations, and observations sometimes very correct, are not rare in them. In this way the science began. But, as the invention of an art was always the fixed idea of writers, and as this art had always the increase of wealth in view, the preconceived notion that the direct object of political economy was wealth, remained. — It was then that the school of Quesnay arose. It was the first to renounce the discovery of this deceptive and false art, which had been so vainly sought for up to that time. By proclaiming the great principle, *Laissez faire, laissez passer*, it boldly announced, from the very start, that it did not appear in order to give people special rules to increase their fortune, but to set forth the scientific explanation of that imposing mechanism which human industry presents for the reflection of philosophers. This formula, too little understood, had, in their mouths, a profound significance, which it is well to recall. It was not pure science, as Rossi has wrongly stated; it was art, since it was still a precept. But it was a precept which carried with it the negation of all others in this, that it rejected all the artificial combinations which had been imagined up to that time; it was the revelation of science, and was itself the first fruit of this revelation. It might be translated thus: "You have believed up to the present time that the industrial world was a kind of body without soul, an irregular assemblage of incoherent forces, without a principle of conduct, without cohesion, without a bond. You have believed that this world floated about at hazard, and that it needed the hand of an organizer to regulate and conduct it. You have outrivaled each other in striving to propose for it, or impose on it, your artificial combinations and your preconceived systems. Undeceive yourself: this industrial world does not move at hazard; under the apparent disorder of its course is hidden a profound order; it is governed by natural laws, admirable laws, in some regards in-

flexible laws, which it is necessary to know and respect. Avoid disturbing, by your arbitrary combinations, these natural laws which are superior to man. Respect this providential order; let the work of God alone." — This did not mean that governments had nothing to do but fold their arms; for governments have their rôle marked out for them in the natural order of society, such as it was understood by the physiocrates; but it did mean that governments should limit themselves to accomplishing their real task without undertaking to substitute an arbitrary system for the natural order of society. Thus understood, this maxim, *Laissez faire, laissez passer*, is one of the most beautiful, most profoundly philosophical, and at the same time one of the most correct, which had ever been enunciated. It brought with it, we say, the revelation of a science, and asserted the existence of these natural laws, whose study is the mission of science, and without whose existence our science would be without any object to study. It was at the same time the first fruit of this revelation; for, although men may differ yet as to the extension which should be given to governmental action, the maxim, *Laissez faire, laissez passer*, must always be accepted, in its general expression, by every one who even admits that there is a science of economy. Either the natural order of industry exists, or it does not exist. If it does not exist, you can fill the void by your arbitrary combinations; you can fashion and direct the industrial world according to your pleasure; you may even imagine for it an artificial organization of labor; but in such case speak no more of science.. If, on the contrary, you admit that this order exists, your first duty is to respect it. — Nevertheless, this announcement of science, in which the school of Quesnay had the initiative and the chief glory, by changing at once the tendency and direction of economic study, necessarily involved a change of ancient formulæ and definitions. There was no longer a question, as there was formerly, of inventing an art which would have as its immediate result the creation of wealth by means of legislative enactments. The school of Quesnay admitted, on the contrary, that the true source of wealth is in the industry of man, in the spontaneous activity of individuals, and that the best thing to be done is to let that activity have the greatest possible freedom. It was no longer a question of considering wealth directly, but rather to study the activity of individuals in its natural relations and in its laws. Not that the school of Quesnay absolutely renounced the formulation of an art: it could not renounce it, under pain of leaving science itself barren. But this new art, more rational than the old, in this, above all, that it was deduced from truths observed by science, instead of tending as formerly to the immediate creation of wealth, was forced to have as its sole object the restriction of governmental action within its natural limits, and to regulate it within these limits in conformity with the natural laws of industry. Thenceforth, wealth was no longer the direct object either of science or art. Thenceforth, these changed studies needed new names and new definitions.—Quesnay's school understood the exigencies of this transformation, and the very titles of the principal works which are due to it attest this fact: *physiocracy, natural order of societies;* two different titles, but which have nearly the same sense or the same bearing, in that they both announce the scientific statement of certain natural laws, and no longer the invention of an art; more scientific titles surely, and more satisfactory in this regard, than those afterward imagined. Unfortunately, the school of Quesnay committed two capital errors in the erection of its system, which caused its attempts at renewal to fail, and weakened its decisions. The first of these errors consisted in the exaggerated importance which it attributed to the net product of the soil, what we now call the rent of land, which it put forward as the only or main source of the real revenue of a people; the second, in the unnatural mingling of economic phenomena and political facts, between which it was unable to establish the necessary line of demarcation. — When Adam Smith, who first placed the science on its true foundation, appeared, he returned, unfortunately, in so far as formulæ and titles were concerned, to the old errors. While he exposed the grave mistakes into which the school of physiocrates had fallen, Adam Smith permitted himself to react perhaps too strongly against that school. He repudiated even the spirit of the new formulæ which it had adopted. These formulæ, as we have seen, were generally too ambitious, too broad, in that they seemed always to embrace at once the economic and the political order. It was proper, it was even necessary, to narrow them in a certain sense; but it was neither necessary nor proper to change their spirit, which was perfectly in harmony with the new tendency of economic studies. Instead of saying, as the physiocrates had done, "natural order of societies," and interpreting this formula as they had done, he might have said, "the natural order of industry," or used any other equivalent phrase, which would have preserved to economic studies the scientific character which they had received. Instead of this, in his desire to repudiate what there was excessive, from the point of view at which the physiocrates had placed themselves, Adam Smith returned purely and simply to the errors of his predecessors. The old prejudice remained—the prejudice that the economist is charged with furnishing recipes, the methods necessary to build up the fortune of nations—and Adam Smith himself was not able to guard against it. What was expected of him was the exposition of an art, tending to the creation of wealth, and he believed himself obliged to satisfy this expectation! The man who had left the business, the care of enriching nations altogether to private industry or the spontaneous activity of individuals, and who believed firmly, as his work proves, that it does not belong to governments to add anything to it from their own

resources, still believed it incumbent on him to construct a system intended to create national wealth, and to announce it formally, not only in the title of his work, but also, as we have seen, in his definition. It is true that his system is different from those which preceded it; it is the same as that of the physiocrates, *Laissez faire, laissez passer*, which is the device of every one who understands and practices the science: a system so different from others, and so peculiar in this regard, that those who in our day still take the old point of view ask, with a naïve astonishment, what is the meaning of a system which involves a negation of all systems? But Adam Smith at last proposes, like all the other economists, his method, his means of enriching nations, and this means consists in employing none. It is in this way that, from a point of view altogether new, he preserves the old forms. A man of science, he adopted the formulæ of his predecessors who only wished to invent an art. Devoted to the study of certain natural phenomena, he gives us lessons and precepts at every moment, and in truth gives a great number of them, though these lessons and these precepts only tend in general to show the vanity of those given before him, and that they are merely a negation. In substance the work of Adam Smith is a work of science, since he explains the industrial order in its natural and spontaneous formation; but his work, in form, is almost always a work of art, where all the old formulæ are reproduced. Since the publication of Adam Smith's great work, which founded, and was worthy of founding, a school, these annoying traditions have been maintained. Political economy, though rejuvenated and transformed, has preserved in many respects its old dress. — Appearing after Adam Smith, and when the science was already freeing itself from the obscurity in which it had been involved, J. B. Say understood, better than his predecessor, the nature of his labors and their real object. He felt very clearly that it was not a means of fortune which he taught to nations, and he was very careful not to say it was; he declared, on the contrary, repeatedly, and under various forms, that it was a simple exposition which he wished to make. "Political economy," he says expressly, "teaches what happens and what is." In this he had a clearer understanding than Adam Smith of the tendencies of the new economic era, and freed himself, more than Adam Smith had done, from old prejudices. Carried away, however, by the same considerations as Adam Smith; wishing, like Adam Smith, to free himself from the physiocrates, who had given the field of the science limits altogether too extensive; and believing that he was thereby merely reducing the science within its limits, he also inscribed the word "wealth" on his banner. Since that time it seems admitted as an article of faith among economists that wealth is the special object of their studies. There is no longer any appeal from this decision. In spite of some isolated and barren protests, here and there, all the labors of economists are supposed to be concerned with wealth.— We have just seen what were the causes of this deviation. We shall now see what its consequences are. And, first of all, if we suppose that political economy has to do exclusively or primarily with wealth, it is utterly impossible to give it even a partially satisfactory definition; and we are obliged to say, with Rossi, that it is the science of wealth. But what is the science of wealth? Is there, can there be, a science of wealth? Strictly speaking, we can understand an art of producing wealth; but can we conceive a science connected with the analysis or study of such a fact? What is it to study wealth? is it the fact itself, the result, or the means employed to produce it? If it is the fact itself, it will be necessary to limit ourselves to analyzing the elements of which wealth is composed; and what is the object, what the utility, of such a labor? To study wealth in the means employed to produce it, is quite another thing: here there may be material for a vast series of observations; but, then, it is not properly wealth which is studied, for we must not confound the means with the end: it is either human industry, if there be question of wealth produced by the labor of man; or it is the operation of nature, if there be question of the benefits which we receive from nature without labor.—It is useless for Rossi, in order to give a sort of consistency to his definition, to say that there are phenomena of a certain order, which are distinct from all other phenomena and relate to wealth, and that it is these which political economy should study, All these explanations, in which the embarrassment of the writer is betrayed at every word, in spite of his undoubted talent, only thicken the cloud with which he surrounds us. What are these phenomena of which you speak? They relate to wealth, you say, but apparently they are not wealth itself. Well, describe them, analyze them, indicate at least their character or nature; sum them up, if it is possible, in some definition or formula; perhaps then these phenomena will of themselves form an object worthy of our scientific investigation; but do not tell us that the object of these investigations is wealth, for evidently it is not. — In his definition, which we have already quoted, J. B. Say was more precise without being happier. In saying that political economy describes how wealth "is produced, distributed and consumed," he escaped the vagueness into which Rossi has fallen, and he has given some body to his formula, but he has not succeeded for all that in being more correct. It will be noted, first of all, that this formula is more than a definition, it is, besides, a classification of materials; to divide one's subject in this way, is to draw a plan, not to define it. And what is the use of it all? The divisions of a subject, the classifications of materials, whatever they may be, belong always to the writer, and depend more or less upon the point of view he assumes; it is, therefore, an error to present them, though

the best possible, as being so essential to the subject as to form a part of its definition. Why did J. B. Say commit this error? Only, as it appears to us, because in binding himself to the word "wealth" as the basis of his definition, he had no other means of rendering his thought sensibly clear; he had then either to say too much, as he has done, or to be content with the vague formula of Rossi, which tells us nothing at all. What is this wealth which is produced, distributed and consumed? Is wealth, perchance, self-producing and self-distributing? Apparently not; save, perhaps, that which nature produces and dispenses without the aid of man, as the air, the light, the heat of the sun, etc. J. B. Say carefully excludes these from his domain. Wealth is not produced by itself; we say, it results from human effort, or from several such efforts combined. Why, then, instead of the result, do you not much rather first take up, as the object of the science, the combination of human efforts that produce it? Why not openly, clearly announce in your formula that it is this combination of the different kinds of human labor which forms the object of your studies, since, after all, this is the only thing that can constitute the object of serious studies? To read the definitions in which wealth is made the subject of which political economy treats, we would suppose that matter acted and moved of itself, and that man counted for nothing. This, it is true, is only appearance; but this appearance is annoying, giving rise to many mistakes; it has often caused it to be said, by men who are strangers to the science, that the economist is devoted exclusively to the worship of matter, while in reality it is *man*, and *man alone*, that is the constant object of his labors. — These formulæ, besides being vicious, have become the source of endless discussions, as tiresome as they are barren in results. Starting from the principle that the object of political economy is the study of wealth, the conclusion is drawn, with a certain appearance of reason, that its first care should be to define and characterize wealth; for how can we reason about wealth if we do not know what it is? and taking this specious reasoning as basis, each economist has made it a duty to place an interminable dissertation on this subject at the beginning of his work. They vie with each other, losing themselves in endless discussions and distinctions on utility, the first attribute of wealth, on value which is its complement, the nature of this value, the conditions of its creation, its existence, its extent, etc. Thus the science is made to bristle with abstractions; a terror to those who do not know it, and an object of disgust even for those who have cultivated it for a long time. The worst of all is, that, after so many long dissertations, these writers have not been able to agree whether it is value in use or value in exchange which constitutes wealth. — What must men who are strangers to political economy, or who are only half acquainted with it, think of these endless discussions? They must think, and in reality do think, that there is nothing fixed or constant in a science in which its very point of departure, that which is or appears to be the foundation of all the rest, is a matter of dispute. — Suppose that, instead of taking wealth as the subject or text of political economy, human industry had been taken, as is required by the nature and logic of things, it appears to us that things would have taken another course. The substance of the science would have remained the same, but the formulæ would have changed, and thenceforth the difficulties which we have just noticed would have disappeared of themselves. It would have become very easy to give a satisfactory definition of the science, not vague and incomprehensible, like that of Rossi, or complicated, detailed, and, after all, unsatisfactory, like that of J. B. Say, but which would be at once general and simple, comprehensive and clear. It would have been sufficient to say that political economy is the science of the general laws of the industrial world; or that it had as its object the study of labor, not in its technical methods, but in the relations which it produces and the laws which govern it. These formulæ, or equivalent ones, would have been sufficient to indicate the object of the science and its tendencies. Then, fully to define its meaning and bearing, it would have sufficed to prove, by a clear and precise exposition, the reality of the laws which they declare. On the other hand, by starting with such formulæ, the long dissertations on wealth, which obstruct the avenues of the science and render its approaches so difficult, might have been dispensed with. And what use is there in adhering so closely to the definition and description of wealth, since it is *man*, man as a worker, whom the science has in view? Wealth, it is true, should be the result of the labor of man, as it is its object, and it must consequently appear sometime; but it should appear in its proper place, as the fruit of labor, and then it would not be necessary to define it, since the definition would naturally result from the explanation itself of the labors which man has performed in order to obtain it. There would then be no distinction to be made between value in use and value in exchange; or rather, that distinction, which results from the very nature of things, would appear under another aspect. — By the labors to which he devotes himself, man tends unceasingly to convert all things to his use, both the material objects which he finds at hand, and the immaterial truths which he discovers. Value in use is, therefore, the constant object of his care. It is wealth, taking the term wealth in its broadest acceptation. But this wealth is to be divided into two parts: one which man is obliged to win from nature every day by continually renewed labor; the other, which is acquired once and forever, and which he enjoys without labor. In this last category may be ranged, not only the advantages or the goods liberally dispensed by nature to all men, such as air, light, and the heat of the sun, but also all those which man has won by previous labor, and which

are acquired once and forever to the race, and enjoyed by all without labor. Such, for example, is the stock of knowledge grown common to all in civilized countries, the improvement of the climate by cultivation, the possession of an incalculable number of processes in the arts, which have become habitual and the property of all. This last part of the wealth of man is surely not the least interesting; but as it has been definitively acquired, as man enjoys it henceforth without effort or sacrifice, he need no longer concern himself with it, unless perhaps to endeavor to increase it. The economist, in like manner, need not busy himself with it, except to state its extent and its benefits. It is only the other part, that which is the object of incessant labor, that really enters into his domain, for it is only here that there are real phenomena to observe. — We have not said all that can be said concerning the annoying results of economic formulæ. The necessity of being continually occupied with wealth, which it has made its special text, has forced political economy to construct a language of its own, an obscure, involved language, full of subtleties and abstractions. Hence, for example, the expression "immaterial products," to designate simple services rendered, or labor which is not realized in any product, and many others of the same kind: annoying expressions, to say nothing of the outrages which they commit on language in this, that they seem to transport us to an unknown world, lying outside of nature. — To sum up, political economy, turning on an abstraction, wealth, has become, in its forms at least, an abstract science. Taking matter as its text, it has become a material rather than a moral science, in the eyes of those at least who do not see into its depths. Besides, it has borrowed from inanimate matter all the appearances of a dead science, while it could and should be full of life. It is not, moreover, in appearance alone that it experiences this; it has been grievously troubled by it even in its expositions and in the connection of the truths which it teaches. If, instead of a barren and laborious dissertation upon wealth, with which it always sets out, and from which afterward flow, with such difficulty and trouble, the solid truths which constitute its substance, political economy had taken as its point of departure, or its text, human labor, what it would have accomplished! It would have begun with a broad, animated, living picture of the industrial world as it exists; it would have exhibited the general organization of human industry as it results from exchange, from the division of labor, from the subordination of the tasks which connect the labor of some with the labor of other men, and the use of metallic money, which establishes among all the separate kinds of labor a universal connection. It would have next explained the conditions of the existence of these kinds of labor and their principal motives; then, descending by degrees into the details of the structure of industry, it would have unfolded successively all its springs and declared its laws. All the truths which constitute the substance of political economy would have found their place in this grand structure. What a difference there would be in the animation of the subject, the facility, the order, ease and clearness of the deductions! It would have been possible even to introduce, if judged necessary, those subtle distinctions, those abstractions, with which the rudiments of the science are at present actually bristling, with this difference, however, that, taking their places only after an explanation of the primary truths of which they are really but the consequences, those abstractions would have flowed from these truths as easily as corollaries flow from a geometric proposition. We leave it to be considered, if, with such a point of departure and explained in this order, the science of political economy would not wear a different appearance, and be broader, more animated, more living, and even easier than it is to-day.—VI. *Definitive Character of Economic Science: it is a branch of the Natural History of Man. Its Extent and its Limits.* When economic science is defined as the science of wealth, it is very difficult to say to what genus of science it belongs. Is it a moral science? It is not; for it seems to be devoted exclusively to the study of matter. Is it a natural science? Still less; for it is concerned almost entirely with an abstraction. It may be pretended that it is the science of matter, or the science of abstractions; and it is in this way that those who judge only by formulæ speak of it. In this case one is very much embarrassed to know where to class it. But this embarrassment ceases the moment it is brought back to its real subject, the labor of man. — Political economy has been ranged in the category of moral sciences. We accept that title for it, which contains nothing but what is very honorable, and which is correct. It studies the acts and deeds of men, and there is always a certain morality in human actions; but this title, however honorable, is not the only one due to political economy, which is, besides, a natural science, for in its essence it is but a branch of the natural history of man. The anatomist studies man in the physical constitution of his being; the physiologist, in the action of his organs; natural history, properly speaking, in his habits, his instincts, his wants, and in relation to the place which he occupies in the scale of beings; as to political economy, it observes and studies him in the combination of his labors. Is it not a part of the study of a naturalist, and one of the most interesting, to observe the labor of bees in a hive, to study their order, combinations and movements? The economist, in so far as he simply cultivates the science without troubling himself about its applications, does precisely the same thing for that intelligent bee, man: he observes the order, the movements and the combinations of his labors. The two studies are absolutely of the same nature; with this difference only, that the field occupied by the economist is incomparably broader, the combinations which he observes

more subtle, more extended and more complex. The theatre of his observations is the great stage of the world. The order which he describes has, besides, a more elevated character, and, although less apparent and more difficult to understand, that order is much more wonderful also than the order of a beehive. The difference is measured by that between an insignificant insect and man. — We have now determined the character and object of political economy, of that almost intangible science, the definition of which has caused so much embarrassment to those who cultivate it, and given such advantage to its enemies. It is simply a branch of the natural history of man, and surely not the least interesting nor the least beautiful. It only remains to us now to fix its extent and limits. — For a long time, and during the whole period in which political economy was considered a branch of the art of government, industry itself appeared merely as a fact subordinate to the political order, occupying in each state a fixed and rather narrow place. As it was submitted to the supreme action of the political powers, which were looked upon as its guardians and natural directors, it was examined only in its relations to the state. It was looked upon then as a national fact in politics, and it is from this point of view that it was considered by all the early writers. But, in proportion as men closely observed industry, they were not slow to find that in no place did it stop at the conventional limits of states. They recognized in it an invincible tendency to extend, to spread outward, to go from one people to another, without respect even for the barriers which political power had established. It was seen to possess a sympathetic virtue which impelled it to clear away every barrier and to overturn or avoid every obstacle, to draw together nations the most different, and to rally them all into the great community of labor by a universal exchange of products and services. Such is the essential character of industry. Universal by nature, it has always been so in principle, and tends every day to become so in practice. The relations which it engenders extend from pole to pole; the species of community among men which it creates, already embraces the whole earth; and if certain feeble fractions of the human race appear still to escape its influence, it tends unceasingly and with an invincible force to draw them into its net. — As the field which economic science explores should be as extended as that of industry itself, whose laws it studies, it can evidently have no other limits in space than the limits of the globe itself. Certain economists, however, have been deceived here. They have tried to give their studies a more real or precise character by confining them, or rather by trying to confine them, within the limits of a given country. Such a tendency is remarked among certain writers of North Germany. But, try as they might, they have not been able to remain faithful to the law which they pretended to impose on themselves. "The theory of social wealth," says Fr. Skarbek, "may comprise the whole earth if we look at it as the patrimony of the human race; from this point of view, as broad as it is elevated, its investigation would, without doubt, offer to the mind many philanthropic ideas which would be shared by all the friends of humanity; but it would not lead to any important result in the science, and would not advance us in the knowledge of the principles of the wealth of nations." (*Théorie des richesses sociales*, 2d part, introduction.) We beg pardon of the estimable writer, but this point of view, "as broad as it is elevated," which he sets aside through caution, is the only true one. In order that political economy, or, as Fr. Skarbek calls it, "the theory of social wealth," should comprehend the whole earth, it is not at all necessary that economists should be given up to philanthropic ideas, or form wishes more or less realizable for a general union among all nations. It is sufficient that the science be exact and true. Strictly speaking, it is sufficient that it should be occupied with the phenomena which are peculiarly within its domain. Among these phenomena the first place is occupied by exchange, the division of labor, the subordination or the connection of the various kinds of labor, the circulation of products, the use of money. These are in industry the great arterial lines, the primordial facts which engender all the others; and this is true to Fr. Skarbek himself, who, like all other economists, accords them the first rank. Now, of all these phenomena, there is not a single one which stops at the limits of any state. They do not stop even in countries which surround themselves with a triple line of custom houses, and which reject foreign products as far as they can. Everywhere, no matter what is done, exchange extends more or less beyond these artificial barriers, and the labor of each country has its branches outside. The very efforts made at the frontiers of certain states to stop the circulation of products, only show more clearly the expansive tendencies of industrial facts. As to the circulation of money, nothing stops it, and here, with the full force of the term, we have a universal fact. But if all the principal economic phenomena extend beyond the limits of individual states, how can the science itself be confined within them? Fr. Skarbek errs, therefore, in this, for want of rendering an account to himself of the nature of the facts with which he deals. Rossi was in this respect much more in the right when he said that economic science, when carefully considered, had the world for its theatre. Does this mean that political economy should take no account of nationalities? Most assuredly not. On the contrary, it makes great account of them, but it does not confine itself to them; it could not, without mutilating itself or abdicating its place. "We must," says Fr. Skarbek, "look on the human race as it is, that is to say, divided into a great number of societies different from each other in the degrees of civilization and power at which they have severally arrived." (Ibid.) Doubtless it is necessary to look at the human

race as it exists, but if this human race is divided into a great number of political societies, it is not specially comprised in any one of them; to speak more clearly, it should comprehend them all. The only question is, whether the facts which political economy considers are *political* facts, that is to say, peculiar to one or the other of these societies, or facts of humanity, that is to say, common to all the human race. Now, the answer to this question can not be doubtful, at least as regards the science strictly speaking; it is not doubtful even in the writings of Skarbek, who could not have deceived himself on this subject if he had not reasoned on science, as unfortunately so many other economists do, with the preconceived notions of an *art*. — Nevertheless, nationalities, states, and the governments which manage them, are also, from a certain point of view, economic facts, and facts of considerable importance; the more considerable since it is through them that order, security and justice, so necessary in the great workshop of labor, are enforced. They should therefore not be forgotten. But to consider the human race in its totality, with regard to the general phenomena which concern it, it is not necessary to forget, nor to lessen, the particular facts which concern each one of the great fractions of which it is composed. Here, then, we have the field of political economy marked out so far as space is concerned. Its observations should not and can not be concentrated in a particular state; they should embrace the earth. To see what takes place in this or that country, is not to study industry, but fractions of industry. Even this partial survey is impossible, since any one who examines closely what passes in his own country, will recognize without difficulty that each of the phenomena which he has observed has its prolongation elsewhere. It may be of use, doubtless, to show the local influence of the particular kinds of legislation of each state, and the manner in which they modify the action of general laws; it is even necessary, in all cases, to take account of this salutary influence which every government exercises in its sphere, by the single fact of maintaining order and security. All these particular facts have their place in the vast circle of studies which political economy embraces, but it is none the less true that the ground of all these studies is in a sum total of phenomena which includes the human race in its entirety. — If, as to space, political economy knows no other limits than those of the earth itself, we can also say that it includes in its domain all men without distinction, to whatever class they belong or whatever their occupation. It would, indeed, be a great error to suppose that the industrial phenomena from which economic science draws its life concern only men actually engaged in industry, merchants, manufacturers, and all those commonly included under the name of workingmen; it comprehends all without exception. We are all interested in exploiting this globe of ours, and this is enough to bind us to the scene of our labor. If we are not all bound to it by our labor, we are at least so bound by our wants; and nearly all of us, it must be said, aid in this exploitation of the globe, even without knowing it, in a direct or indirect manner. This is not at all doubtful in the case of men who hold the reins of power in nations, or who govern them; it is by their ministry that order, security and justice reign in the great workshop of industry. From this point of view, functionaries, judges, officials of all kinds, assist in the common labor, by the fact alone that they defend it against acts of violence which might disturb it. This is also true in the case of scholars, who, without taking part in industrial labor properly speaking, throw light on the path of progress. If there is in the world a sufficient number of men of whom one can not say absolutely that they assist, directly or indirectly, in the common labor, they at least render certain services to their equals, and this is enough to warrant us in including them in the grand army of labor. It would, in fact, singularly lessen the scope of human industry to consider it as exclusively devoted to the material exploitation of the terrestial globe; it has a more general object, that of answering to all the wants of man of whatever nature they may be. Thus, whoever renders a service to his fellows, whatever be the occupation to which he is devoted, is connected with general industry by his labor. Who, then, are the men who are not engaged in industry in some way? Apparently only those who live at the expense of their neighbors, by theft, robbery or beggary, but even these, if they do not belong to the industrial order by their labor, are still connected with it indissolubly by their wants. — In the stage of civilization which humanity has reached, every man, in whatever position he may be, in whatever degree of the social scale he may be placed, depends on exchange, at least so far as his wants are concerned, which he can only satisfy through it. Now, exchange is the first of the general conditions of industry, and the chief source of all the others. He is also connected with the division of labor by the functions which he performs, if he performs any, or, in default of any, by the rank alone which he occupies. There is no person who does not use money, at least in certain cases, and money is one of the principal agents of the industrial order. In fine, we are all obliged to accept the value of things which the general condition of the markets has established. In all this we are irrevocably bound to the industrial order, and we submit to its laws. If a few men escape it, they are mere savages, and the last among savages, those who, lost in some corner of a desert land, have no relations with the rest of the world; for in regard to other savages, they make, after all, some exchanges, and generally devote themselves to some special occupation adapted to their support. Thus, the industrial order not only extends over the whole earth, it embraces, besides, all men, without distinction. Thus, too, the field of political economy, considered as a

science, being no other than that of industry itself, whose laws it studies, it is clear that it comprehends in its domain the totality of mankind. — From this point of view we can say that economic science has no limits; but if it has not, so far as the extent of the circle it embraces is concerned, it has them marked out clearly enough as to the object with which it is concerned. Though connected exclusively with man, it does not take all of man into consideration; that which it studies specially is human industry, comprising under this general denomination the sum of labors which men perform, or the mutual services which they render each other for the satisfaction of their respective wants. Further, it does not consider these special services except in so far as they are rendered under the law of exchange, that is to say, in consideration of a return. Man, living in society, has his duties to fulfill to his neighbors, his duties as a son, a father, husband, citizen; he has others to fulfill to his Creator. These duties political economy considers as foreign to its domain: it leaves the care of determining them and regulating them to religion, to morality, and the law. Besides the strict duties which religion, morality and law impose on him, man has feelings of sympathy which often decide him to come to the assistance of his neighbors without any hope of repayment. This is also an order of things with which political economy has nothing to do. It examines only those positive and strictly definable relations which are established between men, when each of them, while rendering services to others, counts on a just remuneration for these services, and works in reality for himself. — All this is easily understood, because it all results sufficiently from the single general enunciation of the object which economic science proposes to itself: the study of human industry. But what should be brought out more clearly is this, that political economy does not study even industry under all its phases; that, for example, it never considers industry in the processes which it employs in the technic or scientific means which it uses, but only in the relations which it engenders, and in the general laws by which it is governed. Thus, every industrial worker, manufacturer or merchant comes under the observation of political economy. This is not doubtful with regard to the labors which he executes. But political economy does not consider these labors in themselves and in their technical processes; it only considers them in their connection with the labors which are executed elsewhere and in regard to their relations with the whole. What is seen in an artisan is the place which he occupies in the great workshop of labor, the office which he fills there; but it does not inquire how he fills that office, or at least it only judges by results. It sees the products which he delivers to his neighbors, the condition under which he delivers them, and the remuneration which he obtains. It sees at the same time the action exercised upon him by all of his surroundings, the influences which he undergoes, and the necessities by which he is held to submit to them. But it takes no note of the processes which he uses in the branch of labor with which he is occupied. — Political economy is in this respect, then, perfectly distinct from technology, and in general from all the arts and sciences which men apply in the particular labors to which each one devotes himself. It takes account of all these arts and sciences, it gives them a place, but always considers them only in regard to their relations with the whole, only in the function which they fulfill, in the action which they exercise, but never in themselves, and in their processes. The reason of this is easily understood. If we admit, in fact, that there is in the industrial world, as it exists, certain constant relations between workmen, invariable laws, a fixed and regular order which can be settled and defined, it is this order, these relations, these laws, which political economy should study, and nothing more; it could go no further, to observe, for example, the particular processes of the labors whose relations it studies, without losing its way. Thus, the field of economic science is limited on all sides. It halts everywhere, if it is permitted to say so, at the very portals of the sanctuary in which the arts are carried on. It touches all these sciences and all these arts, but without interfering with any, examining them only in their relations to the whole. — This last consideration should establish a clear dividing line between political economy and politics proper. Politics is an art, the art of governing a political society or a nation, in view of certain ends; in view, notably, of establishing order, security and justice therein, of maintaining and making the rights of all respected. Political economy looks on this art, as on all others, in its relations with the total of economic facts, but in no way in its ordinary processes. It makes known, for instance, the salutary influence which a government exercises on the development of industry, when it maintains perfect security for all interests, absolute respect for all rights, and calls attention to the wrong which it inflicts on industry when it suffers these rights to be violated or when it violates them itself; but it does not discuss on what principles or what bases a government should be instituted in order to accomplish its mission in the best manner possible. This is a task which it leaves to politics as it leaves to technology that of determining the best possible methods of manufacturing in one branch of industry or another. — VII. *Actual or Possible Applications of Economic Science.* No science is destined to remain barren forever. Considered in itself, a science only studies what takes place and what exists, without inquiring what use may be made of the truths which it establishes. "From the moment that we busy ourselves," says Rossi, justly, "with the employment which may be made, or the profit that may be drawn, from science, we leave science and fall into art." Still, as the profit which may be derived from it is, after all, the final object proposed in

studying science, it is not forbidden, even to the scholar, to examine what are or would be its possible applications. This is the more necessary here, since in this Cyclopædia economic art and science are in many regards mingled and confounded. What, then, are the useful applications which may be made of political economy in the present, or those which may be made of it in the future? The study of economic science will not lead, we may be sure, to the discovery of that chimera, that sort of philosopher's stone, so long sought for: the art of enriching nations by means of legislative combinations; on the contrary, the first fruit of this study is to make it clearly understood that the creation of such an art is impossible. Political economy shows, indeed, in the first place, that all wealth is derived from the energy of individual labor or the spontaneous activity of men; it shows, in the second place, that this spontaneous activity obeys, of itself, or by the force of things alone, certain regular laws which direct it unceasingly toward the most fruitful results, toward results the best that human industry can produce. In the presence of these two capital truths, the first that flow from the total of economic investigation, we are convinced that every artificial combination imposed on human labor is capable only of troubling its natural order, and diminishing its fruits. Neither will this study lead to the discovery of that other art so vainly sought for by certain modern sectaries, that of dividing the fruits of labor among the different classes or the different members of society according to conventional laws, to render this division more equal among men, or, as is supposed, more conformable to equity. It shows, and this is another of the capital truths which it gives to the world, that the partition or distribution of the fruits of labor effected by the natural laws of industry, is, when no artificial system intervenes to trouble the action of these natural laws, or when violence does not prevent their effect, the most equitable and the best possible. It proves that this division is continually effected according to the grand principle which men have pretended to inaugurate by other means: *to each one according to his capacity, and to each capacity according to its works*—a principle of rigorous justice, which does not reduce men to an impossible level, but which leaves to each one a share of enjoyment corresponding to the sum of the labors which he has furnished, or the services which he has rendered. — In all this, then, the study of political economy leads us, and this is its first fruit, to renounce in an absolute manner the discovery of all those artificial combinations, in the search for which so many distinguished men have wasted their powers. It conducts us to this without effort, by the sole revelation of the natural order which it brings to light. After this revelation, all arbitrary combinations should vanish, because they have no longer any *raison d'être*, and because they can only trouble the pre-existing natural order. And this is why political economy, from the first, necessarily enunciated this great principle, *Laissez faire, laissez passer*, a principle which may be called a system if you will, but which has no value but this, that it is the negation of all artificial systems. Is this saying that political economy can not be applied usefully, that it can not reach any practical result? Decidedly not. On the contrary, there are many practical results, whose realization it can help to effect. — It is, to begin with, a first and very great practical result to have caused the abandonment of all artificial systems, the unhappy fruits of the errors of men, some of which have already brought many evils on humanity, while others have sometimes menaced it with still greater evils. Political economy has shaken these systems to their foundations, beginning with that which consisted in regulating the labors of men, subjecting them to hindrances; including those which strove for nothing less than to substitute a new organization of industry sprung all armed from the head of some excited enthusiast, for that admirable natural organization which human genius has produced. This is the first service which economic science has rendered, and if it had done nothing else, it surely could not be said that it is barren of results. But it can render others still more direct and of a more positive nature. — If from political economy we can not deduce the art of enriching nations, we can at least deduce from it another art, more rational and truer, that of governing them, in everything touching the interests of labor, in the manner most conformable to their natural tendencies. This still tends to enrich them, but by a different and much surer method, which is to desist from harassing their industry and diminishing its fruits. And if political economy, without interfering in politics, meaning by that whatever relates to the form itself of government, takes into consideration the state, or the power which directs the state in reference to the influence which it exercises and should exercise on the industrial circle which it embraces, it should also, for the same reason, say how far that influence ought to extend in order to protect the industrial order without troubling it. It is, then, its office to determine the real attributes of the state and the limits of these attributes. — It does more. Even within the limits of these attributes it indicates the best measures to be adopted, keeping always in view the industrial order which it studies, and the spontaneous development of human activity. Among the legitimate attributes of political power, is, beyond doubt, that of levying and collecting taxes, in order to satisfy its own wants. Without examining whose province it is to levy or collect these taxes, a question which belongs to the domain of politics, political economy examines according to what principles and in what form they should be levied and collected in order to obtain the sum of contributions necessary, with the least possible damage to the people. The theory of taxation is therefore one of the first arts which spring from

political economy. — It does not stop here. Although the essential and primitive function of political power is to establish security, justice and law, there are certain other functions which can not be denied it, that, notably, of directing in each state certain interests which can not, without danger, be left to the action of individuals, and which imperatively demand the interference of public power. The state should interfere more or less, for example, in whatever concerns the management of waters, the system of roads, etc. There are still other objects which are evidently within its jurisdiction. Men may discuss, and they will often discuss, the greater or less extension which it is proper to give to these accessory attributes of political power, but no one will deny that there are some which it can not and should not abandon. In all this, it is still economic science that has to furnish the general rules by which the mode and extent of the intervention should be regulated. In all countries, general legislation is necessary to regulate the rights of individuals among themselves, and those of individuals in their relations to the public. Commonly this legislation becomes complicated in proportion as the progress of civilization has created more numerous and complex interests. It is essentially important to the happiness of the human species that in its totality and in its details this legislation should always be in perfect accord with that natural order which political economy reveals. It is true that to establish this accord it is very often sufficient to have recourse to good sense and the common principles of equity, for political economy itself does not demand anything but the triumph of equity; yet this is not sufficient in all cases. Besides the fact that it is not always easy in the complication of various interests to distinguish what is truly equitable from that which is merely specious, there are in all the legislations of the world a great number of provisions which are merely formal, and which belong to what might be called civil police provisions; and which are necessary sometimes to establish the rights of individuals, and sometimes to guarantee their enjoyment and preservation. It is especially in this part of legislation that there is a risk of going astray when one is not aided by the lights of economic science. It often happens in such cases, either that the guarantees offered are not sufficient for the preservation of the rights which it is wished to protect, or that they are superabundant, and stifle the action of these same rights under the weight of the formalities which they impose upon those rights. The legislation of civilized nations is, in our enlightened age, far from being exempt in this regard from all reproach. There is, on the contrary, not one which is not overburdened with annoying provisions and ill-conceived formalities, prejudicial to the public, and opposed to the very interests which they are intended to serve. How is legislation to be purged of these imperfections? By a more careful and general study of that natural order which political economy reveals and whose conditions it explains. Science has already rendered brilliant services in this direction. To it, above all, is due the relative merit of modern legislation, which, though very imperfect, is still far superior, on the whole, to that in force in the past. It will render still greater services here in the future, and we may hope that the world will be indebted to it, sooner or later, for a system of civil laws exactly appropriate to the real wants of human society. — But it is not to legislators and governments alone that economic science has useful directions to give. Individuals may consult it with profit for the conduct of their private affairs, at least when these affairs extend beyond a certain limit. Individuals are forced, and more so than legislators and governments, to bend in all things to the industrial order to which they are essentially subordinate. They can scarcely, it is true, trouble it by their acts; for they have not the power to do so; at most, they are able to cause, by their errors or their faults, certain transient and altogether local disturbances in it. But the errors into which they allow themselves to be drawn, become fatal by hurrying them to their own ruin. They have, therefore, the greatest interest to avoid these errors, for on that their personal existence depends. Now, the best means of avoiding these errors is to study the industrial order in its essential constitution, in its natural tendencies and its normal development. If this study is not precisely necessary to the artisan and the retail merchant, who address themselves only to a small number of neighboring consumers, it is almost always necessary to those who work on a large scale, and especially to those who intend to embark in new enterprises. The majority of false steps taken on this road, and the disasters which they involve, when they are not purely the result of negligence or incapacity, arise from false ideas concerning the wants of society and its real tendencies. — Political economy has often been given names different from that which it usually bears, and there is nothing very astonishing in this, for this name, as we have seen, is not very appropriate to it, and has scarcely any merit but that of having been sanctioned by long usage. Of these names we shall recall but a few. First, as to the present and ordinary name of the science: its origin is very ancient, since it is found at the head of a French treatise dated 1615, due to one Montchrestien de Watteville. The publicists of the school of Quesnay, who perhaps contributed more than others to sanction this ancient title, have nevertheless sometimes substituted another, that of *physiocracy*, which still serves to designate their school and their doctrine. Adam Smith, who cared more for things than for words, adopted the received titles without examination. J. B. Say, though he also accepted them, did not do so, at least in his later works and in the last editions of his *Traité*, without repugnance and regret. He would have preferred to be able to give another more fitting name to political economy, and he

would have doubtless done so had he not feared to change the ideas of the public as to the real character of his labors. The name which he would have adopted in this case would have been *social economy* or *social physiology*, as he has himself declared several times. This last title would seem to us the most proper were it not likely to give rise to troublesome misunderstandings. The word physiology would, in every way, be very appropriate to economic science, since its object is to explain the action of the natural organs of industry. As to the word social, it would not be fitting except in so far as it should be well explained and well understood that the word relates to the great human society and that species of universal association which industrial relations create among men, and in no way to political society, which is only a fraction of that great society. Moreover, the word social has been so much abused in recent years, it has been made to serve as a cloak to so many foolish things, to so many anti-social and anti-human doctrines, that it will perhaps be necessary to avoid its employment for a long time to come. — Fr. Skarbek has entitled his treatise, "Theory of Social Wealth," another name for political economy, less acceptable than those we have just noted, and which, after all that has preceded, we need not discuss. — When there was created at the conservatory of arts and trades, at Paris, a chair of political economy, occupied at first by J. B. Say, and subsequently by Blanqui, it was called the chair of *industrial economy*. It may be that this name of *industrial economy*, imposed officially on a public chair, borrows from this circumstance a certain value, a certain authority. It has already served as title to a work founded on the first lectures of Blanqui, by two of his disciples. — Some persons, strangers to the science, have also tried to impose on political economy the name of *chrematistics*, or other names stranger still. But these ill-sounding titles have never been seriously considered by any economist or even by the public. — Whatever be the relative or absolute merit of some of these titles which we have passed in review, none has been able, up to the present, to prevail over that which long usage has sanctioned. After all, however incorrect this last may be, when it is considered in its etymological sense, perhaps it is better to adhere to it at least for the present. It is always dangerous, in the case of a science cultivated by so many minds, and in so many places, to alter or change received terms. And what importance has the etymological sense here? It is not the first time that a word has been deflected from its primitive sense, either by usage or by a change in the things themselves to which it refers; and we do not see that people who use it understand it the less on this account. If the future offers an opportunity to change the name which political economy still bears, it will be only when its general notions are more fully popularized and explained. The public mind will thus be prepared for the change of name.

CH. COQUELIN.

POLITICAL ECONOMY, History of. The history of the science of economics falls naturally into two periods: that before, and that after, Adam Smith. The year 1776 may fairly enough be called the birth-year of economics, for in that year appeared Adam Smith's immortal work entitled, "An Inquiry into the Nature and Causes of the Wealth of Nations." The science had passed through two stages of its development before that time: the embryonic and the formative periods. Men had thought upon economical subjects for ages in a desultory, blind sort of a way, but had produced nothing which even remotely resembled the science now called economics until within two centuries of Adam Smith. The embryo began to assume shape in the writings of those men who immediately preceded the so-called mercantilists; it appeared in a more developed shape in the formulations of the mercantile writers during the seventeenth century, and assumed a still more definite and orderly form in the theories of the economists or physiocrats of the eighteenth century. It was reserved for Adam Smith, however, to actually bring it into life and start it forth in its career of development. Adam Smith occupies a very similar position in the history of economics to that occupied by Kant in the history of philosophy. All theories and development of the preceding ages culminate in him, all lines of development in the succeeding ages start from him. His work has been before the public over one hundred years, and yet no second book has been produced that deserves to be compared with it in originality or importance. The subsequent history of the science is mainly the history of attempts to broaden and deepen the foundation laid by Adam Smith, to build the superstructure higher and render it more solid.— Those who have attempted to find the origin of economics in antiquity have met with poor success. Even Roscher, with all his love for the historical method and his wonderful acquaintance with economical writings, has not been able to prove anything more than that ancient writers discussed some phases of various economic subjects—as how could they help doing so, if they touched upon social or political matters at all? One might as well claim that the New Testament contains a systematic treatise on political economy, because it discusses the proper method of treating the poor, and the relations between masters and servants, as to maintain that Plato and Aristotle, in their discussions of the state and its functions, elaborated an economic science, or even laid the foundations for such a science. Greek and Roman writers, it is true, discussed economic questions. So they discussed chemical, physical and geological questions, but it would hardly be claimed, even by their most enthusiastic followers, that they laid the foundations, in any real sense, of the modern sciences of chemistry, physics and geology. They considered nearly all questions which present themselves to the inquiring human mind. But many of them they did not approach from

the right direction, and consequently their thought did not result in anything valuable. They reflected upon economic questions, and discussed them to some extent, but not from an economic standpoint. Economic issues were decided, not from economic considerations, but on social, political, religious or even esthetic grounds. Three things prevented the Greeks from elaborating a science of economics: 1, the abstract nature of their science; 2, their economical institutions; 3, their political and social theories. (Eisenhardt.) Greek science was abstractly philosophical. It was pre-eminently *a priori*. It was in such haste to reach ultimate generalizations that it was not content to make even elementary observations of actual facts. As a consequence it became mere form without content. Its theories were often directly opposed to patent facts. Such a method could not develop a science of economics, whose starting point is certainly the concrete facts of the material and moral world, whatever its subsequent logical method may be. Nor was the social and economic organization of the Grecian states any more favorable to the development of economics than their scientific method. Greece never got beyond the natural economy—that form of social organization in which the community is made up of a mere aggregate of households, each of which is largely independent of the others, since it satisfies its own want of material commodities by producing them itself, instead of depending on acquiring them by exchange. The typical Greek state was based on a landed aristocracy, whose members dwelt each in the midst of an estate, on which he employed enough slaves to work the lands and manufacture the commodities which necessity and comfort required. The economical phenomena of such a social organization could not be so striking as to attract the thoughtful attention of the thinkers and philosophers long enough to result in any valuable system of science. And finally, the Greek idea of labor barred in a most effectual way all attempts to investigate its real nature as an economic factor. Physical labor was held to be degrading. It unfitted a man for the higher and nobler duties of life, those relating to the state. It was necessary, therefore, for human society to be divided into two classes, the slaves and the masters. All physical labor must be performed by the former, so as to leave the latter leisure to live for the higher purposes of life. Plato carefully excluded artisans from his ideal state, and after calling a state organized in their interest a state of swine, he says that it is not worth the trouble to spend any time in discussing them. Aristotle recognized only one kind of physical labor as worthy occupation for free citizens, and that was agriculture. In this respect the Romans resembled Aristotle. Senators were disgraced who took part in undertakings which were not aristocratic, and agriculture was the only kind of physical labor which was allowed to be aristocratic. Of course, with such ideas of labor, there was no possibility of a science of economics, in the modern sense of the term. This bar to the rise of political economy was taken away by the triumph of Christianity, which made the servant equal to the master in the sight of God, and all kinds of labor equally honorable. But early Christian science was as antagonistic to any thoroughgoing investigation of economic problems as had been its predecessors. For, in the first place, it was as abstract and as *a priori* as Greek philosophy. In fact, it was a mere outgrowth of the latter, and for ages it did not get beyond it. In the second place, the ascetic influence was decidedly prominent. The doctrine of renunciation was preached. The way to get rich is to become so deeply interested in the life beyond the grave that the wealth of this world shall become of no importance. Such an idea was as inimical to the rise of political economy as the ancient idea of labor. Mediæval society also resembled that of antiquity, in that it was essentially a mere aggregate of private households, each largely independent of all the others. The system of barter still prevailed. Society was divided into two classes, lords and serfs. The latter lived for the former, and these, theoretically, for the state and the church, practically, for themselves. But toward the beginning of that period which we call modern times, things began to change, and the conditions began to be realized, one by one, which were necessary to the rise of economics. The first great step was the rise of the cities. The artisan and commercial classes began to work themselves up out of the subordinate positions they had always occupied, to an equality with the clergy and nobility. By coming together in cities they managed to develop a political strength which secured their rights and privileges. By the cheapness of their products they began to build up a trade with the country. The first germs of that vast organism which we may call the industrial economy of the world began to vegetate. Exchange by money began to take the place of exchange by barter. The trades unions insisted on the dignity of labor, and the representatives of the cities claimed equal rank with those of the courts. The growth was rapid. Kings and princes saw in the cities a means of humbling the power of the barons and of increasing the revenue at their disposal. The need of money to sustain their armies led the kings to consider the best way of getting money The thought and attention of their ministers were directed more and more powerfully to this subject, though of course all the time more toward the practical question of how to get a large revenue, than to the theoretical one of how to establish and maintain national wealth. Works upon money are consequently the earliest writings we have on economical subjects. It might have been a long time, however, before any system of economical theories would have been elaborated, had it not been for the discovery of America. To the gold and silver mines of Mexico and Peru we are probably indebted for the mercantile theory. The

revolution in prices in western Europe caused by the influx of gold and silver from America, was both intensive and extensive, and its effects are traceable even to this day. Many modern economists are never tired of belittling the theories of the mercantile school, and of expressing their surprise that men ever held such views. A glance at the conditions under which it rose will do much to explain its *raison d'être*. Most modern writers on economics unite in attributing but little importance to the increase in the amount of money in a country. Mill says that if the quantity of money in the possession of every individual in a nation were suddenly doubled, the only economical effect would be a rise in prices equal to the increase in the amount of money in circulation. Now, although this might be true of the case which he supposes (which he does not by any means prove), yet it is plain that, if the same amount of money were put at the disposal of a few men, its passage into circulation might have a most powerful effect on the whole national economy. It might work out a total redistribution of wealth before it had all passed into circulation and produced its legitimate effect of raising prices. Such was the condition of things in the world market from 1500 to 1600. A large addition was made to the money of the world. This addition was in the possession of a single nation. The economical superiority of this nation in western Europe was undisputed. Its political superiority followed as a matter of course. Spain, by virtue of its immense acquisitions of gold and silver, became mistress of the wealth and lands of Europe. Prices rose rapidly, but Spain was in a condition to profit at the expense of the rest of the world. The quantity of money in the European world in 1600 was estimated to be about four times what it was in 1492. Bodin, in his *discours sur l'excessive cherté*, published in 1574, says that prices had risen ten to twelve fold within seventy years. Bishop Latimer, in his sermons (1575), says that he had to pay sixteen pounds rent for the estate which his father had had for three-fourths of a pound. The European world contemplated this unheard-of and universal rise in prices with dazed fear. If this thing continues, says Latimer, we shall have to pay a pound for a hog after awhile. It was, of course, natural that men should see in such a revolution a real increase in the cost of commodities. It was widely attributed to the usurious manipulations of the large banking houses. It was therefore a long step forward toward the rise of economics when Bodin declared that this whole phenomenon was a mere sinking in the value of gold and silver, and not an increase in the value of other commodities. Just as much corn, cloth, etc., is produced now as before, and at the same expense of labor and capital; the only difference is, that money has become much more plenty, and consequently has sunk in price. But while this expressed a great economic truth, it did not change the fact that while this process was going on it had produced a very different distribution of wealth among the European nations to the advantage of Spain, nor could it obscure the fact that money had been the great instrument in effecting this distribution. The phenomena attendant upon this enormous redistribution of wealth attracted the attention of eminent thinkers of all nations. They naturally attempted to account for them. The theory which they elaborated has become known as the commercial or mercantile system, and was the first attempt to systematize and arrange in scientific order the complicated phenomena of the industrial world, and, as such, deserves a somewhat careful examination. This theory arose from discussions of the money question, and was primarily a mere theory of money and of the laws controlling its creation and distribution. It included, however, the discussion of many other points, and it will be presented here as it appeared in its later form. — The most striking peculiarity of the mercantile school, as Roscher has happily remarked, consists in a five-fold over-estimation. The mercantile writers, as a rule, over-estimated the importance of a dense population, the value of a large stock of money, the advantages of foreign trade, the importance of manufacturing industry, and the efficiency of governmental control and supervision. We have already explained how naturally they were led by the circumstances of the time to over-value the precious metals, which formed the money stock of the world. The underlying principle of the whole mercantile school was that a nation's wealth is to be measured by the amount of the precious metals which is circulating within its limits as money, and that the national economy is consequently to be organized so as to attract as much money as possible into the country, and to retain it when once obtained. They held that wherever money performs its service as a universal medium of exchange, the individual is rich in proportion as he can control money, and that what is true of the individual must be true of the nation, which is only an aggregate of individuals. Further, that although the wealth of a nation does not consist altogether of gold and silver coins, but of money and what is worth money, yet money is the most important element of wealth, because it is not consumed and destroyed like provisions, and because it forms an essential condition of a lively domestic commerce, and of a great production and consumption, and must also be regarded as an unusually important, nay, indispensable, resource, and as a powerful promoter of international commerce. Again, that the vigor, authority, efficiency and power of the government at home and abroad depend mainly on the amount of money at its disposal, and that great and successful wars can never be waged without abundance of money. Finally, that the importance of money can be seen from the fact that all those states which, by means of manufacturing industry, foreign trade or other expedients, have succeeded in obtaining the largest amount of the precious metals, and in whose territories there is the liveliest

circulation of money, have distinguished themselves from other states by a great population, prosperity and power. Starting from these considerations, the value of any branch of national industry, the propriety of any course of national policy, must be tried by its probable effect on the quantity of money at the nation's disposal. Agriculture, although necessary to the existence of a people, can not increase the national wealth very much, because its products, as a rule, are rapidly consumed, and, even if shipped to foreign lands, can not bring back much money, since they are generally exchanged for manufactures. If the products of agriculture were worked over at home and sent abroad in a perfected form they would serve to support a flourishing manufacturing and commercial population, and money would flow into the country in abundance. In the opinion of the mercantilists, then, agriculture is to be fostered as the nourisher of the nation, and as the source of various kinds of raw material which manufacturing industry needs; but as compared with other branches of industry which contribute to increase the quantity of money, the nerve and sinew of national power and prosperity, it is only of secondary importance, and can by no means lay claim to special care and favor. In reference to mining, which is intimately connected with the production of raw materials, the mercantile school held, that the mining of the precious metals is an extremely important source of national wealth, for it contributes immediately to swell the quantity of gold and silver. The opening of mines, then, at home or in the colonies, must be a special care of every government which understands its true interest. Gold and silver mines should be kept open, even if they yield no profit, or indeed if they can be worked only at a loss; for the money with which the costs of mining are defrayed remains in the country, while the precious metals so obtained are a permanent gain to the national wealth. — In opposition to agriculture the mercantile system recognizes manufacturing industry as especially important to a nation; for it alone furnishes those products and commodities which can be exchanged with foreign countries for cash, while it also prevents money from going to foreign countries in return for manufactures. It is to be regarded, therefore, as a powerful lever in acquiring money. The mercantilists hold that everything which can be produced at home should be produced there, even if the costs of production and prices should be higher than abroad; for the higher prices paid to the producers remain at home. Those branches of industry are of most importance which furnish artistic products for the foreign market, for these not only prevent money from leaving the country to purchase such things elsewhere, but they are the very things that bring in most money. In consequence of the significance, importance and necessity of such industry, it becomes one of the chief functions of the state to further everything which can promote it in any way, and especially to aim at securing low wages of labor, cheap provisions, low rates of interest, cheap raw materials, skilled laborers, large markets, cheap transportation, etc., since these are prime conditions of the expansion and progress of the technical industries. This can only be attained when the government keeps the wages at a proper minimum by police regulations, fixes the prices of the necessaries of life, hinders the export of corn, fixes the rate of interest, and renders difficult the exportation of raw materials, while offering a premium on their importation. It must at the same time attempt to persuade skilled laborers to immigrate from foreign countries, reward and promote skill and inventiveness by patents and pensions, by monopolies and privileges, improve the means of communication and transportation, and regulate domestic and exclude foreign competition. What the landowner, farmer, laborer and capitalist, and the whole class of consumers, lose by this policy, is made up to the state as a whole, for in this way the efflux of money to foreign countries is prevented, and the consequent increase in rapidity of circulation accrues to the advantage of all. In regard to domestic commerce, the mercantile school held that inasmuch as it is exclusively occupied with domestic wares and products, it is of importance, from an economical point of view, only in so far as it assists manufacturing industry by furnishing it good and cheap raw material. Very different is it with foreign commerce, which occupies a most important place in the industrial and mercantile life of nations, and must, therefore, be an object of special care to the state. First of all, care must be taken that no money leaves the land through foreign commerce, or at least that no more flows out than comes back. The "balance of trade" is taken as an indication of the movement of the money. In order to secure a favorable "balance of trade," that is, in order that more money shall be imported than is exported, the importation of foreign manufactures is to be prevented or rendered difficult by customs duties, while the importation of raw material is to be allowed, because it promotes manufacturing industry at home. The exportation of domestic manufactures, on the contrary, is to be promoted by every possible means, since they bring in money the most surely and in the largest quantities. In order that the manufactures may obtain a large market in foreign lands, especial care must be devoted to the cheapness and excellence of the wares and products so as to compete easily with foreign products. The cheapness of the goods is to be secured by the methods mentioned above, by low taxes, etc., while the quality is to be assured by a very detailed system of inspection and control on the part of the government. The latter must examine all commodities destined for foreign markets, insist upon honest and fair workmanship, and confiscate all goods of a poor quality or such as would be likely to injure the prospects of trade. It should further assist and encourage the producers by rebates and premiums on exportation,

and should insure them against unavoidable accidents and misfortunes. The mercantilists claimed that premiums on exports do not injure anybody, because they are paid to inhabitants of the country, and consequently remain at home. Foreign commerce is to be encouraged by the establishment of great trading companies, by the planting of colonies, by treaties of commerce with other nations, by great fairs, etc. — The mercantile school insisted, further, that the mere accumulation of money by mining, manufacturing and trade did no good of itself, but that if the money was to accomplish its true mission, and be of any great advantage, it must circulate rapidly from hand to hand. A large body of consumers, therefore, is necessary to any great advance in national wealth. The state should not be niggardly in its expenditure, for, since the money all remains in the land, a liberal consumption of products and wares promotes production in every line. Their theory of taxation was, that so far as the expenses of government can not be defrayed by domains, monopolies, fees, etc., they should be met by taxing the profits of the citizens. Great care must be exercised, however, not to tax infant industries too heavily, and in many cases they should be exempted from taxation. Since the power and basis of national wealth are to be found in a large and dense population, the state should devote especial attention to promoting, by every means in its power, the growth of population. Their views on population are easily accounted for. Society was in that transition state when every increase in numbers, so far from resulting in greater proverty and distress, acted merely as a stimulant to new undertakings and richer achievements. — The above set of views, to which the name of the mercantile or commercial theory has been given, ruled the political world during the whole period of modern times down to the close of the French revolution, and still maintains a hold in some places. It is difficult, or rather impossible, to say who was the founder of the mercantile school, or in what land it had its origin. It was such a natural outgrowth of the conditions of society that it made its appearance about the same time in Italy, France and England. And although a good case may be made out for Italian and French thinkers as the earliest theorizers on this subject, yet an exact form was given to these views first by Thomas Mun in a posthumous work published in 1664, and entitled "England's Treasure by Foreign Trade; or, the Balance of our Foreign Trade is the rule of our Treasure." — One of the practical results of such views, when adopted by statesmen, was a thoroughgoing paternal system of government. The state undertook to regulate every department of life. Free trade was as unknown as free speech or free thought. The economy of the world was forced, as it were, into a strait-jacket. Everything moved along artificial channels. Nothing was natural and free. There came a time, of course, in the progress of civilization when such a state of things was no longer tenable. Men began to grow restive under this continual restraint. They longed for a greater liberty of thought, speech and action. The period of agitation in the intellectual and religious world began in earnest with Voltaire. It was one of his contemporaries and countrymen who voiced the general dissatisfaction of the time in economical matters. Side by side with the champions of political and religious freedom, François Quesnay represented the economical phase of this great struggle. The system which he founded has been called the agricultural or physiocratic. It is a vigorous protest against the theory and practice of the mercantilistic school. Although it never acquired the importance, either theoretically or practically, of the latter, yet it marks an important stage in the development of the science of political economy, and is, therefore, worthy of our special attention. — If the mercantile theory over-estimated the importance of the technical industries and of the towns, the physiocratic went as far the other way in its valuation of agriculture and of the country. The fundamental principles of the physiocrats were few and simple. The very name itself which was given to the school signifies its most important characteristic. Its first principle was, that all national wealth is derived from the soil; agriculture is the only productive occupation; the production of raw material is the only calling in which the value of the product exceeds the cost of production. The labor of the farmer yields not only enough to support him while engaged in the labor, but a surplus over and above this, which may be called the net product. This net product generally falls to the landlord under the form of rent, and is the fund from which all expenditures of a public nature must be defrayed. The landlords, since they live without labor, are called the *classe disponible*, and they may devote themselves to the service of the public. Manufacturers and artisans are unproductive. They add value, it is true, to the raw material which they work over, but only as much as is equivalent to the cost of their support while engaged in their work. If they are able to save anything from their income, they do it either by limiting their consumption within too narrow bounds, or by some favoritism of government or of chance, which secures them against competition. Although unproductive, these classes are by no means useless, since by their labor they give permanence to the utilities embodied in raw material, and by their improvements they lessen the cost at which the agricultural classes can supply themselves with the needed manufactures; and so, by diminishing the cost of living of the farmers, they render possible the increase of the ground rent, that is, of the net national revenue. Their views on money were essentially different from those of the mercantile school. While they acknowledged a nation to be rich which possessed much money, yet since money can be obtained from foreign countries

only by exchanging agricultural productions, no advantage is gained by such an exchange. They looked upon commerce in the same light as manufacturing industry. It added no value to the commodities beyond the wages of the laborers engaged in transportation. Since the only surplus product of labor is this ground rent, physiocrats maintain that all taxation should fall upon this alone. Any tax upon industry, wages or commerce, tends simply to increase the price of manufactured commodities, and the cost of living of the agricultural classes, and so diminish the ground rent and the net revenue of the nation. The practical consequences of these few principles were sweeping and widespread. They demanded unlimited freedom of competition in every department of economic life, abolition of all import and export duties, the encouragement of agriculture by every possible means, simplification of taxation, and the protecting of industry and trade by leaving it the fullest liberty. — The rapid spread of the doctrines of the physiocrats is easily accounted for when we take into consideration the economic and political conditions of the time. Not only France, but all Europe, was just emerging from the feverish and excited period of over-speculation which ended with the collapse of John Law's Mississippi bubble. Men had seen every form of property take wings and fly away; all classes in the community had speculated and lost; but the farming class had been relatively safe. Landed property in France had indeed increased somewhat in value: no wonder that men turned their attention thither in the hope of recuperating their lost and ruined fortunes. This seemed like a solid rock in the wild and fluctuating sea of speculative vocations. Quesnay's glorification of agriculture, therefore, fell into good ground and was enthusiastically received. — The economic views of the physiocrats are intimately connected with their ethico-political ideas. They base their social laws upon natural laws, and seek to establish a harmony between the useful and the just. They were not content with studying merely one phase of national life, the economic side, but endeavored to trace this back to a greater whole, to connect it with the political and moral elements of social life. According to Quesnay's idea, the world and humanity are controlled by certain permanent physical and moral laws, which man is to seek out and use for his own ends. One of the main purposes of human and social life consists in the appropriation and control of matter for human ends, and so in improving and increasing man's prosperity. In following out this aim man must obey the demands of justice in its connection with the idea of the useful. This idea of justice manifests itself in freedom and in property, that is, in the right of every one to do what does not injure the whole, and to acquire, possess and use all commodities so far as this does not come in conflict with the laws of nature and of social organization, with the behests of morality and of political wisdom. Freedom and property, therefore, are fundamental elements of human nature and of political organization, rights of such high importance and sacredness that in every human society they are to be highly valued, and to be protected, secured and promoted, since they form the essential support and condition of the state in general; and without freedom and property, without law and justice, no economical nor intellectual nor political nor moral progress of nations is conceivable. In a word, the physiocrats demanded freedom and justice in all social relations, freedom of conscience and freedom of the press, freedom of trade and commerce, equality before the law for every man, etc., and the example of nature was to be the criterion and model of all social and political institutions. — The theory of the physiocrats had an ardent admirer and defender in the practical statesman, Turgot, who attempted the task of saving and regenerating France by reorganizing the finance and economy of the nation in accordance with physiocratic principles. With his brief and troubled career as prime minister of France, disappeared all hope of putting into practice the doctrines of the physiocrats. The school lost its hold upon the minds of men almost as rapidly as it had acquired it. Adam Smith, however, who gives an account of the school, principally to show up its errors, admits that the system, with all its imperfections, was perhaps the nearest approximation to the truth that had up to his time been published on the subject of political economy, and ascribes important practical results to its temporary but universal acceptance in the French republic of letters. — The next system of political economy arose in England, and has been called the industrial system. It was the first fairly successful attempt to treat the phenomena of national wealth in a truly scientific manner. — Adam Smith, the founder of our modern science of political economy, had for years made a study of economic phenomena and economic theories before he resolved to devote himself to the production of the work which has made his name immortal. He spent a year or two in Paris, where he became intimately acquainted with the most prominent French economists, especially with Quesnay, the founder of the physiocratic school, for whom he always entertained the greatest admiration. After returning to England he withdrew to the solitude of private life, and after five years of constant study he began to formulate his economic theories in a systematic treatise. Five years more of unremitting toil were devoted to the writing of the book, and in 1776 appeared his "Inquiry into the Nature and Causes of the Wealth of Nations." It placed him immediately in the very front rank of economists, and marked the opening of a new era in economic science. Adam Smith's career, as Eisenhardt well says, strikingly illustrates the truth that epoch-making works are produced only at the expense of a whole life, and that even in a special department they can only be produced by men of the most comprehensive

culture. —Wealth, according to Adam Smith, consists in all material commodities which are serviceable to the attainment of human ends. It has its origin in human labor, which, in conjunction with natural agents and the results of saving, *i. e.*, capital, effects the gradual advance of nations in prosperity and industry. Labor is most effective and fruitful when properly divided and combined in the various economic occupations, and when left free and unhindered to employ itself as it sees fit in production and exchange. Out of this division and combination and unhindered employment of labor arises such a distribution of wealth as secures to every participant in production his fair share of the product. This last holds true of nations as well as of individuals. — These ideas pervade all Adam Smith's expositions in political economy. They should be kept in mind as we develop the subject more fully. A prominent feature in Smith's system is the importance he assigns to the psychological element in human activity, particularly in economic activity. Self-love is the ruling principle in the intercourse of human society; it is a justifiable moral force, and is the most powerful agent in the increase of national wealth. As a natural consequence of this view it follows: that nature herself has provided for the gradual increase of national wealth by giving man such a nature and putting him in such a world; that the surest, most effectual, nay, the only, way to make a nation prosperous and rich is by following the example and hints of nature, by letting every individual pursue his own advantage in the way that pleases him, so long as he does not infringe upon his neighbor's rights, and by letting him exchange the fruits of his industry with those of another's without let or hindrance. The free play of self-interest and individual activity furthers generally the common good also, so that there is rarely occasion for the interference of the state in economic matters. This principle is fundamental, and Smith recurs to it again and again. In connection with this he emphasizes the right of individual liberty and equality, and insists upon the abolition of all the restrictions and hindrances to trade and commerce which impeded them in his day. Men have a natural right to apply their property and talents in that business which will bring them the largest return, and the state has no right to interfere except to protect individuals in their natural rights from the encroachment of others. Freedom of individual activity is the animating, fructifying principle of economic life. It is the air in which the body economic lives, the light which vivifies it, the breath which pervades it, and excites everything to activity, the basis of all development and perfection, the lever of all progress, the spell by which everything bad may be exorcised, and all that is good and great and enduring may be excited. (Kautz.) Enlightened self-interest of the individual and the interest of society are one; there is, therefore, an ultimate agreement and harmony of all economic interests. — Smith's theory has been very properly called a theory of production. It is true that he considered not only production but also exchange and distribution; but exchange he discussed only as a means of increasing production, while he disposed of distribution in such a summary and unsatisfactory way that his views on that subject have not commended themselves to any great number of subsequent economists. Wealth does not consist in land alone, nor in money alone, but in all those material things which are suitable to satisfy human wants and to increase the conveniences and amusements of life. It is produced by labor working in conjunction with natural agents and the products of previous labor, viz., capital. Of these, labor is by far the most important factor. It is rendered efficient by division and combination. (See LABOR.) It is the real measure of the exchangeable value of all commodities. (See VALUE.) Division and combination of labor are possible on any large scale only when exchange of products is possible. Freedom of exchange, therefore, is a fundamental condition of the highest productivity of labor. Labor is distinguished as productive and unproductive. The former includes all labor which fixes and embodies itself in material objects, while the latter includes all immaterial, social and intellectual services. Commerce, manufactures and agriculture are all productive; but the last is the most productive, for it employs both human and natural agents at once. It is the most solid and enduring source of wealth, and forms the basis of national prosperity. It is the necessary presupposition of all other occupations. — Capital is that portion of one's stock or accumulation of property which is employed productively, *i. e.*, so as to yield a revenue to its owner. It is divided into circulating and fixed capital, the former including such as must pass out of its owner's possession before it can yield a return, the latter being that which may remain in one's possession and still yield a profit. An example of the former is a merchant's stock of goods; of the latter, investments in permanent improvements of a farm or a factory. It will be seen that Smith exaggerates the importance of labor as a factor of production; although he was the first to give us an even approximately complete and satisfactory discussion of the physical conditions of production and distribution. He was also the first to distinguish clearly the idea of capital, and to recognize its accumulative power and its significance in an industrial system. He did not realize, however, the importance of the non-capital stock in the national economy, and consequently left deficiencies in his theory which he could not supply. — Another field in which Smith did original work was his theory of the circulation or exchange of commodities; the theory of price, of money, of market movements, etc. Money was a necessary consequence of man's tendency to exchange, and also the condition of any extensive system of exchange. Money is not identical with wealth, as many have maintained, nor is it even the most important

kind of wealth. It is a simple commodity whose value and price varies like those of any other commodity. It is to be regarded as an unproductive, dead capital, because it leaves no utility fixed in a material object as it passes from hand to hand. The amount of money in a land bears a fixed, though perhaps indeterminable, ratio to the quantity of exchanges to be effected by it. Price is distinguished: 1, as real price, the quantity of necessaries or conveniences of life given for a commodity, and nominal price, or the quantity of money given for it; 2, as natural price and market price. Market price is determined by the higgling of the market, and is affected by temporary demand and supply. Natural price is such a price as is sufficient to pay the costs of production. The former tends to approximate to the latter. Natural price includes, as constituent parts, natural, *i. e.*, ordinary, wages of labor, natural rent for ground, and natural profits of stock employed in raising, preparing and bringing to market the commodity. — Smith was the first economist to investigate the nature of income, and the conditions and elements of its increase and distribution. He divided national income into wages of labor, ground rent and interest on capital, and developed to some extent the principles which underlie their distribution. Rent forms an essential part of the price of all agricultural products, and since all land cultivated must yield more than enough to sustain the labor employed on it, all land yields a rent. Position is as important an element as fertility in determining the rent of land. The natural reward of labor is the product of the same. But in a civilized society where the land has been appropriated and capital has been accumulated, the laborer only secures a portion of the product as his reward, and must give a portion to the landlord and another to the capitalist. The wages of labor are determined by the general laws which regulate price. We may designate that as the minimum rate of wages which will barely enable the laborer to found a family and keep himself able to work. Under favorable circumstances the laborer may secure for himself a rate far exceeding this. Wages are highest, not in the most wealthy countries, but in those which are increasing in wealth most rapidly. Combinations of workmen to raise wages can seldom accomplish any good, and generally do great injury. The rate of profits on capital varies very greatly in different states of society. It is determined by the relation of demand and supply. It tends to fall as society advances, while rent and wages tend to rise. As labor is the source of all wealth, so saving and economy are the only means of accumulating, *i. e.*, of creating, capital.—We have called Smith's system a theory of production, and rightly, too, as distinguished from a theory of distribution, which political economy is still waiting for; but Smith was the first to present the interests of consumers as entitled to as much consideration as those of the producers, whose interests as a class had been almost exclusively regarded by previous economists. Consumption is the sole end and purpose of all production, and the interests of producers are to be considered and furthered only so far as they affect the interests of consumers. Smith's ideas of the significance of a large population were distinctly opposed to those of the mercantilists, and foreshadowed, in an indistinct manner, those of Malthus. — Smith's chapters on taxation marked an epoch in this department also. He developed the economic basis of taxation. He discusses, first, what are the necessary expenses of the government or commonwealth; which of those expenses ought to be defrayed by the general contributions of the whole society, and which of them by that of some particular part only, or of some particular members of it; secondly, what are the different methods in which the whole society may be made to contribute toward defraying the expenses incumbent on the whole society, and what are the principal advantages and inconveniences of each of those methods; and, thirdly and lastly, what are the reasons and causes which have induced almost all modern governments to mortgage some part of this revenue, or to contract debts, and what have been the effects of those debts upon the real wealth, the annual produce of the land and labor of the society. Smith's canons of taxation have become classic, and English and American political economy has not yet got beyond them. (See FINANCE, SCIENCE OF.) —"The Wealth of Nations" stands as the dividing line between ancient and modern thought on economic subjects. It is the synthesis and conclusion of everything that had preceded; it is the starting point and basis of all subsequent development. If we were to sum up, says Kautz, the defects of the industrial (Smithian) system of political economy, we should mention, first, the overwhelming predominance of the material element, which prevented the founder of the modern science of economics from properly appreciating the intellectual and moral elements of political and economic life, and caused him to devote his attention exclusively to the purely economic elements and factors. Man appears in his expositions, not as an ethico-political being, but as a mere wheel in the sweep of a great mechanism. Nothing but the economic ability, the producing power, of the individual and of society, is considered, and consequently the higher moral and political ends and relations of the community are left out of sight. As a consequence, Smith's conception and treatment of the problems of distribution and consumption are defective, since he gives but little attention to these elements in their connection with the politico-social life of nations. He devotes his thought always and everywhere to the greatest possible sum total of production. He rarely considers, how, by what means and at what sacrifice of moral and social interests, this sum total has been produced, or in what proportion, or whether in any at all, those participate in the enjoyment of this product who have assisted in its production, or whether prosperity, enjoyment

and reward stand in any relation to the sacrifices and privations of labor. He fails to attain to that deeper conception of the higher spiritual essence of the state and national life: for nations are to him nothing but aggregates of individuals controlled by merely material and economic motives, and not communities of souls who, aside from their material ends and wants, have and pursue moral, political and spiritual ends and aims. A second defect is the almost absolute glorification of self-interest, and the raising of individual advantage to the rank of a fundamental principle in economics, by which, on the one hand, his views of state interference become one-sided, and, on the other, economics becomes a mere science of private acquisition and exchange, in which the individual appears as an egoistic natural force which works always and everywhere in the same way, and thus every interference of the state on grounds of public interest becomes superfluous. It will be seen that Smith's views were intimately connected with the theory of the state which prevailed during the eighteenth century, in that both proceed from the same negative atomistic view of civil society, and regard the interests of individuals as the sole end of the community. Just as the state, in the view of political rationalism, was nothing but a legal institution to preserve the freedom of the individual, and appeared as an association based on a contract, so in the economic rationalism of Smith it is only a union of private economies, and an association based on the exchange system of individuals; and in both theories the private advantage of the individual appears as the cause and bond of association. To this defective conception of the state we must ascribe the fact that the "*laissez faire, laissez passer*" theory finds its extremest development and sanction in Smithianism. The rôle of the state is reduced to almost nothing, and the interference of the public in the national economy is declared to be almost unconditionally injurious and dangerous. — Among other defects we may mention his emphasis of value in exchange and disregard of value in use, his denying to immaterial labor the quality of productiveness, his unsatisfactory treatment of the elements of nature and capital in production, his failure to appreciate the importance and range of combination and association among laborers, his superficial discussion of fundamental concepts and disregard of form and arrangement in grouping his material. Finally, we must characterize as a defect, Smith's conception of the eternal and unchangeable nature of the laws which control and regulate the economic life of nations, and of the absolutely unconditional validity and applicability of all economic principles and truths. Out of this view rose a politico-economic theory which leads to a fatalism, in which the ethical power and freedom of the human will are utterly powerless in the grasp of natural law. No attention is paid to those historic, national and natural peculiarities upon which the different form and development of the various systems of national economy depend, and by which, therefore, the concrete relative significance and truth of economic principles, institutions and systems are conditioned. The attempt was made to construct an abstract, universal science of economics valid at all times and in all places. The attempt was a failure. — The progress of political economy since Adam Smith has consisted principally in improvements in detail and form. No independent and opposed system has been constructed, if we except socialism, which is worth noticing; but many special departments have been enriched. Among the men who have contributed to the progress of the science we may mention the following: At the beginning of the century, Malthus and Lauderdale in England; J. B. Say and Canard in France; and Sartorius and Buesch in Germany. In the second decade come Ricardo in England; Ganilh and Sismondi in France; Hufeland, Lotz, Storch and Soden in Germany; and Gioja in Italy. After these come the Englishmen, James Mill, Torrens and M'Culloch; the Frenchmen, Tracy, Droz, and Louis Say; the Germans, Rau and Nebenius; and the Italian, Fuoco. St. Chamans in France, and Adam Müller in Germany, may be mentioned as decided opponents of Smith's system. Senior, Eisdell, Scrope in England, Rossi and Chevalier in France, and Hermann, Schoen, Baumstark, Hagen and Riedel in Germany, promoted the progress of the science during the years after 1830. During the decade 1840–50 Dunoyer and Bastiat in France, Thünen, List, Schütz, Hildebrand and Bernhardi in Germany, and John Stuart Mill in England, deserve especial notice. Tooke, Macleod, Sargant, Atkinson and Cairnes in England, Baudrillart, Courcelle-Seneuil in France, Bianchini and Carballo in Italy and Spain, and Roscher, Knies, Mangoldt, Stein and Schäffle complete the list of those who up to 1860 had done very much original work in the science among European writers. — It is worth while to mention the special topics which have been the objects of thought and attention in connection with those who have made them the subjects of special study. Whately, Senior, Mill, Chevalier, Cairnes and Knies have done valuable work in defining and determining the nature and problems of economic science. Say, Lauderdale, Hufeland, Lotz, Rau, Hermann, Bastiat, Friedländer, Bernhardi, Thomas and Knies have labored at the fundamental ideas of the science, *wealth*, *value*, etc. Dunoyer, Hermann, Gioja, Ganilh, Bernhardi and Say have investigated the theory of labor, its productivity and freedom. The theory of capital has been furthered by Say, Hermann and Dietzel; that of price by Hermann and Tooke; that of the productivity of nature by Say, Lotz, Rau, Bernhardi and Malthus; that of money by Hoffmann, Ganilh, Senior, Chevalier; and that of the movement of precious metals by Ricardo, Senior, Jacob, Tooke, Helfferich and Soetbeer. The laws of distribution have been treated at length by Say, Sismondi, Ricardo,

Hermann, Thünen, M'Culloch, Rossi, Bernhardi, Nebenius, Read, Mangoldt, Jones, Bastiat and Carey, particularly in connection with the doctrines of rent, wages and profits. The theory of national consumption has been elaborated by Say, M'Culloch, Sismondi, Vorlaender, Hermann and Roscher; that of the equilibrium between consumption and production by Say, Malthus, Hermann, Sismondi and Bernhardi; that of credit by Thornton, Nebenius, Coquelin and Dietzel; that of partnership by Stein; that of banking by Buesch, Thornton, Ricardo, Tooke, Wilson, Fullarton, Coquelin, Macleod, Huebner, Thoel and Gilbert; that of transportation by List, Chevalier and Knies; that of the political economy of agriculture by Roscher, Thünen, Lavergne, Passy and Wolowski; of manufacturing industry by Sismondi, Babbage and Roscher; that of international trade by Say, Ricardo, J. Mill, J. Stuart Mill and Büsch; that of colonization by Wakefield, Torrens, List and Roscher; that of pauperism by Eden, Villeneuve, Villerme, Gerando, Vogt, Mohl, Schütz and Schmidt; that of population by Malthus, Sadler, Senior and Roscher; that of finance by Malthus, Jacob, Schön, Rau, Stein, Ricardo, M'Culloch, Molkte, Nebenius, Baumstark, Augier, Carey, Bianchini, Dietzel, and many practical men of all nations. — The merest glance at the various tendencies which have revealed themselves in the economic literature of this century will convince one that it is a matter of the greatest difficulty to group the various writers on economics according to particular schools. It is difficult to select a set of views and opinions which any number of eminent authorities consider and acknowledge as their own. The various adherents of a given system do not often acknowledge a principle in the same decided way. The same thinker often belongs not merely to one but to several schools, according to his views on certain fundamental ideas. We may distinguish, however, the following general tendencies: 1. Those who, while they accept Smith's system in general, enlarge the idea of wealth and productivity, and extend it also to immaterial commodities, services and labor. Among these may be mentioned J. B. Say, Ganilh, Rossi, Dunoyer and Garnier, in France; Lauderdale, Wakefield, M'Culloch and Macleod, in England; Hufeland, Soden, Bülau, Storch, Hermann, List, Eiselen, Steinlein, Roscher and Dietzel, in Germany; and Gioja, Bosellini, Boccardo, Scialoja and Bianchini, in Italy. 2. Those who emphasize the idea of value in use, and claim for it an important rôle in political economy: Lauderdale, Schön, Riedel, Rau, Bernhardi, Roscher, Knies, Cherbuliez, Müller, List, Say, Gioja and Bianchini. 3. Those who have resurrected some old mercantilistic and protectionist ideas, condemn the exportation of the precious metals, and the idea of free trade, and under the modern cry of "protection to national labor," attempt to free domestic industry from foreign competition by high import duties: Ferrier, Ganilh, L. Say, Thiers, Goldenberg, St. Chamans and Lebastier, in France; Hopf, Büsch, Pfeiffer, Eisenhart, Brentano and List, in Germany; Colton, Carey and Thompson in America. 4. The school of absolute free trade, embracing most English and French and many American economists, and of the German, Prince-Smith, Hübner, Brüggemann, Hagen, Lotz, Osiender, Wirth and Bergius. The term Manchester party was applied to a wing of this school, composed mostly of practical men, who were instrumental in bringing about the great revolution in England's commercial policy, which, beginning with the abolition of the corn laws in 1846, ended with the free-trade tariff of 1860. They were opposed to any governmental interference in economic matters, and demanded unlimited competition in every department of industrial life. As a party they have opposed all legislation in favor of the laboring classes, such as factory laws, postal savings banks, etc., etc. For a time they had everything their own way, but have already lost their hold on the public mind. 5. The physiocratic tendency, represented by a few economists in France and Germany 6. The conservative-reactionary tendency, which opposes itself to the very fundamental principles of modern political economy, and sees the only hope of happiness in a return to obsolete institutions and forms, confined to the continent, and represented mainly by theological malcontents and the ultramontanes. 7. The "social" school, which rejects the principle of absolute competition in acquisition and exchange, and seeks to reconcile individual freedom and activity, private interest and advantage, with the interest of the whole, and to bring them into harmony with the higher demands of the organic life of the community. A prominent feature in the theory of many of the adherents of this school is an emphasizing of the ethico-political element, and an acknowledgment of the relative importance and justification of governmental interference in economical matters. The representatives of this school are: in France, Blanqui, Comte, Chevalier, Fix, Baudrillart, Droz, Dunoyer and Sismondi; in Italy, Gioja, Bianchini, Cibrario and Fuoco; in America, Carey and Colton; in Germany, Soden, Baumstark, Mohl, Rossbach, Rau, Schulze, Schütz, Roscher, Knies, and Hildebrand; in England, J. S. Mill, Chalmers, and Atkinson. 8. The so-called new English or orthodox school represented by Malthus, Ricardo, Mill, Senior, M'Culloch, Cairnes, etc., so far as they had common features. 9. The socialistic school, represented by St. Simon, Fourier, Louis Blanc, LaSalle, Marx, etc., etc. 10. The historical school. The adherents of this school aim at uniting in an organic system the previous results of economic investigation, and endeavor to assign to the ethical, political and social elements their proper place in the economic system. They test the various theories of political economy by the standards of historical phenomena which are constantly changing, and are dependent on time and space and upon natural and national

conditions. They acknowledge, therefore, neither a general normal national economy, nor an absolutely valid theory of national economy, which shall be applicable to all times and nations. List, Roscher, Knies, and the majority of the younger German economists, and a few French and Italian economists, with Cliffe Leslie and one or two others in England, represent this school. — The limits of the present article forbid any detailed discussion of these various schools. Political economy is at present in a very chaotic state. The "orthodox" political economy has begun to lose its hold in England and America, and has already ceased to hold the first place in Germany, France and Italy. While in the latter three countries the historical school has become the leading one, it has not been able to secure much of a foothold in either of the two former. This last springs partly from the dense ignorance of continental political economy which prevails for the most part in England and America. In Germany, Rau, Nebenius, Hoffman, von Thünen and Hermann may be classed as strong adherents of Adam Smith, although they modified his opinions in several respects. Their modifications were most frequent in relation to administrative matters, the German economists generally giving larger scope to the action of the state. Friedrich List headed the line of German protectionists, and was eminent for his originality, his patriotism, and the excellence of many of his monographs. He proclaimed the temporary necessity of protectionism as a means of education. His system contains many points of similarity with Carey's. The historic school was founded by Roscher, Hildebrand and Knies. Hildebrand's *Die Nationalökonomie der Gegenwart und Zukunft* is a clear and searching criticism of the orthodox school of political economy, though his censures are exaggerated. Roscher is in many respects a sound follower of the orthodox school, though he denies the existence of general economic laws, or rather underrates their importance. Knies is no less profound than Roscher, and is his superior in legal learning. His principal works are *Die politische Oekonomie vom Standpunkte der Geschichtlichen Methode*, and *Geld und Kredit*. A different tendency is represented by the so-called liberal school, nicknamed by its enemies the Manchester school of Germany. It has devoted itself to bringing about the triumph of complete liberty in commerce and industry. Prince-Smith, Schulze-Delitzsch, Faucher, Braun, Michaelis and Wirth, the last of whom is the author of a course in political economy, which sums up the tendencies of the school, are the principal economists of this group. Rentzsch, Emminghaus and Soetbeer may be classed as moderate adherents of this general tendency. — A very different standpoint is taken by other economists, among whom may be numbered most of the professors of economics in German universities. Following in the steps of the first writers of the historical and statistical schools, they profess little faith in universal, or as some say natural, laws. They believe only in historical or relative laws, discovered by the inductive method, and deduced from simple psychological and abstract premises. They doubt the omnipotence of the principle of liberty and individual self-government, and assign a large sphere to the modifying action of the social power. Questions concerning the distribution of wealth attract their especial attention, and they endeavor at least to help on the solution of the "social" question. They are distinguished by their ability, their numbers, their culture, and their influence on the cultivated classes. Their doctrines, tending to a reconstruction of economic science, have been published in a large number of special works and in the best economic reviews, such as the *Zeitschrift für die gesammte Staatswissenschaft*, published at Tübingen, and the *Jahrbücher für Nationalökonomie*, published at Jena, and edited at present by Conrad of Halle. The not very appropriate name of professorial socialists (*Katheder-Socialisten*) has been given to the extreme followers of this school, because they support the principle of authority. The most important work of this school is the "Course of Political Economy," by Professor Adolph Wagner, of Berlin, consisting in a new edition of Rau's "Course," which has become somewhat out of date. Nasse has assisted in this work. Wagner's "Science of Finance" is also written from this new standpoint. "These professorial socialists, among whom von Scheel, Schmoller, Nasse, Held, Schäffle, Conrad, etc., may be mentioned, had no difficulty in overcoming the arguments of certain weak economists who wished to reproduce in Germany the doctrines of Bastiat at any price. They have deceived themselves, therefore, as to the importance and originality of their discoveries. They confound economics with morals and law under pretext of better harmonizing their results. They do not distinguish theories, which are for the most part general, from applications, which are always contingent. They exaggerate the importance of induction. For the gradual and peaceful evolution of political economy they wish to substitute a revolution, which they justify by an undeservedly severe condemnation of the defects and errors of the classical economists, and especially those of England and France. They start from the false assumption that the scientific progress of other nations at the present time is almost nothing in comparison with the acquisitions of the science in Germany. It can not be denied, however, that the eminent position now occupied by Germany in the progress of economic studies demands from the economists of other countries a patient study of German works. Profound investigation, accurate historical and statistical research, the number and merit of their economic writings, their precise determination of fundamental principles, their separation of economics from the financial and administrative sciences, have gained for them this position." Works of great importance, and showing immense industry and carefulness, have been written by Mohl and

Stein on administration, and by Rau, Malchus, Nebenius, Hoffmann, Stein, Hock, Wagner, Vocke and others on finance, and make German science well worth the pains necessary to work through their subtle and oftentimes pedantic controversies. The inelegance and obscurity of the literary style of most German writers on economics form a serious drawback to the general study of their works. —The following account of the development of political economy since Adam Smith, is inserted here, although it involves some repetition, because it represents very well the views of the most numerous and influential body of German economists. It is condensed from an article by the late Professor Adolf Held, one of the ablest representatives of the *Katheder-Socialisten*. — Smith's work on the "Wealth of Nations," which has been published in many editions and translations, and is accessible to every one, is the product of the deepest scientific investigation, and is at the same time written in a most simple and pleasing style. There has been a great deal of discussion as to the method of investigation employed by Adam Smith. Buckle, who divides all men into the two classes of deductive and inductive investigators, classes Adam Smith as a Scotchman with the deductive school. But the truth is, that Smith did not strictly adhere to any one method. He does not tire the reader with continuous expositions according to one definite method, but, in order to reach his results, applies first one method and then another in a pleasing and suggestive variety. We find investigations, in which, from simple premises as to the nature of man, the most far-reaching conclusions as to economical relations and their connection are evolved by deduction, but in the very midst of them occur long historical dissertations and detailed descriptions of contemporary conditions which are also employed in proving his propositions. And with it all Smith does not even adhere to any sharply defined terminology, but discusses the phenomena he investigates in the every-day language of common life. Nothing is more foreign to him than the imposing mathematical exactness of form which is characteristic of Ricardo, for instance. He does not follow out even his own views to their extreme consequences, but modifies his conclusions by new considerations where it is necessary, and where they will thus correspond more closely to the complicated relations of actual life, and so stops short of drawing the logical consequences of his own premises. When we consider this many-sidedness of his treatment of the subject, we can not be surprised that men of exactly opposite opinions appeal to him as a supporter of their views, for, as a matter of fact, the germs of both extremes are to be found in his writings. The absolute free-traders of to-day call him their great master; List, the protectionist and creator of the national political economy, derides and antagonizes him. Carey, on the contrary, who resembles List in many respects, quotes him as an authority in opposition to Malthus and Ricardo; and in very recent times a bitter discussion is going on in the press as to whether the absolute free-traders (Manchesterites) or the realistic political economists (the *Katheder-Socialisten*), who are most bitterly opposed to each other, are Smith's legitimate successors. The point can never be fully decided if we keep in view all Smith's statements and all his methods of investigation. But if the question be asked, what theories and what methods were the most immediate outgrowth of Smith's work, we can not deny, that, although Smith himself was far above most of the narrow and one-sided ways of regarding things which characterized his immediate successors, yet he was the father of that tendency whose last and most extreme representatives are known as the Manchester school. Two fundamental ideas may be clearly distinguished in his great work, the logical outcome of which was Manchesterism. On the one hand, he entertained the view that the state is nothing but a complement of individual life to assist in protecting private economies; a great insurance company with the least possible jurisdiction, which must be as cheap as possible, and interfere as little as possible with the individual whose rights antedate and are superior to those of the state. He does not appeal to philosophic and jural principles to establish this view, but supports it rather from the advantageous consequences which must result to the economic welfare of men from such an administration, or rather non-administration, of the state. It can not be denied, that in this point Smith was decidedly narrow, and that, influenced by the reaction of his time against the absolutism of paternal governments, he failed to get the proper conception of the state and of the infinite obligations of the individual toward society. The view that the only function of the state is to preserve the original rights of the private individual shows itself in his theory of taxation, his praise of the system of standing armies, and his views of public education. This free individual, under the control of the state only so far as is necessary to make him respect the rights of others, is conceived as endowed with an average amount of prudence and insight, and as moved in all economical actions solely by the motive of self-interest. From these premises everything is deduced. There is no mention of an overreaching of the weak and ignorant by the strong and shrewd, or of a public spirit which works against such a tendency. As has been already said, the work does not consist exclusively of deductions from these premises, but they play a very great part, and form the basis of a simple theoretical system of science. The supposition of equal economic ability, and of self-interest as the sole motive in economical life, was evidently a conscious one-sidedness so far as Smith was concerned; for, as his work on the "Theory of Moral Sentiments" proves, he recognized the existence and necessity of other human motives than egoism. But these were ignored in order to be able to attain to simple scientific results by considering only the pre-

vailing motive in economic actions. But as the logical consequences of an uncontrolled although enlightened self-interest do not give a complete picture of social or even of economic life, Smith did not pursue his theories to their extreme results, but interrupted them by historic expositions; it is no wonder, therefore, that the disciples of this great man should first develop those features of his system by which the simplest and most valuable results had been won. — A second fundamental idea in Smith's system is, that labor, as such, is the sole creator of all value. With this great and simple thought all exaggeration of money or land or trade or agriculture was made impossible, and the basis of a really general economic science was laid. He did not fully develop this thought, however. He pushed it to extremes in one direction by making labor not only the original source, but also the standard, of all value; and by making the distinction between productive and unproductive labor, he prepared the way for an exaggerated and one-sided estimate of purely material wealth. As Smith put the value-creating power of labor at the head of his system, and acknowledged capital, regarded as "accumulated labor," to be an important factor in production based upon labor, the idea crept in that the increase of values, as such, is the ultimate or only end of human economy, nay, even of human endeavor in general, since no other side of human activity than the economic is considered. Many chapters in his work create this impression rather by what is omitted than by what is said. At a time when the expansion of production was attracting the attention of all, and the absolute increase of wealth was, as a matter of fact, the first and most necessary condition of economic prosperity, it was natural that men should pursue this end exclusively. Men did not come to feel the importance of a better distribution of wealth until the labor question of to-day forced it upon their attention. Adam Smith had no harsh feelings toward the lower classes, and if he did not preach the necessity of kindness toward them, it was because the circumstances of his time did not demand it. Nothing was further from his idea than making man directly the servant and instrument of wealth; but when labor was looked at mainly as value-creating power, as a means to the end of increasing wealth, the transition was not violent to a forgetfulness of the wants and aims of the laborers. Smith's expositions foreshadowed the theory, so bitterly attacked by List, which in the value forgets the producing power, and regards the laborer, not as a man, but as a mere instrument. However kindly Smith himself thought of the laboring classes, however humane his feelings toward them, there lies in his theory the germ of the view which values the laborer less than the labor and its result, and which reduces a political economy, which starts from the equal estimate of all labor, to one which is subservient to capital. All this is no reproach to Adam Smith, but simply an explanation how a large school which honors him as its master could arrive at the most one-sided views by simply emphasizing, as they naturally would, those thoughts of their great leader which could be most easily used in developing a simple and consistent theory of wealth. This will appear more clearly when we come to discuss his most prominent followers. Smith lived to see the great success of his work; for even before the close of the preceding century his school had become the predominant one in all civilized countries. Numerous editions and translations carried the book everywhere, while still more numerous disciples delighted to spread abroad his views in their own writings. The development of his school was somewhat different in the three chief nations of Europe, England, France and Germany, although England took the lead until very lately, when German economists began to assume an independent position. — Of all Smith's followers in England, Ricardo indisputably stands first. Thoroughly different from Adam Smith in every particular, he was just fitted to develop a harsh and rigorous system from the fundamental principles which Smith had popularized. Originally a business man, he began his literary activity with the discussion of a practical question, that of money and banks. From this he passed to more general work, and wrote his "Principles of Political Economy and Taxation." This treatise discussed in detail some of the questions which Smith had passed over rather lightly. On account of the fundamental importance of the questions treated, and the strictly logical and consistent treatment of them, this work produced the effect of a theoretical system, and was of far greater value for the development of the science than the works of Say written about the same time. Adam Smith, a scholar by nature, and educated as a scholar, without any inclination to practical life, had maintained an unusual many-sidedness, an open eye for all points which must be considered, and had sacrificed to this habit of looking at all sides of everything the formal clearness of his reasoning, the theoretical perfection of his system. Ricardo, the practical man, on the contrary, after he once took up his pen, insisted upon the severest adherence to conclusions from abstract and incomplete premises, and is the real father of that abstract theory of political economy which, closing its eyes to all the facts of our changing and shifting life, sees the only truth and salvation in the belief in the necessity of the absolute freedom of the individual. It was Ricardo, not Adam Smith, who made the method of gaining all economical knowledge by deductions from incomplete hypotheses as to the nature of man, his fundamental principle. Ricardo made the theory that labor is not only the source but also the standard of value the foundation of his whole system, and reasoned from that to the conclusion that the instrument of labor (called the laborer) can never have more than barely enough to keep him alive, and that simple and powerful natural laws control the economical life of man, which man may ascertain by deduc-

tion, but can not change, and which, on the whole, produce ever-increasing wealth of the landowners and capitalists, permanent poverty of the poor, and for all an ever-increasing difficulty of obtaining subsistence. We do not use Ricardo's words in this characterization, we seek to show the spirit in which he wrote, or rather, the tendency which the results of his investigation promote. He acquired an extraordinary authority by the formal precision of his expositions. It can not be denied that he did a great work for the science, if it were nothing more than showing to what conclusion one must come when one starts from such premises and uses such a method. Next to Adam Smith, Ricardo is the man whom one must study who wishes to understand the political economy of to-day. The terse precision of his exposition and the severity of his reasoning will always remain instructive. But it is carrying our admiration too far to accept the results of his investigations as infallible truths; for they are only true conditionally, and are as little adapted as the mercantile theory to explain the economical relations of all times and nations. His theory of bank notes, that their value depends upon their quantity, has been disproved by the labors of realistic political economists (Tooke). The theory that the cost of production alone determines the price of commodities whose quantity can be increased at pleasure is untenable, since we can not separate the commodities to which the theory applies from those under the control of monopoly. It was rejected by Hermann and others long ago, and has in recent times shown its weakness in a most decided way by the consequences which Marx and other socialists rightly deduced from it. His theory of rent is relatively true, but the view that land alone follows in every respect different laws from other fixed capital has been given up by later economists, who consider land like other property, and maintain that the theory has a practical value only in old lands, and then only if we accept the fiction that the present landowners are the heirs of the first occupiers of the soil. Ricardo explains the phenomena of economical life from simple causes, and the explanation is correct so long as we close our eyes to the existence of other causes, but it becomes more incomplete and untenable the stronger those causes become which he ignored. Ricardo's method of investigation, which led him to be one-sided for the sake of clearness and simplicity, and which, on the whole, was a valuable service to the theory of the science, was employed for sad purposes by his weaker successors, to oppose any influences which threatened the interests of the propertied classes as offenses against sound political economy. It follows as an absolute necessity from Ricardo's theories that all industrial progress must inure to the benefit of the propertied classes, that increase of capital must be promoted for the sake of the increase of wealth, that it is nonsense to limit calculating egoism, or to make any sacrifice to the welfare of the laborers whose lot as mere instruments of labor is irrevocably fixed. A self-satisfying theory of political economy, complete in itself, was contained in Ricardo's keen propositions. It staved off all objections from other standpoints, and demanded unconditional acknowledgment, undisturbed sway of *laissez faire et passer* in the interest of the increase of the wealth of the rich. It viewed all sacrifice for the state, all humane acts in social questions, as disturbing and injurious forces. Few have dared to express it, but it is a logical consequence of this self-satisfying political economy, with its natural laws, that all human endeavor which does not aim directly at the production of material wealth is indifferent. What do the natural laws of economy care about states and nations? — Ricardo had developed what under certain conditions is, and why it is so. Many of his followers insist that they do nothing more than tell the truth; they do not make things as they are, they explain simply. That sounds very plausible. But we must consider that as soon as an explanation of that which is, appears, with the claim that it must naturally be so, and that a struggle against it is fruitless and disturbing, the explanation becomes an active principle, the exposition culminates in a postulate, the theory of immutable natural laws leads to a negative economic policy. This appears very plainly in those successors of Ricardo whose economical reasoning exhausts itself in an appeal to Ricardo's authority, and who content themselves with a comfortable preaching of the *laissez faire et passer*, and consider the sole function of modern science to be a holding fast to Ricardo's theories. It is impossible to write a political economy which merely discovers and arranges existing laws, like astronomy, for instance. Whoever studies human relations in which he himself moves and lives, will necessarily incorporate in his theories his own wishes, and his views of what is best for man to do. — Ricardo, somewhat modified in form and practically applied, is what we call Manchesterism. Of course every one protests against having this name applied to him, every one professes, on being interrogated, the most kindly feeling toward the laborers, a great love for the state, and an anti-materialistic sentiment. But there are writers, particularly in other countries than Germany, whose whole circle of thought is taken from Ricardo, and in whose writings so slight traces of such sentiments can be found that they certainly can not exercise any great influence on their economic theories. There are few writers whom one can convict of a thoroughly consistent Manchesterism, but there is a mode of thought which is called Manchesterism, and which shows itself to be the prevailing one in very many writers. To the best known disciples of Ricardo in this sense belongs, in England, M'Culloch, whose services to the science can not be denied, but who did not enrich it by any new ideas of fundamental importance. Senior may also fairly enough be called a Manchesterite. It is remarkable that J. S. Mill, whose sympathetic nature gave him a

view of life very different from Ricardo's, and whose political and philosophical studies secured for him a wider intellectual horizon, should so often be in abject subjection to Ricardo's authority in purely economic questions. We must remember, however, that in England down to 1860 the great practical question of economic policy was, how to push through free-trade to its ultimate victory, and that in this contest the catchwords of the *laissez faire et passer* school were of great use. Mill, however, did not allow his theories to prevent him from supporting the establishment of postal savings banks, of a national sanitary commission, of factory legislation, all violations of *laissez faire et passer;* and in very recent times a marked reaction against Ricardo's theories is showing itself among English economists. — In France, Say, in his *Cours et Traité d'economie politique,* made Adam Smith's theories familiar to his countrymen. Although less important and influential then Ricardo, he acquired a great reputation by the beauty of his literary style and the clearness of his expositions. A large number of French writers became adherents of his views, against whom the half socialistic theories of Sismondi made little headway until French political economy acquired a peculiar cast from the struggle with socialism and communism. A detailed discussion of socialism and communism will be found elsewhere, but we must call attention here to the fact that, although the socialists and economists in France regard each other as something absolutely different, yet since scientific socialism and communism busy themselves chiefly with economic problems, they are to a certain extent economic schools. Communism and socialism form the exact opposite of the *laissez faire et passer* tendency, and also a sharp contrast to the immediate forerunner of modern economics, *i. e.*, mercantilism. The mercantile system demanded protection of the state for trade and industry. Adam Smith and Ricardo called for freedom in the interest of the third estate; communism and socialism insist upon limitation of the individual by a higher power in the interest of the fourth estate, the laborers. The ideal of the so-called industrial system is *tabula rasa* for the individual forces, which, after the abolition of all hindrances, should be allowed to develop themselves and compete with one another freely. This was of great advantage compared with the old restrictions of mediæval society, such as vassalage, guild law, trade monopolies, etc. But when, under the free play of economic forces, the stronger mercilessly exploits the weaker, it is but natural to claim that new restrictions adapted to the times, must be raised on this *tabula rasa* which has been won. This cry for a new organization was raised by communism and socialism in France soon after the first triumphs of the revolution, and it has re-echoed ever since. Almost all of those who call themselves socialists or communists demand, it is true, something impossible and indeed criminal, yet there is a theory, a science, of socialism and communism, which can not be summarily disposed of with moral indignation, like Babœuf's assassination theory or Fourier's ideas on marriage. Real communism demands a complete and permanent community of property and equality of enjoyments, that is only possible in connection with an absolutely despotic commission which superintends this distribution ; whether this directing power is to acquire its position by murder and revolution, as Babœuf wished, or by the force of persuasion, as Cabet's ideal demanded. Such a thing is impossible, such an idea is lunacy ; but it contains a criticism of the premises from which the prevailing political economy proceeds, *i. e.*, of the supposition of an enlightened self-interest ruling all men which is to bring to all men alike the greatest prosperity. And so as a criticism even real communism has its scientific significance. It is more difficult to define the demands of socialism ; for there is a great contest going on as to who should be branded with the name socialist, and there is a world-wide difference in the opinions of those who are generally called by that name. Compare St. Simon, Fourier, Louis Blanc, Proudhon, Owen, Waitling, Engel, Marx, Lasalle, with one another, and all of these with the so-called professorial socialists who make it their boast that they are forging the strongest weapons against Marx and his like. We may describe the socialists as a whole by saying that they reject the complete equality of all men and community of goods, but, on the other hand, they would not permit to the individual the complete exploitation of his powers at the expense of others, but, by some new organization or other, which, as opposed to the previous condition of things, would control the individual more in the interest of the whole, they would seek to bring about a distribution of wealth which should be fairer and more favorable to the poorer classes. The plans for this new organization are very different. The great mass of those called socialists, like the communists, show dangerous and reprehensible tendencies, and it is very difficult to draw a sharp and clear line between such, and those who in a legal, praiseworthy and possible way seek to limit free competition and to subordinate the individual to the community in a somewhat greater degree than hitherto. It is not to be wondered at, therefore, that scientific men with the most praiseworthy desires must be contented to be called socialists. — The proper course to pursue in regard to communism and utopian socialism is to take their criticism to heart, correct their ideas of liberty and equality, and give up the untenable postulates of individualism. In the politico-economic field in particular it should be our task to study the working of the moral forces in man, and emphasize these, instead of constructing untenable natural laws from one-sided premises; in short, we must free the theories of the English economists from their one-sidedness, develop them, unite them with enlarged views, and seek to do justice to the wants of the present by independent observations of the facts,

instead of seeking eternal truth in holding fast to theories which sprang from the spirit of times long past. French science did not do this, however. Men did not content themselves, of course, with suppressing the socialistic elements by force of arms in the battle of June, 1848, and keeping them down afterward by police measures. They attempted to use the arms of science also, but instead of giving up untenable positions and then opposing the excesses of socialism with all the more right, they opposed a sophistical optimism to the dark pictures of existing conditions, from which the socialists had drawn their right to overthrow them. They had to modify Ricardo's theory of rent, of course, and his views on wages, but they did so only in order to glorify all the more the principle of the unconditional freedom of the individual, the theory that the highest possible advantage of all proceeds from the complete sway of egoistic motives alone. This optimism, which found its chief representative in Bastiat, and a second illustrious defender in the American Carey (who is curiously enough a protectionist), ignores completely that there are antagonistic and opposing interests of men, and that a struggle for existence is going on in the economic field which does not always lead to the victory of the best elements, but may lead to the utter destruction of all. All these extreme apostles of freedom acknowledge the necessity of a civil order which shall abridge personal liberty; they acknowledge the necessity of private rights at least, and of their protection by the state; but they draw here an arbitrary line beyond which the reconciling, regulating hand of the state may not reach. They do not deny the necessity of ethics and the sublimity of virtue, but they maintain that in the economic world the free play of egoistic forces results in complete harmony with the highest morality, and forget that the working of eight-year-old children for twelve hours a day in factories is very immoral, but may be very profitable for the factory owner. Extreme and embittered socialists on the one hand, and optimistic followers of Adam Smith and Ricardo on the other, stand opposed to one another in France; and although there are not wanting economists who occupy an intermediate position, yet it is these two extremes which give tone to and control the economic literature of to day. One party emphasizes exclusively the right of man to free action, which benefits the stronger the most; the other, the right of every one, even the poorest, to deserved enjoyment. Both parties regard the state, not as the sovereign regulating representative of all interests, in which and by which every one should serve, as a matter of duty, the highest ends of humanity, but as a means to their ends. However rich and interesting the French literature of both socialists and economists may be, and however suggestive it may become, yet it does not contain the basis of a real advance in economic science. — Smith's school developed itself in a far different manner in Germany. At first there appeared a great number of writers who adapted Smith's principles to German wants. They acquired for a time a great reputation, but they are of little importance now, as it is better to go directly to English sources. The youngest of this school, who is still of great importance, was Rau. He deserves great praise for the industry displayed in his literary studies, and collections of material, for the clearness of his systematizing, and his ability to weigh impartially even the most opposite views, but on all points of fundamental importance he remained a strict adherent of Smith's school. These early Germans, however, were very far from exaggerating or even accepting the one-sided views of Ricardo. They at times accepted principles without critically examining them, it is true, which testify to their superficial conception of the state and to their dependence on foreign thinkers, but they were prevented from a consistent elaboration of one-sided principles by their strict adherence to systematic form; and since they did not convert the theory of police powers and of finance into a mere annex to theoretical political economy, but continued to discuss them in detail and independently, it became impossible to develop a system of political economy which refused to recognize the state as a powerful economic factor. At the beginning of this century, side by side with the slavish followers of Adam Smith, thinkers arose who carried forward original investigations; and at the same time an opposition to Adam Smith appeared, which, although it did not become very prominent, had a critical significance, and testifies to the independence of the German mind. Among the earlier original followers of Adam Smith, Hufeland, Hermann and von Thünen deserve especial mention. Hufeland has received less attention, and has become less influential, than the depth of his thought and the clearness of his expositions deserved. Hermann, on the contrary, exercised a wide influence, and von Thünen's writings after his death received considerable attention in economic literature. Hermann resembles Ricardo in some respects. His "Politico-Economic Investigations," published in the year 1832, do not contain any complete system of economics, but discuss various important questions pertaining to the science. These "Investigations" we may, without hesitation, characterize as the most complete intellectual product of the abstractly deductive school of Adam Smith. With a logical precision, at least equal to Ricardo's, he unites a many-sidedness of view which is foreign to the English economists. Hermann's theories of wants, prices, income, etc., will always remain models, and of fundamental importance. He belongs to the school of Adam Smith, but he develops it farther in an independent way. He breaks the way for a new tendency, far removed, however, from Manchesterism. He acknowledges public spirit as a justifiable motive side by side with egoism. He traces back the phenomenon of value and price, not to the single standard of labor, but explains

prices as the result of a multitude of causes. He reforms the conception of income by opposing those definitions which regard the consumption of the laborers, not as the ultimate end of economy, but only as an incident of production. Many German writers have carried on the work in Hermann's spirit, such as Helferich and Mangoldt. Von Thünen's work, "The Isolated State in Relation to Agriculture and Political Economy," is formally far less perfect. Written at various times, and published partly after his death, it is not consistent in every respect. The various theories are also objectionable, in spite of the profundity and wealth of thought displayed. He acknowledges himself a disciple of Adam Smith, but differs from him on many points. For the sake of easier and clearer explanation of economical phenomena, he proceeds from abstractions which relate in the first place only to agriculture. But the special consideration of concrete practical relations, the frequent interpolation of calculations based on practical experience, is unavoidable, and thus a peculiarly realistic element is introduced into his investigation. In his method of deduction itself von Thünen is in so far peculiar as he converts economic concepts, wherever possible, into mathematical quantities, and then reaches his results by mathematical operations. This method is applied in his well-known investigation into the natural rate of wages, but leads in this case, as in all others, to useless conclusions, because economic phenomena, so various and many-sided, can not be forced into mathematical formulas except by violent abstractions and fictions; and although a correct calculation may be made with such formulas, yet the results do not give an even approximately correct picture of reality. The same thing is true of Canard and Cournot, both of whom tried the mathematical method. Von Thünen's warm sympathy for the laboring class, his conviction, far ahead of his time, that the dangers of the labor question could only be averted by a humane course of action on the part of the propertied classes, are of special interest to us. And so, in spite of the imperfections of his results, in spite of all formal weaknesses of the self-educated man, he forms, as a disciple of Adam Smith, an instructive and glorious opposite to Ricardo, and shows how bitterly opposed the German mind is to Manchesterism. The opposition against Adam Smith in German literature at the beginning of this century proceeded from very different tendencies from those which conditioned French communism and socialism, for which there was no chance in Germany, since the minds of the working classes had not been excited, and the relations of modern industry had hardly begun to develop. German opposition, on the contrary, sought safety in a return to older views. There were romanticists (Adam Müller) who opposed to the absolute victory of individual liberty a romantic enthusiasm for mediæval relations of dependence, and displayed great affection for the blessings of feudal simplicity, compared with the beginning development of modern industry and free commerce. There were protectionists, like F. List, who in the regulation of economic relations had an eye first of all to the advantage of their own nation, and wished to favor the development of national wealth and power. The last had powerful allies in North America, where protection against the all-powerful English industry is a natural policy. Romanticists and protectionists were both on a false road. It was an idle attempt to oppose a school which corresponded, although incompletely, to modern wants and conditions, by the resurrection of obsolete views. Neither set of economists, therefore, had many followers. But if we must allow a certain critical merit in the communists and extreme socialists of France, we must grant this in a still greater degree to the romanticists and protectionists. Both oppose the theory which seeks eternally valid natural laws in economics, and which considers the natural condition of unlimited personal freedom as the only justifiable one, without regard to the needs of special times and nations. They called our attention to the fact that we must approach the study of economic relations in an historic spirit, that the same system is not suited to all. They declaimed, further, against the exclusive consideration of the increase of material wealth, and taught us, that, for the prosperous development of even purely economic conditions, the preservation of the ideal wealth of the nation, the harmonious development of the whole man is by no means a matter of indifference. Finally, they emphasized the fact, that, in a politically regulated society, there is a difference between the ruling and the ruled, that the jural order is of the highest importance to economic development, that the state is not a necessary evil, but an independent factor, an inspiring and regulating element of the highest importance to the national economy. List's agitation for the formation of the customs union, however false his views of it in detail, and for the building of the net of German railways, shows that his fundamental ideas, in spite of their passionate one-sidedness, were not unfruitful for the development of the science. Since 1850 a series of German writers have followed these earlier Germans, who without breaking with the English school, and without falling into the errors of the Romanticists and protectionists, have been constantly carrying new ideas into the old English system. At first several famous economists undertook to carry the historical method into the dogmatic system of political economy, and with a complete recognition of the relative truth in the propositions of Smith and Ricardo; yet, in the place of the one-sided, absolutely valid natural laws, to acknowledge everywhere, according to the stage of civilization of a people, a difference in the actual forces in economic life, and a difference in the need of state interference. The labors of Roscher, Hildebrand, Knies and others were epoch-

making in this direction. The right of this historical school to exist, which had long before celebrated its victory in the field of jurisprudence, was recognized by all German economists. Others, who had less to do with the introduction of this historical method, have endeavored, in hearty sympathy with the spirit of the historical school, to enlarge and correct the current conception of the state, and have emphasized the interaction of economical and other social and political forces. All the more prominent of the living German economists have labored in this direction, such as Stein, Schäffle, Dietzel, Schmoller, etc. Our science received a peculiar and fruitful impulse from the science of statistics, which since Quetelet's appearance (1835) had taken a new start, and, by the extensive activity of some German statisticians, has strongly influenced the younger economists. Statistics has oddly enough created here and there the belief in a strange utopia, the thought, namely, that we may discover unassailable, universally valid laws of economic life by inductive investigation upon the basis of exact statistical observations in mass, and so arrive by a new road to a completely satisfactory mechanical explanation of social life. This thought, however, to which the exaggerated ideas of Quetelet and Buckle led, has been rather expressed than acted upon, and the influence of statistics has been, as a matter of fact, a thoroughly healthy one. It consists in this, that men have been led, in all cases where the statistical material has been sufficient, to leave the basis of abstract premises in the explanation of present relations, and to take the carefully observed concrete facts as a starting-point and seek to ascertain their causal connection. On many questions, such as the bank question, we have thus arrived at highly satisfactory results, and a large number of valuable special investigations according to this method have given us a very welcome supplement to the system as elaborated by the historical school. Finally, the fact must be emphasized that the labor question has had a very great influence upon the treatment of the whole science of economics in Germany. Communistic and socialistic ideas invaded Germany as early as 1830–40. But the labor question did not acquire a great significance until after 1848, when the railroads and factories began to increase rapidly, and the way was broken for the sway of modern industry. German science did not assume the protesting position of the orthodox French economists. Hildebrand's "Political Economy of the Present and the Future," and Stein's initiative investigations into communism and socialism, gave immediate evidence of a desire to do justice to the causes of the movements of the proletary by impartial and thorough examination of all claims. The labor question has become the most important chapter of political economy, and the various tendencies which exist within the science show themselves clearly in the treatment of this question. Most of the younger economists devote their special attention to the labor question, and following the example of Hildebrand and Stein, seek to learn from socialism instead of holding themselves aristocratically aloof from it. Various principles, which are to be found among the earlier German economists, have acquired a new significance from the labor question. The pressing problem of state-help or self-help, led necessarily to a more careful study of the functions of the state in economic matters. The observation of the war of classes waged between the proletary and the propertied classes, placed the importance of public spirit in a new light. The pressing cry for a solution of the labor question directed attention from the search after natural laws ruling in economics, to the question, what *ought* to prevail, what *should* be done? As a natural consequence, in opposition to the rationalistic explanation of what is, the teaching of the moral duty of men in economic actions became more prominent. The opposition of the German science of Roscher, Hildebrand, Knies, Schäffle, Stein, etc., to Manchesterism, expresses itself in the great stress laid on the ethical element, and this has become more marked in the younger economists, from Adolph Wagner down to Brentano. Thus by various roads German political economy has advanced far beyond Adam Smith, Ricardo and J. B. Say. It has attained to new views, new methods and new results, and its advances have been far more consistent and complete than the acquisitions of even a John Stuart Mill, let alone the ideas of a Bastiat and a Carey, which are new rather in form and terms of expression than in content. German science has not, it is true, as yet evolved any entirely new system of economics, which independent in form and content, can look down on Adam Smith as obsolete, as the latter could look down on the mercantile system. The relative truth of the results of the English masters, as well as the relative justifiableness of their method, is fully recognized, because, as a matter of fact, in many economical matters the uncontrolled freedom of the individual leads to the best results for society as a whole; because, as a matter of fact, particularly in the sphere of commercial activity, egoism is naturally the prevailing motive; and because our observations of concrete phenomena are still too incomplete to allow us to dispense entirely with the method of abstract deduction. The English masters have determined for us thus far the general limits of the science as a whole, and of various fundamental questions. But as German science advances with success by independent roads from the basis already laid, it forms a sharp contrast to that slavish dependence upon the English and upon Manchesterism which delights in following to their greatest extremes the weaknesses and one-sidedness of those great masters. — Recent English political economy has been enriched by the writings of Prof. Cairnes, Hearn, Musgrave, Shadwell, Jevons, Fawcett, W. T. Thornton, H. D. Macleod, Bagehot, J. E. Thorold Rogers, Cliffe Leslie and J. K. Ingram. J. S. Mill's great work, which is still the best general treatise on economics in Eng-

lish, marked a turning point in English political economy. It summed up all the contributions to the science which had up to that time been made by the Smith-Ricardo school of economists. In that very work, however, Mill showed signs of disagreement with some of the fundamental tenets of the school. His views of distribution and of the limits of state interference mark a sharp contrast to those of some of his immediate predecessors. Before his death he gave signs of a still more fundamental difference in giving up the wages-fund theory, upon which he had laid such stress in his great work. He was moved to this by an able work of W. T. Thornton's on "Labor." Cliffe Leslie and Professor Ingram may be said to belong to the historical school, and have distinguished themselves by their opposition to the orthodox economists. To these latter belong Cairnes and Fawcett, the former of whom in his works on the "Logical Method of Political Economy," and "Some Leading Principles of Political Economy Newly Expounded," has made valuable additions and corrections in the science. Rogers' "History of Agriculture and Prices in England," Jevons' "Theory of Political Economy," and "Money and the Mechanism of Exchange," and Macleod's and Bagehot's writings on financial subjects, are among the most valuable contributions of English writers to economic science in the last twenty years. — Recent (*i. e.*, since 1850) French political economy has not received the attention it deserves from foreign writers. Several economic periodicals are maintained, and many valuable monographs have been published during the last thirty years. In 1851–3 the *Dictionnaire de l'Economie*, edited by Coquelin and Guillaumin, was published — a vast treasure-house of economic science. Among recent economists Michel Chevalier stands first. He wrote chiefly on financial questions, though he published also a "Course of Political Economy." Wolowski was a vigorous opponent of Chevalier, an adherent of the historical school, and a prolific writer on monetary questions. He favored a double standard. Among other economists we may mention the following: Passy, Reybaud; De Parieu, the author of an excellent treatise on taxation; Garnier, a writer on finance; Baudrillart, Cournot and Walras, the last two devoted believers in the mathematical method of investigating economic phenomena; A. Clèment, and Paul Leroy-Beaulieu. The tendencies of these writers are as various, and in general the same, as those already noticed in Germany and England. Among the recent economists in the other continental countries we may mention Prof. Ferrara, Boccardo, Mora, Bianchini, Messedaglia, Nazzani and Cossa, in Italy; Brasseur, Périn, De Molinari and De Lavelaye, in Belgium; Cherbuliez and Sismondi, in Switzerland; Estrada, Colmeiro and Santillan, in Spain; and Forjaz de Sampajo, in Portugal. Of these, Ferrara was a man of remarkable ability, and did the science great service by his acute and brilliant criticism; and by his enthusiasm for economic studies he contributed greatly to that widespread interest in such branches which is characteristic of the new Italy. Cherbuliez was an economist of great ability, and his *Précis de la science économique* is the ablest exposition of political economy in the French language. — The history of political economy in America is yet to be written. American economists, even still more than their English brethren, have devoted their attention rather to practical than to theoretical questions. Most of our economical works have been written to defend one view or the other of our great political and economical problems. In general the same tendencies are observable here as in other countries. We have our irreconcilable free-traders, our bitter and bigoted protectionists, our *laissez faire*, *laissez passer* school, and our defenders of a paternal government. With the exception of Henry Carey, our economists have attracted no particular attention abroad, and exercised no considerable influence. The study of economics is becoming daily more and more widespread, and the foundation of departments of political science in connection with our colleges is becoming quite common. Few countries in the world offer as many advantages to the inductive student of economics as America. Here everything is on such a grand scale, and the machinery of society is still so simple, that extraordinary opportunities are offered to study the fundamental elements of the great national economy in their simplicity. There is but little doubt that the near future will see valuable original work done in economics by American students. Among our early writers on economics, Benjamin Franklin may fairly lay claim to having anticipated, by a full generation, Adam Smith's theory that labor is the only proper measure of value, and also Malthus' theory of population, that man tends to increase in numbers in a greater ratio than the means of subsistence. Alexander Hamilton discussed in his reports many economic questions with great ability. Daniel Raymond published his "Elements of Political Economy" in 1819. He took decided ground against Adam Smith, emphasizing the distinction between individual and national wealth, maintaining that our aim should be to increase the latter even at the expense of the former. He opposed Malthus' theory, and demanded protection for home manufactures by means of a tariff. Cooper's "Lectures on the Elements of Political Economy," published in 1826, took exactly opposite ground, and insisted on the necessity of free trade. The word "nation," he says, is an empty word. The wealth of a nation is nothing but the wealth of the individuals who compose it, etc. — The most important, original and acute American economist was Henry C. Carey. Men oftentimes further the progress of a science quite as much by their errors as by the new truth they discover. Carey is one of those writers whose views, although they are not tenable either as a whole or in detail, have been received with attention and appreciation by the whole scientific world. He has had devoted fol-

lowers in Germany, France and Italy, and although his views have not been generally accepted, yet they have exercised considerable influence in a negative way, leading those whose theories he attacked to a more careful formulation of whatever truth they contain. Carey, like Bastiat, proceeds in all his writings upon the assumption of a complete harmony between natural and social interests. In self-interest and in the innate desire of man to better his external condition, he finds the surest road to prosperity, the natural basis of the moral progress of society. He not only denies any antagonism between labor and capital, but sees in the co-operation of these two factors the most powerful means of promoting an increased production, which will surely and continually improve the condition of the laboring classes. He boldly proclaims the possibility of an endless and boundless growth. He starts with a thorough discussion of the ideas of *value, labor* and *production*. He bases value upon labor, and makes the cost of reproduction the standard of value. He then passes to the theory of distribution, and makes his harmony of interests the fundamental principle. The tendency of man to increase is surpassed by that of capital to multiply. The productivity of labor is conditioned by the density of the population. The more numerous the people, the more extensive man's control over nature, and the more rapid the increase of capital. The share of the laborer in the product becomes absolutely and relatively greater, and that of the capitalist, although relatively decreasing, is becoming absolutely larger all the while. A constant diminution in the unproductive classes follows this continued development. Cary is, as will be seen, an opponent of Malthus. He urges the possibility of emigration, the possibility of a fairer distribution of wealth and the immense tracts of unoccupied land in the world as proof of the falsity of Malthus' view. In his earlier writings Cary (in agreement with Ricardo) assumed that cultivation proceeds from the most productive to the less and less productive lands. The increasing productivity of labor, however, causes a depreciation in the value of the capital expended on lands in early times, and consequently in the value of the lands themselves. Lands rent at any given time only for such a sum as represents the interest on the capital required at that time to bring similar lands into cultivation. This sum is always far less than the sum actually expended on any piece of ground. The value of land is consequently controlled by the same laws as the value of all other kinds of property. In his later works he maintains that cultivation does not proceed from the most productive to the less productive, but in just the contrary order, from the least productive to the most productive. With the establishment of this proposition, he proposes to overthrow the whole doctrine of rent as set forth by Ricardo. Carey's writings are permeated with a feeling of bitter hostility to England, and are full of gross errors of fact. In striking contrast with his doctrine of the perfect harmony of all human interests and of the advantages of freedom, Carey is a pronounced protectionist, maintaining that English competition would ruin American industry, and that in order to insure that diversity of employments necessary to the highest civilization, the active interference of the government is necessary. — Most American economists agree with Carey in rejecting the doctrines of Malthus and Ricardo, though on various grounds. Among recent economists the following deserve especial mention: Prof. A. L. Perry of Williams college, Prof. Francis A. Walker of the Boston technological school, Prof. Sumner of Yale college, Prof. Thompson of Philadelphia, and Prof. Henry George of California. Prof. Perry is a pronounced free trader of the Bastiat type. His text book on political economy has been perhaps more widely used than any other recent publication in America. It contains some valuable chapters on the history of the sciences, on value, and on the tariff and currency. Prof. Walker's works on "Money" and "Wages" have placed him in the front rank of American economists. His father's work on the "Science of Wealth" is one of the best economic works which has appeared in America. Prof. Thompson has published a work, written to set forth the doctrines of the Carey school in a more scientific form. Among American economists Mr. David A. Wells also occupies an exalted position. His earliest economic writing was a cogent examination of the debt and resources of the country, written during the rebellion. This tract brought him into notice as a statistican, and led to his appointment to the position of special commissioner of the revenue (1865–9), and the reports he prepared in these years are models of clear reasoning and close application of general principles to facts. While in this position he became convinced of the many inconsistencies of the protective system, and he has since become one of the leaders of a movement for a reform of the tariff, and the greater part of his writings have had reference to this subject. As one of the commissioners to revise the laws for the assessment and collection of taxes in New York state, he made two reports, the great merits of which have been widely recognized, and greatly enhanced his reputation as a writer on taxation. Mr. Wells' writings, which are scattered in many periodicals, are marked by great clearness and accuracy, and form valuable contributions to the economic literature of the country. He belongs to no particular school of economists. He has edited a volume of Bastiat's essays, and prepared, in 1881, a "History of the American Merchant Marine," a work which admirably illustrates his methods. Among contemporary economists in America, Prof. W. G. Sumner of Yale college occupies a very high rank. His chief published economic works are his "History of American Currency," 1874; his "History of Protection in the United States," 1877; his collection of papers on "What the social

classes owe to each other," 1883. Prof. Sumner's strongest work, however, is not seen in his published books. It has been in his oral instruction. Prof. George's principal work is entitled "Progress and Poverty," and is mainly devoted to a discussion of distribution. There are many able writers on economics connected with the press of the country. But America is still waiting for the man to appear who shall make her contributions to the science as great and valuable as those of any other nation. — LITERATURE. *Die geschichtliche Entwickelung der Nationalökonomik und ihrer Literature*, by Julius Kautz; *Die Geschichte der Nationalökonomik*, by H. Eisenhardt; *Histoire de l'Economie politique en Europe*, by Ad. Blanqui; *Geschichte der Nationalökonomik in Deutschland*, by W. Roscher, and the *Guide to the Study of Political Economy*, by L. Cossa, are the works which, aside from the original authorities, have been chiefly consulted in compiling the preceding article. Some of the expositions of the doctrines held by the various schools have been taken with but little change from the above-named works. Prof. Cossa's little work, based on the larger special works in French, German and Italian, is a very convenient summary of the most valuable works on political economy in all languages. E. J. JAMES.

POLITICAL SCIENCE is that part of social science which treats of the foundations of the state and of the principles of government. It is closely connected with political economy, or, as it is sometimes called, the science of wealth; with law, be it natural or positive, which has principally to do with the relations of citizens to one another; with history, which furnishes it with the facts of which it has need; with philosophy, and, above all, with morality, which supply it with a part of its principles. Political science is either theoretical or applied. In theory it establishes general laws, which it draws either from experience or from reason, and which are as much the generalized expression of facts as the pure conception of an ideal more or less possible of realization. As applied science, it seeks the means of reducing to practice these general principles, taking into consideration time, place, manners, resources, in a word, circumstances. We shall speak here only of theoretical political science, and our intention is not to propound any particular doctrine, but to give a summary, following the order of time, of the principal theories which the history of the science has preserved to us. — We may divide the history of political ideas into five periods: 1, the oriental period; 2, the Græco-Latin period; 3, the middle ages and the renaissance; 4, the modern period, which extends from the sixteenth century to the time of the French revolution; 5, the contemporaneous period. — I. *The East*. We may say that the east (if we except China) was never acquainted with political science. Among most eastern nations, India, Persia, Judea, politics never succeeded in separating itself from theology. But if we discard the forms which are peculiar to oriental thought, we shall find in the religious books of the east social and political theories of the highest importance. For example, the system of caste and the theocratic system; such are the two principal ideas to which Indian politics, or, to use a better expression, Brahminical politics, may be reduced. We find, in the sacred book of the "Laws of Manu," a very striking expression of these two ideas. It is said there that the four castes, into which, from all antiquity, Indian society was divided, issued from Brahma, who produced them each from a different part of his own body; the Brahmins, or priests, from his mouth; the kshatryas, or warriors, from his arm; the vaisyas, or merchants, and laborers, from his thigh; and, finally, the sudras, or servants, from his foot. The theocratic theory appears in the same book in its most insolent form. "The Brahmin," it is said there, "is the lord of all beings; all that exists is his property; it is by the generosity of the Brahmin that other men enjoy the goods of this world." The book of Manu admits, indeed, the existence of royalty, and even, with oriental hyperbole, the monarch is called therein "a great divinity"; but this divinity is the slave of the Brahmins; he is obliged to "communicate to them all his affairs, and overwhelm them with benefactions and wealth." One sole fact describes this ignominious dependence in a very striking manner: "If the king finds a treasure," it is written, "he owes half of it to the Brahmins; if the Brahmin finds one, he keeps it for himself alone, without dividing it with the king." — The Buddhist reformation profoundly changed this social system, not because in the beginning (as Burnouf has well shown) Buddha, or Sakyamuni, attacked the system of caste; but by proclaiming religious equality, he evidently gave it a mortal blow. "My law is a law of grace for all," he said. He called, above all, beggars and vagabonds to a religious life. These principles bore their fruits. In one of the oldest Buddhist legends, the system of caste is strongly and deeply attacked: "There is not between the Brahmin and a man of another caste the difference which exists between a stone and gold, between light and darkness. The Brahmin, in fact, did not spring from the ether or the wind; he did not rend the earth to appear in the light of day; he was born from the matrix of a woman, like the *chandala* (the vilest of creatures, inferior to the sudra)." By its hostility to caste, Buddhism has been able to extend everywhere in Asia, and principally in China, where the people appear never to have known this system; even where castes exist still, as in Ceylon, Buddhism has destroyed the theocratic character which the system had in India, and has changed it into a military and feudal system. — I shall say nothing of Persia, of which we know so little, except that in the Zend-avesta the system of caste appears in a singularly mild form; that the priests are there rather councilors of the king than his masters; and especially

that, as this religion recommended above all agriculture as a sacred duty, there resulted a noticeable change of condition for the class of laborers; for the latter were ranked among the *atharnés*, that is to say, great. — It is chiefly in China that we find something analogous to what we call in the west political science; not because Confucius, the most celebrated of Chinese sages, was much engrossed with this science; but his disciple, or rather the reformer of his doctrine, two centuries after him, Mencius, was an ingenious and liberal publicist, as the following anecdote proves. He was conversing with the king of Tsi. "What must be done," he asked him, "with a friend who has badly administered our affairs?" "Break with him," said the king. "And with a magistrate who has not well fulfilled his functions?" "Remove him," said the king. "And if the provinces are badly governed, what must be done?" The king, feigning not to understand him, glanced to the right and to the left, and spoke of something else. The political theory of Mencius consisted in a sort of conciliation between divine right and the sovereignty of the people. The emperor, according to him, does not appoint his successor, but he presents him to the acceptance of Heaven and of the people; a doctrine conformable to the traditions of the sacred books of China. We know, doubtless, what becomes, in the politics of absolute governments, of this pretended acceptance by the people; it is most generally a fiction. But what is not a fiction, is the right, recognized to exist in the people by Mencius, to rid themselves of the kings with whom they are dissatisfied; a right which the Chinese people seem to have exercised more than once, if we can judge by the number of their dynasties. Moreover, Mencius himself exercised a very bold right of censure at the courts of the different princes he frequented. He attacked tyranny under all its forms, and particularly because it was a burden upon property. He showed great sagacity in pointing out the bond which united order with property; in him there was no vestige of caste or of aristocracy. He divided society into two classes: those who work with the head, and those who work with their hands, and, which is indeed the sign of a laborious and industrial society, he endeavored chiefly to show that intelligence is itself labor, and that manual labor can not be exacted from all; a manifest proof that the latter was not despised nor sacrificed, since a wise man was obliged to apologize for the former. — However curious and new the study of the political theories of the east may be for science, these theories have had so little influence upon our destinies, or at least an influence so indirect and so little apparent, that we must pass on to Greece, that is to say, to the cradle of western civilization. —II. *Græco-Roman Period.* The little space which we have at our disposal forces us to reduce political science in antiquity to three names · Plato, Aristotle and Cicero. — Nothing is more common than to consider Plato as a political dreamer, who was deceived because he did not take experience into consideration, and because he wished to construct society on an impossible basis. An important distinction must be drawn here, one without which we can not understand Plato, nor do his genius the justice which it deserves. A distinction must be drawn between utopian politics and ideal politics. The first consists in combining artificially, and by means of the imagination, the elements of which all society is composed, and thus creating an arbitrary mechanism, which has no life, no reality, no possible application, either present or future. Such are the utopias of Sir Thomas More, of Campanella, and of some of our modern reformers. Ideal politics, on the contrary, consists in forming a true idea of the state, in conceiving it in its perfection (as much so, of course, as the limits of the human mind permit), finally, in presenting to societies a model, as morality presents one to individuals. No state will ever reach that perfection, any more than any hero or any saint has ever attained or will ever attain moral perfection. But if we do not forbid morality to propose an ideal to men, why should we forbid politics to present one to peoples and to governments? Now, there is in the politics of Plato a utopian part and an ideal part. The first is dead, and will not revive; the second is eternal. It is utopism, in Plato, to consider society as divided into four stereotyped classes, like the Indian or Egyptian castes; it is utopism to believe that the state will have more unity, more harmony, more patriotism, because you have suppressed the family and property; it is utopism to have considered woman as like to man, and as capable of the same functions as man, for instance, of bearing arms and of governing the state; it is utopism to suppress the laws in the state, and to replace them by education alone; it is utopism to make philosophers the governing class, and thus to confound speculation with practice; finally, it is utopism to exclude poetry from the republic, to reduce music and the fine arts to the servile obedience of a fixed type, protected by tyranny, jealous of its arbitrary censure. But what is not utopism in Plato, is to have conceived justice as the true end of society, and to have made justice consist in the concord and harmony of the citizens. What is not utopism, whatever the politics of Machiavellism may say to the contrary, is to have asserted that the true strength of the state is virtue, and that the true principle of virtue is education. Education can not, then, replace the laws, but it is education that gives soul and spirit to the laws. For what is the use of a law which is not observed? And what can sustain the laws, if not morals? What is not utopism, moreover, in Plato, is to have perceived, before Aristotle, that it was in a well-moderated and well-balanced constitution that the only guarantee of liberty resided; to have exacted of legislators that they should give the reasons for their laws when they promulgated them; finally, to have demanded for criminals not only punishment, but amendment and amelior-

ation. — Still, an important element is lacking in the Platonic ideal; it is the idea of liberty. In his "Republic," Plato gives liberty no place; and if, in his dialogue of the "Laws," much wiser, as we know, if he gives it a place, it is in a certain manner despite himself and against his real feelings. This is easy of explanation. Plato had witnessed at Athens the excesses of liberty, and he had suffered from those excesses. By a natural illusion, which we have often seen again, he considered the sovereign good to lie in the very opposite of what he had witnessed near at hand, and he idealized Sparta, Crete and even Egypt, rather than appear to consider the laws and customs of his own country right; a kind of blindness habitual with the school of Socrates, and of which Xenophon is still more culpable than Plato. — If Plato founded ideal politics (not without an admixture of utopism), Aristotle founded experimental politics. Not that there are no facts in Plato, and that Aristotle is destitute of ideality; but we must characterize each of them by his most striking traits. What there is newer and absolutely lasting in the politics of Aristotle is, first, his method; that is, the analysis of facts, the reduction of a complex whole to its elements. For example, the state is the object of politics. Now, the state is evidently a whole composed of a very great number of elements. The analysis of this whole, of its integral parts, of its divers forms, of its successive phases, is political science. Such is the method of Aristotle; it is the most rigorous, the most scientific, that can be employed. It is that which, later, all the great publicists of the experimental school followed— Machiavelli, Bodin, Montesquieu, Locke and de Tocqueville. Aristotle took so much into account the conditions of the experimental method applied to politics, that, before writing his great work, he had collected, we are told, the constitutions of 360 republics or governments, and had analyzed them in a book unfortunately lost. In them he found the materials for his political doctrine; from them he took his examples; from them, doubtless, he drew his admirable analyses of the constitutions of Sparta, of Crete and of Carthage, models of political judgment. — We may say, also, that it is Aristotle who has fixed the frame, the great lines, the principal divisions, the principal problems, of political philosophy. The theory of sovereignty, the division of governments, the analysis and criticism of their different kinds, the theory of execution, the theory of revolutions: such are the different matters which the "Republic" of Aristotle treats of, after an introduction devoted to some questions of natural law and to a criticism of the most celebrated constitutions, real or imaginary. It is the strong sentiment of reality and the observation of the nature of things which led Aristotle to discover all the falseness of Platonic utopias, and in particular of that vain fraternity, which made of all citizens the indistinct children of unknown fathers and mothers. "It is better," says Aristotle, wittily, "to be a cousin in the actual system, than a brother in the system of Plato." He said, further, that "the affections were lost in a community, like a few drops of honey in a vast extent of water." No modern economist has recognized better than Aristotle the emptiness of that abstract and chimerical unity which absorbs the individual in the state. "It is wishing to draw harmony," says Aristotle again, "from one single chord, to have rhythm with a single measure." He shows that the suppression of property would not suppress quarrels and trials at law. There are as many quarrels between owners of goods in common as between those who have personal goods. Besides, the greatest crimes are not occasioned by the absence of possession. "Tyranny does not usurp anything for the purpose of guaranteeing itself from the inclemencies of the air." — It is the same lively feeling of the reality and the observation of the nature of things which caused Aristotle to discover this great truth, that man is naturally born for society, or, as has been so often said, is a political animal. Without society, man would be either a god or a beast. Society is composed of families. The family is distinguished from the state, in that the state is composed of men free and equal, while the family rests upon inequality. But it is a delicate achievement of Aristotle that he distinguished conjugal power from paternal power, the first of which is, he says, more like republican power, and the second more like royal power. — In politics, properly so called, Aristotle admirably grasped the principle of the responsibility of power. "It is not the cook," he says, "it is the guest who judges the banquet." He prefers the guaranty of the law to that which rests only in the wisdom of a prince. "To demand the absolute sovereignty of a king," he says, "is to declare sovereigns both the man and the beast." While appreciating with the utmost correctness the strength and the weakness of the different governments, he pronounces, as far as he himself is concerned, in favor of government by the middle classes. According to him, the great do not know how to obey, and the low do not know how to command. Both always wish to be tyrants. The middle classes, leaning as much to one side as to the other, hold alternately in check these two natural enemies, the nobility and the people. It is here, in fact, in the natural hostility of the rich and the poor, of the strong and the weak, of the great and the people, that Aristotle sees the principle of all revolution. The one party desires inequality everywhere, even where it is unjust; the other wishes equality everywhere, even where it is absurd and impossible; and hence all states toss about between arbitrary inequality and a violent equality. Hence, the revolts of the people in aristocracies, and of the great in democracies. The advice given by Aristotle, to escape these dangers, is that no government should abuse its principle. Democracy perishes by the excess of democratic institutions. And so with monarchy and oligarchy. On the

contrary, the people, in democracies, should appear occupied only with the interest of the rich; and, in oligarchies, the great should have in view only the interest of the people. Even in tyrannies, power can not exist, except on the condition of its being moderate. All these principles, so sensible, so practical, so frequently proven, are summed up in the excellent maxim of eternal application, "Authority is more lasting in proportion as it is less extended." — But if the method of observation and of experience revealed to Aristotle so many remarkable and profound laws, it unfortunately also contributed to close his eyes to one of the greatest injustices of ancient society, to slavery. Always preoccupied with the finding of the reason of facts, and much less with weighing the justice of them, Aristotle sought to explain slavery; and in explaining it, he justified it. He was rather inclined to extend than to restrain the practice of it, for he lays it down as a principle that there are two classes of men; one made to obey, and the other to command. The former are the slaves, the latter freemen. It is not war, nor law, nor covenant, which makes slavery; it is nature. And if we ask Aristotle who are the men that nature has thus condemned to slavery, he answers that they are those who are good only for manual labor; he seems to believe that nature herself designed them to be slaves by giving them an entirely material vigor, necessary for the coarser work of society, while she reserved for freemen nobility and beauty. It often happens, however, that there are men who have only the body of the freeman, while others have only his soul. It is easy, therefore, to be deceived. — Contempt for manual labor is the greatest prejudice we meet with in the politics of Aristotle. He even goes so far that he has attempted to confound the laborer with the slave, and in more than one place he divides society into two classes: the freemen, who have the necessary leisure to devote themselves to war, politics and philosophy; and the artisans, or slaves, who produce the means of subsistence for the former. A free society, that is to say, an imperceptible oligarchy, maintained by a slave society, that is to say, by the mass of men—such is Aristotle's ideal. Nevertheless, if we compare the politics of the latter with Plato's, it can not be denied that it is more true, more sensible and more practical than Plato's. — Cicero is not an original publicist; and the Romans, great politicians in practice as they were, did not produce in this respect great theorizers. Still, it is in Cicero that we find best developed that great idea of a mixed government which was the hope and the desire of many sages, until it found realization in the English constitution. After having set forth and compared the advantages and inconveniences of the different forms of government, Cicero decides in favor of a mixed government, or of a supreme and royal power, united to the authority of a distinguished class, and to a certain liberty of the people, which satisfies both the demands of order and those of equality that exist together in human nature. This government would be the most stable of all, because of its moderation and temperament. It is the condition of all that is temperate to last a long time, "and extremes are readily changed to their contraries." Cicero, following the example of Polybius, believed that the Roman government was an example of a mixed and temperate government. The government at Rome was at first monarchical. Royalty, overthrown by the revolution of Brutus, reappeared, divided and diminished, under the name of the consulate. In this second period, the constitution was wholly aristocratic. A new revolution, that of Virginius, introduced the people into the government. Henceforth, the consulate, the senate, and the tribuneship of the people, accompanied by many other institutions, some aristocratic, and some popular, represented, in their union, that form of temperate government, a mixture of monarchy, aristocracy and republic, which Cicero extols as the best and most secure of all forms of government. Without contesting his opinion upon this point, we content ourselves with observing that it is only by twisting the sense of the words, that we can make the consulate pass for a monarchical institution; and that, in reality, the Roman government was never anything but an aristocratic constitution, slowly transforming itself into a democracy. — III. *The Middle Ages and the Renaissance.* The period which extends from the end of antiquity to the middle of the middle ages, that is, to the thirteenth century, that period so great in the religious history of the human mind, has not the same importance in politics; it is only necessary to call attention, in its beginning, to Christian politics, by comparing it with Hebrew politics. —The politics of the Hebrews, in the beginning, or at least from the time of Moses, was theocratic politics, although not sacerdotal. God was the only king, the only lord, the only proprietor of the land. It was with him that the people covenanted through the mediation of Moses. But the priests were not, as in India, the governing class. The tribe of Levi was excluded from a share in land, with the exception of certain cities which had been given to them. The priests were a family, not a caste. The priesthood extended through all the tribes, and was an instrument of unity. It had, moreover, considerable political influence, serving as an intermediary between God and the people. After Moses, power appears to have been patriarchal and democratic, concentrated only in critical moments in the hands of a military chief. The disorders which resulted from this state of things led the Hebrews to desire a monarchical government. It is probable that the priesthood little favored this institution; for we see Samuel strongly reproving the people upon this occasion, and threatening them, on the part of God, with the most frightful despotism. Still, in becoming monarchical, the government did not entirely lose its theocratic character. Consecration and anointment suffi-

ciently prove this. The sacerdotal power continued to remain powerful; finally, outside of the established church, there were always immediate envoys of God, who, without any other title than divine inspiration, admonished the kings and held their ambition in check. These were the prophets, a sort of popular opposition, which was, however, as often directed against the people themselves as against the royal authority. — Such were the sources at which, later, Christian politics drank. But in the beginning, like all great religious doctrines, Christianity was not political. It was an entirely moral kingdom that it wished to found; it was in this moral kingdom that the first were the last and the last first. Christ meant by this, not that it was necessary to change the social order, but that the social and political order was as nothing compared with the true order, the moral and religious order of things. But he did not ask to change anything here below. His kingdom was not of this world. The apostle Paul sums up the same ideas in these celebrated words: "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be, are ordained of God." Christian politics was, therefore, in the earliest times, only the politics of obedience and of submission to the established powers. The only revolution of which it thought was the reform of souls. — It is not our province to investigate here the social consequences of Christianity. We know the great influence it had in the greatest social fact of modern times, the abolition of slavery. We shall limit ourselves here to political doctrines. Now, one of the questions that Christian politics gave rise to, is that of the relations of church and state. We know how that question is solved in the Gospel: "Render unto Cæsar the things which are Cæsar's; and unto God the things that are God's." All the primitive church remained faithful to this maxim, tempered by these words of the apostle: "We ought to obey God rather than men." Later, when the state became Christian, the church showed very great power of resistance and very great ambition. We know that the whole of the middle ages was the struggle of these two powers. This struggle, which fills up history, fills up, also, all the writings of the time; on the one side the writings of the theologians, and on the other of the jurisconsults. We can scarcely give a summary of such a controversy, which has filled vast numbers of books, but we can point out the principles involved in it. It is to be remarked that in this struggle, in which were appealed to in turn the principle of the divine right of kings and the principle of the sovereignty of the people, it was chiefly the laymen or jurisconsults who appealed to the former, and the theologians to the latter. The partisans of the civil power were interested in making the origin of power flow directly from God, in order that they might not appear to hold it from the hands of the church. The church, on the contrary, was interested in demonstrating the human origin of this power, in order to rule more easily. Hinkmar, Gregory VII., Innocent III., John of Salisbury, Saint Thomas Aquinas, and Giles of Rome, were the defenders of the ecclesiastical power in the middle ages. The jurisconsults Dante, Occam, and Mariel of Padua, were the principal defenders of the civil power. The thirteenth century witnessed the triumph of the theocratic school. The fourteenth century witnessed its ruin. — But new ideas and new light are spread among the people. The reading of ancient writers, now resumed, freed the mind in every sphere. Scholasticism drooped and died; more experience, more reflection, more curiosity, gave birth to new methods and to a new language. Politics was the first of the sciences to profit by this revolution, but not without injury to morality. We have met Machiavelli. — Machiavelli substituted in politics, for the wholly syllogistic method of the schools, the method of observation and of experience, such as we have already seen it in Aristotle. Still, there is a difference in the methods of these two great minds. In Machiavelli the method was rather empirical than really experimental. To explain: the great experimental method, as understood by Aristotle and Montesquieu, consists in gathering together, on a very large scale, the most general facts of the political order and converting them into laws. The division of governments, the division of powers, the forms and conditions of sovereignty, the laws according to which governments are formed, grow and decay—such are the objects of political science; and experience is the method which serves to discover them. Machiavelli did not seek such general results. His end was much nearer home, and was always reduced to this practical problem: How is it necessary to act under such and such circumstances? Politics, as he understood it, is less a science than an art; he gathers together tentatively certain examples, and he advises us to act after certain models, whose acts he relates. Hence, instead of general laws, founded upon the analysis of facts, he gives us precepts, founded upon examples: this is empiricism, not science. — We know, too, what an indifference to good and evil, to justice and injustice, Machiavelli introduced into politics. Cruelty and bad faith, those weapons so familiar to the Italian politics of the fifteenth century, seemed to him most innocent, and he recommended them with the most perfect indifference. It has been said that these criminal counsels which fill the book of the "Prince" were only a feint, whose object was to render tyranny odious. But it is difficult to admit such a theory. For, in the first place, the "Prince" has by no means the character which is ascribed to it; and, besides, we find the same maxims both in the correspondence of Machiavelli and in his discourse on Titus Livius, a work infinitely superior to the "Prince" in its political bearing, and in the elevation of its ideas. Finally, Machiavellism was not only the doctrine of a man, but of a century. Machiavelli disclosed the secret of his age; and it must be

avowed that there is always more or less of Machiavellism in the politics of all times. (See MACHIAVELLISM.) — From the purely political point of view, Machiavelli seems to have two doctrines: the one popular and republican, in his "Discourse"; the other tyrannical and monarchical, in the "Prince." This contradiction is explained by the empiricism of Machiavelli, who was more occupied with studying facts and explaining ways and means, than with exposing principles. In one of these works he studies popular governments; in the other, princely governments, and particularly that of new princes. He points out what experience has taught him in regard to the means of elevating and making prosperous these two forms of government. It has been conjectured that in the book of the "Prince" he advises tyranny only in the interest of liberty; tyranny would be to him only a democratic dictatorship. It is difficult to discern this idea in the "Prince," though some passages of the "Discourse" may authorize it. Let us add that the more popular and more liberal politics of the "Discourse" appear much more conformable to the real thoughts of Machiavelli than the politics of the "Prince." — The sixteenth century was especially a century of politics. The great religious reformation, excited by Luther, was of profit to the science of the state. When the foundations of religious belief had been submitted to examination, the time was not far off when political beliefs would have to undergo the same examination. Hence nothing is more interesting in this respect than the political writings of the sixteenth century; for the first time a bold examination was made of the foundations of the right of sovereignty; those rights of the people and of kings, which, according to Cardinal de Retz, "never accorded so well with one another as in silence," were laid bare. The Protestant schools gave the signal. Hotman in his *Franco-Gallia*, Hubert Languet in his *Vindiciæ contra tyrannos*, Buchanan in his *De jure regni apud Scotos*, propounded the principles of a system of politics boldly revolutionary and democratic. Hubert Languet, in particular, first brought to light the principle of *contract*, which was later to become so famous in the hands of another Protestant and republican, J. J. Rousseau. Before long the Catholics, drawn into the struggle, rivaled the Protestants in revolutionary ardor. They even pushed anarchical principles so far that they even authorized and defended regicide. The writings of the Jesuits, and, in particular, the celebrated *De Rege* of Mariana, prove this. Among all these polemical writings, which have as much excited minds as perfected science, we must single out one of the greatest monuments of political science, the *République* of Bodin. This book, composed almost upon the plan of Aristotle's "Politics," and which, in its vast compass, contains and sums up all the problems of politics, is remarkable for the number of its facts, of its historic examples, for its judicial and even economic knowledge, for its moral elevation and its political moderation. But we can not say that it contains truly new and original principles. What is most remarkable in it, is a very fine polemic against slavery; a polemic which was then only too timely, the discovery of America having brought about a sad increase in the evil of slavery. We must not forget to mention, finally, the eloquent appeal of L'Hospital in favor of freedom of conscience. — IV. *Modern Times.* The seventeenth century scarcely produced any great publicists, save in England. For it is only where liberty exists, or at least where it is a matter of dispute, that politics acquire new light. Two names arise above all others in this strife of parties and of political schools: Hobbes, the defender of absolute power; and Locke, the heir of the doctrines of Buchanan and of Languet, and the defender of the sovereignty of the people. — Hobbes takes as his point of departure the principle that man has the absolute right of self-preservation by all possible means; and according this same right to all men, he very logically concludes that the state of nature is a state of war of all against all. He has no difficulty in making it appear that this state is a threatening one for everybody; for the weak in the first place, who are oppressed by the strong; and then for the strong, who may be oppressed by the weak leagued against them. In this common state of disquietude the only means of guaranteeing the security of all is for each one to resign the absolute right which he has over all things, and transfer that right, with all its consequences, to a central power (prince, assembly or people), which thus becomes sovereign. The sovereign is, then, a public personage, invested, through the renunciation of their rights by the members of society, with absolute power. Hobbes is not exclusively a partisan of the power of one man. Doubtless he prefers monarchy to the other forms of government. But he admits them all; the only principle to which he holds, is the principle of absolute power, in whatever hands this power may be placed. He makes no reservation of the rights of citizens or of subjects, and he abandons them, bound hand and foot, to the absolute arbitrary power of the state. — Such are the principles contained in the *De Cive*, or the "Leviathan," the most audacious pleas which have ever been written in favor of absolute power. Hobbes had witnessed the English revolution; he had taken sides with the Stuarts, and it was to defend them that he composed these vigorous but detestable works. Locke, a partisan of William of Orange, and defender of the revolution of 1688, wrote, to refute the writings of Hobbes, of Filmer, and of other apologists of absolute power, the "Essay on Civil Government," one of the best treatises on politics that we possess. — He maintains, against Hobbes, that even in the state of nature there is a primitive law which does not permit each to do anything, no matter what, for his self-preservation. The state of nature is nothing but the state in which men live when they have no superior to settle

their differences. In this state they have none the less reciprocal rights; and if it is permitted them to use force, it is not for attack, but for defense. Among these natural rights, anterior to civil law, Locke puts in the first rank, property, which he bases upon human labor; a doctrine entirely new then, and which has since become almost hackneyed. Liberty of person and liberty of labor are also natural rights of men. Hence Locke energetically combats slavery. Finally, his conclusion is, that the civil power, far from being based upon the renunciation by the citizens of all their rights, is, on the contrary, instituted for the protection of these very rights. It has been sought to derive the civil power from the paternal power; this was the theory of Filmer, in his "Patriarcha," in which he considered all the princes of the earth as heirs of Adam. Algernon Sidney, in his "Discourse upon Government," had already refuted this strange theory. Locke shows that the paternal power itself is instituted in the interest of the children, and does not extend beyond the time when the son has become a free man at his majority. The civil power, neither resting upon force nor upon the paternal right, Locke derives from popular consent; and from this principle he draws unhesitatingly the gravest consequence which it contains, namely, the right of insurrection, which he calls the right of appeal to heaven. — The seventeenth century was more fruitful, so far as political science was concerned, in England than in France. *La politique tirée de l'Ecriture sainte*, by Bossuet, is the only work of any consequence written by the pen of a Frenchman at that time. It is an apology for absolute power and for the divine right of kings. Yet, if justice is to be done to Bossuet, he must not be confounded with Hobbes. The former endeavored to distinguish arbitrary power from absolute power. He recognized certain fundamental laws, which are the natural limit of power; he excepted life and property from the absolute power which the sovereign possesses; finally, while according him all rights, he did not overlook his duties. But even with these restrictions, the politics of Bossuet is none the less among the most absolute that we know. Let us add, that he understood nothing of the freedom of conscience, and that slavery itself appeared to him to be a legitimate institution. Such were the political doctrines of France. Fenelon, indeed, was more liberal minded than Bossuet, but rather from an aristocratic than from a popular point of view. — After Louis XIV. and after Fenelon, minds were freed little by little, and turned to the examination of religious and of political affairs. The *Lettres persanes* and the *Lettres anglaises* were the signal given by the two masters of the century, Voltaire and Montesquieu; the former submitting all things, and, in particular, penal matters, to the great freedom of his judgment, so sensible and so penetrating; the latter, after the first brilliancy of the *Lettres persanes* and the vigorous masterpiece, *Considérations sur la grandeur et la décadence des Romains*, collecting his thoughts during twenty years to raise up for political science one of its most magnificent monuments, the *Esprit des lois*. — The *Esprit des lois* is one of the most difficult books to analyze, for it does not contain, properly speaking, any system; but there is not one of its pages which is not full of sense and of profundity; we may criticise his division of governments and his theory of their principles; but what is beyond all admiration is the profound and penetrating judgment which he brings to bear upon each one of them; his analysis of monarchy, founded upon honor and upon the privileges of the intermediary bodies, is a great truth. He has perceived with genius that the suppression of the intermediary powers would lead directly to despotism or to the power of the people. Nothing can be finer than what he has written upon the corruption of governments. Finally, when he says that monarchy rests upon honor, and the republic upon virtue, he advances indeed a maxim which is subject to restriction, but the basis of which is true. What constitutes the difference between aristocratic monarchy as it existed in France in the seventeenth century, and despotism as it exists in Turkey and in the east, is, that the power which is not limited by the laws is necessarily limited by manners and customs. It will be said that in Turkey even there are manners and customs which limit the empire of the sovereign. But that only proves that nowhere, not even in Turkey, is there absolute despotism. As for the principle of virtue, it is perfectly clear that popular governments have more need of it than other governments. Read, for example, the chapters of Montesquieu upon the corruption of democracies, and you will see what difficult duties await citizens the day they wish to be free. We learn there that the love of equality becomes the ruin of equality itself, if it does not know how to confine itself within its true limits; if, not content to be equal as citizens, we wish to be so also as sons and as brothers, as young and as old, as subjects and as magistrates. We learn also how obedience to the law is necessary in a country in which the law is made by the citizens themselves. We may find that Montesquieu yields too much to ancient prejudices, in considering frugality necessary in democracies: but it must be granted him that a certain sobriety, a certain moderation in enjoyment, is one of the guarantees of liberty; and that where the disordinate love of the pleasures of the senses rules, the country and the law run the risk of being held of little account. — Moved by the desire to oppose the temperate and circumspect politics of Montesquieu to the rash and adventurous politics of J. J. Rousseau, the conservative spirit of the former has been frequently much exaggerated, as well as the revolutionary spirit of the latter. Montesquieu said: "I have not naturally a disapproving spirit." It has been concluded from this, that he was more ready to counsel the maintenance of abuse than the overthrow of the established order. Nothing could be more incorrect than such a view. The moderation of his

tone ought not to close our eyes to what is bold and impassioned in the *Esprit des lois*. Montesquieu wished, as much as any man of his time, for a new society, so new indeed that we can still desire a part of what he dreamed of. If we except the venality of offices, which a remnant of domestic prejudice led him to spare, and which was besides a sort of guaranty against arbitrary power, there is not a single abuse which Montesquieu did not attack with as much force as any philosopher of his time. Before Voltaire and Beccaria, he demanded the reform of the penal code, and the proportionment of punishments to offenses. Before Rousseau and Raynal, he eloquently attacked the institution of slavery. Before the *Encyclopédie*, he pleaded the cause of toleration. — But among the greatest of the new things in Montesquieu must be reckoned the principle of the separation of the powers, the checks and balances of governments. Before him it had been indeed seen that there was in society a power to make the laws, a power to declare or interpret them, and a power to execute them; in a word, three powers, the legislative, the judicial and the executive. This division had already appeared in Aristotle; and there was an analogous one, although a little different, in Locke. But no one, not even Locke, had perceived that the separation of these powers is the essential condition of liberty; that if the power which makes the laws is also the one which executes and interprets them, it is of necessity a tyrant; for nothing is opposed to its authority. The safety of the citizens is only guaranteed by the separation of the powers. Power checks power. Such is the principle which Montesquieu discussed in the constitution of England, and which has often been confounded, although it is profoundly different from it, with another principle, which does not properly belong to Montesquieu, the principle of mixed governments. These are two distinct things, for the separation of powers can take place in a simple government, for example, the American republic; and on the other hand, in a mixed constitution, the powers may be confounded, for example, in the Roman constitution. Of these two principles, the first, we may say, is eternal and universal; the second depends on circumstances. Wherever political society exists the powers should be separate; else the citizens are oppressed. But it is not absolutely necessary that monarchy or aristocracy should be united to democracy. Finally, among modern publicists, Montesquieu is one of those who have insisted most upon the greatness and importance of political liberty in the state. Locke had already done so; but it is perhaps owing to Montesquieu that the idea was promulgated throughout the world, and that it was added, as an indestructible element, to the patrimony of universal reason. — To the politics of Montesquieu is naturally opposed the politics of J. J. Rousseau. His politics have been so often criticised, that it will be to the point, perhaps, to set forth its merits rather than its defects. This is not saying that we approve of the whole of the *Contrat Social*. There are in that book very dangerous and very bad opinions: in the chapter upon civil religion, an admiration beyond bounds for the very imperfect republics of antiquity, and an unintelligent aversion for the very wise principle of representation, the only means of establishing liberty in our modern societies. But, all reservations made, I find that the maxims of the *Contrat Social* are often interpreted in an incorrect manner, and that there is more truth in the book than it is the custom to acknowledge. — It is constantly advanced as an argument against Rousseau that he has said that human society, in general, had its origin in an agreement, in a contract. But it has not been sufficiently remarked that in the *Contrat Social* Rousseau treats only of civil and political society. It is that, according to him, which has its origin in contract. He seeks, he says, with judgment and precision, "the act by which a people is a people." Now, it is this act, which, in his opinion, is a contract. — To thoroughly appreciate the value of this principle it is necessary to be informed that Rousseau does not examine what is, in fact, the principle upon which civil society rests, but what is in law, *in abstracto*, the principle of any political order whatever, all particular circumstances being left out of consideration. This is a political metaphysical investigation, one which may be dangerous in its consequences without being false in itself. For the truest principle may be wrongly interpreted and wrongly applied. Besides, Rousseau seems himself to have taken precautions in advance against the abuse which might be made of his principles, by frequently repeating, in his work, that the best government is that which is most conformable to the character of the people for whom it is made, that there is not *a priori* a perfect and absolute form of government; that all depends upon circumstances, etc. Consequently, even although the principle of the social contract should be admitted, it would not follow that Rousseau authorized the application of it *hic et nunc* without restriction; the person who should rashly try to apply this principle, would only have himself to blame for the consequences, like a mechanic who rigorously applied a mathematical formula without taking into account friction and resistance. — The truth of Rousseau's principle may be demonstrated by many incontestable facts. How, for example, can naturalization be explained, if the principle that it is of my own free will that I may form part of any political society whatever is not admitted? Without doubt, I can not free myself from human society in general (and yet what prevents me from going to live as a hermit in uninhabited places?); but I can cease to be a Frenchman, to become a Russian or a Turk, if I please, and *vice versa*. This is, in truth, only making use of my own individual free will. But we have seen this practice pass from individuals to nations; and, although we may contest the actual application of it, we can not contest its legitimacy. How, except by the principle of contract, can the

recent acts of annexation by popular consent be otherwise explained? Was this not openly to proclaim that a people is a people only by the free consent of its members? It is by virtue of the same principle that in the United States a new state is admitted to the Union; and if the right of secession was discussed there by armed force, it is because the interpretation of conventions has not always been agreed on. Even in kingdoms, which are created by conquest or by family alliance, national unity exists only when there is a real or supposed consent of the population. There is in such a case a sort of tacit contract between the conquering and the conquered peoples. Where such a contract does not exist, the conquest is always ruinous, and the people are always ready for revolt. Is such a state legitimate? Why, to-day, do all enlightened people want a constitution? It is because they intend to fix the fundamental conditions of their association. A constitution is nothing else than an act of society. The social contract, in truth, is not an historical fact; it is not a fact of the past, it is a fact of the future. Nations can not appeal to a primitive contract; but they aspire to a sort of ideal contract, which should establish, in some sort, the conditions of the reciprocal action of men toward one another, and of the sovereign toward his subjects. What are the laws, if not the special provisions of these contracts? Why is it desired that the laws should be passed by the representatives of society, if it is not because it is only the mandatories of society who can contract for society? — J. J. Rousseau has been reproached, not without reason, for his doctrine of the omnipotence of the people. But this doctrine is independent of the theory of the social contract. Whatever origin may be attributed to public power, whether divine right, patriarchy, conquest, or popular consent, we may always suppose it absolute. Now, the doctrine of the absolute power of the state was universal before J. J. Rousseau. He borrowed it from tradition. Only he placed the people in the place of the prince; that is all the difference. *Quidquid principi placuit legis habet vigorem.* Such was the doctrine of the jurisconsults. Replace *principi* by *populo*, and you have the democratic thesis. Doubtless, it is no truer under this form; but if Rousseau's claim to the expansion which he gave to the right of sovereignty may be contested, that is no reason to deny this great truth, that society rests upon an express or tacit contract of all its members. — By the side of Montesquieu and Rousseau, we should, if space allowed, show the part which the economic schools of the eighteenth century, the physiocratic school in France, and that of Adam Smith in England, had in the progress of political ideas. The economists have, above all, contributed to spread the principles of natural law; and although many among them, as Quesnay and Mercier de la Rivière, were partisans of absolute power, yet they excepted from the exercise of that power the natural rights of citizens, and, above all, the right of property. Hence, although they were not advocates of political liberty, they accustomed minds to free a certain number of objects from the frequently tyrannical protection of the government. Their principle, *Laissez faire* and *laissez passer*, which was applied only to commerce and to industry, was soon to be applied to conscience and to thought. Turgot was, together with Voltaire and Montesquieu, the most serious defender of toleration. I may add, that from Turgot and Condorcet dates one of the greatest and most powerful ideas of modern society, the idea of the perfectibility of the race and of progress. This idea, perceived by Pascal and by Bacon, in its relation to the sciences, is in some sort the last word of the eighteenth century; it is the word of the French revolution. — During the revolution the political schools gave place to parties, theories to action, and struggles of thought to struggles in the tribune and of the scaffold. Science, without doubt, has profited by the French revolution, not while it lasted, but after it. — V. *Contemporaneous Period.* The political schools of the nineteenth century may be reduced to four principal ones: 1, the aristocratic and royalist school; 2, the constitutional and liberal school; 3, the democratic school; 4, the socialist school. — 1. The royalist school defends in general the old régime as opposed to the new, monarchical and aristocratic institutions as opposed to liberal and popular institutions. But, within these limits, what a variety of opinions! What a distance, for instance, between de Bonald and Chateaubriand; between the *Législation primitif* and the *Monarchie selon la Charte!* The former will have nothing but the political society of the old régime: to him it is absolute society. The unlimited power of one alone, supported by two privileged orders, the one charged with the defense, the other with the education of society: such was his ideal of the social and political order. Chateaubriand, on the contrary, while deploring the revolution, and demanding the re-establishment of entailment, and the restitution of their property to the clergy, was, at the same time, an impassioned partisan of English institutions, a defender of the initiative of Parliament, of the liberty of the press, of the responsibility of ministers, and counseled the aristocracy of his country to make use of new institutions, to take place and rank in those institutions, instead of arming itself against them, and seeking to recover possession of its privileges under the shadow of restored despotism. — 2. From Chateaubriand to Royer-Collard, the transition appears scarcely perceptible; the one is the most liberal of royalists, the other the most royalist of liberals. Yet we enter here into a new world, into the world of the French revolution, represented at first by the constitutional school. This school is divided into many branches, the doctrinarian school, the liberal school, the economic school, bound together by common doctrines, but at the same time separated by sufficiently important shades of

difference. The first of these schools was represented by Royer-Collard, the Duc de Broglie and Guizot; the second by Benjamin Constant; and the third by Comte and Dunoyer. What distinguishes the doctrinarians from the pure royalists is, that they accept without reserve the civil order resulting from the French revolution, that is to say, the equality of partition and the secularization of the state. They oppose the law of the right of primogeniture and the law of sacrilege. Besides, they are in favor of political liberty, the liberty of the press and the control of the government by assemblies. But if they accept democracy in the civil order, and if they give it a certain share in the political order, they are no less alarmed at its progress; they detest it in its violent form, the revolutionary form; they even doubt it when regulated and modified in the government of the state. To the dogma of the sovereignty of the people, which, according to them, would only substitute one tyranny for another, they opposed the doctrine of the sovereignty of reason. They thought monarchy necessary to restrain democracy and to preserve liberty itself. Above all, they wished to assure a certain preponderance to the distinguished classes, to what they called the *superiorities*, and to give to the government of democracy more sequence, more unity, more foresight, more of the spirit of justice, and more of the true liberal spirit; the love of liberty being incompatible with the lack of intelligence. Such were the ideas of the doctrinarian school; those of liberalism did not differ essentially from them. The liberal school admitted, with the doctrinarian school, the necessity of royalty, the division of the legislative body into two chambers, and the limitation of the electoral body. But it made the part of royalty much less; it was opposed to the hereditary character of the upper chamber, and demanded the progressive extension of the electoral right. These differences concealed a capital dissent; the doctrinarians considered the mixed government, composed of monarchy, aristocracy and democracy, as the absolute ideal; they saw in such a government a definitive and good régime. The liberals, on the contrary, seemed to consider that régime as a preliminary step to something else. To the former, royalty and aristocracy were necessary elements of all society; to the latter, they were only useful moderators, whose importance was decreasing every day, and whose authority it was necessary to reduce more and more. Of these two schools, the former, therefore, allied itself to the royalist and aristocratic school, and the latter to the democratic school. One of the important branches of liberalism was the school of the economists. The economists thought that the political institutions of a people have doubtless great importance; they were very much attached to a system of constitutional guarantees, but they added that institutions are means, not ends; that the principal thing is not, who shall govern, but, how he shall govern. They thought that the principal end of governments is to assure the well-being of the people. Only they thought that governments take a wrong course to assure that well-being. For governments believed it was by regulation, protection, authorization, that they could favor the progress of industry and intelligence. But this is only to substitute for the old yoke of the corporations, a new yoke, that of the state, a vast, abstract, impersonal, irresponsible unity, which has inherited all the powers of absolute monarchy. The economists are the first among the partisans of the *new society*, who discussed this idea of the state, and who have opposed individual right to collective right. Later, when it was necessary to combat socialism, recourse was had to their arguments. But, in the beginning, they were almost alone in battling against the prestige exercised over minds by the vague and obscure notion of the state, which was no less dear to the democrats than to the partisans of absolute power. — 3. The democratic school has had two phases. In the first, it was only the last echo of the expiring revolution: it was the school of the ideologists, represented by de Tracy and Daunou. This school was allied not to '93, but to '95, and remained faithful to the constitution of the year III. A divided executive power, suffrage of two degrees, a conservative senate (an element borrowed from the constitution of the year VIII.): such were the principal characteristics of the political system of Destutt de Tracy, in his *Commentaire sur l'esprit des lois*. In this book we see the democratic school freeing itself little by little from the yoke of Rousseau, and setting up in opposition to the old republics, which it was commencing to consider semi-barbarous, societies, our modern laboring, commercial and industrial societies, which have need of order and of liberty, and not of sumptuary laws. At the restoration the ideologic school was merged in the liberal school, as we may perceive by the too little known work of Daunou upon "individual guaranties," a work whose principles are entirely in accordance with those at that time maintained by Charles Comte and Charles Dunoyer in the *Censeur Européen*. There are few things in common between the school of ideologists and the democratic school, the issue of the restoration. The first was radically hostile to the committee of public safety and to the régime of '93. The second seems to be connected by a subterranean filiation with Jacobinism. Its principal passion was to rehabilitate the men and the acts of the reign of terror and of the convention. It displayed in this respect an incredible stubbornness, without suspecting the injury it thus did to its own ideas. Yet it was not entirely subjugated by these blind and extravagant passions, and the intelligent minds who controlled it had other views. In general, it was less a school than a party. It was more given to fighting than to thinking. Armand Carrel, its most celebrated name, was a great journalist, but not a publicist. Very strong and very energetic in his polemics,

he was weak in his theory. But be it said in his honor, that he never sacrificed liberty to democracy, as may be seen from his vigorous polemic against the "Tribune," an ultra revolutionary journal, edited at that time by Armand Marrast. Another eminent man, a greater writer and a more powerful thinker than Carrel, brought to the aid of the democracy about the same time his stirring eloquence, his bitter denunciation and ardent imagination; but he did not supply democracy with an idea. It would be impossible to discover a political view of any originality in the *Paroles d'un croyant*, in the *Livre du peuple*, or in the *Esclaive moderne*. The only ideas which have any weight in these writings are borrowed from the socialist schools, richer in thinkers than the democratic school. But not to have the appearance of seeking to depreciate a great mind, I hasten to add that Lamennais should be studied not only in his democratic writings. There is a political question which he has touched with penetration and depth, and on which he has left his mark; I mean the relations of church and state; it is by that and by the journal *L'Avenir* that Lamennais has a right to an important place in the history of the political ideas of the nineteenth century. — 4. As for the socialist school, it has passed through many curious phases, difficult to describe with precision. The first period of socialism was what I shall call the industrial period. It was the time of the first writings of Saint-Simon. In this first period the socialist school was only an offshoot of the economist school. Saint-Simon appealed to the authority of Adam Smith and of J. B. Say, and gave himself out as their disciple. His idea was that the first class in the state was the industrial class, and that the government belonged to it. Some attacks had already been made on proprietors, stockholders, idlers, but not on property itself. As for capital, it was not only spared, it was glorified. The first dream of the Saint-Simonian was a plutocracy. But Saint-Simon died; his disciples developed or confused his ideas. Fourierism succeeded him. Fourierism and Icarianism were propagated. This was the second period, the utopian period. The idea which ruled in this second period was this: society was given over to anarchy, it needed to be organized. The idea of organization took hold of all minds. Each presented his plan, his dream, and demanded that the state should furnish him with the capital necessary to make social experiments, or to make them itself at its own expense. Despite these dreams the socialist school appeared harmless, because it confined itself to speculative constructions, and remained more or less aloof from political parties. But there came a time when the democratic school and the socialist school joined hands, recognized each other as sisters, and embraced. This encounter and this alliance were one of the gravest events of the century. Separated from each other, the school of social revolution and the school of political revolution offered only a mediocre danger to the partisans of a regulated liberalism. United, and associating together their passions and their hopes, they might overthrow everything. However this may be, the third period of socialism was the revolutionary and democratic period. The idea which ruled in this third period was: '89 was the revolution of the bourgeoisie against the nobility; to-day it is necessary for the people to make a revolution against the bourgeoisie. This idea, so simple and so logical, which connected the cause of socialism with that of the revolution, which went straight to a precise end, and boldly attacked property and capital, is due, above all, to Louis Blanc and Proudhon. But arrived at this point, socialism took two separate, and even absolutely contrary, routes. According to some, this revolution must terminate in a new organization of society, under the empire of a popular, energetic and concentrated government. According to others, government must only serve to produce the revolution, to destroy the tyranny of capital, as Richelieu destroyed the tyranny of the nobility. But this end once accomplished, the government must disappear in its turn, as being the last of the privileged bodies. Hence democratic socialism was divided into two branches: *communist* socialism and *anarchical* socialism. — Such are the principal political schools of the century. But by the side of and outside these schools, some free and enlightened minds, not wishing to connect themselves with any of them, cultivated political science in an abstract and general manner, and followed the traditions of the great theorizers, whose ideas we have related. Such is the rôle of de Tocqueville, whose celebrity has been gradually increasing, and whose importance has been more and more appreciated, since facts have confirmed many of his gravest predictions. What can not be doubted, is that his *Démocratie en Amérique* must be considered as one of the finest monuments of political philosophy. — The point of departure of the studies of de Tocqueville seems to have been these celebrated words of de Serres: *La democratie coule à pleins bords*. He thought that the democratic revolution was inevitable, or rather, that it was accomplished; and instead of reasoning *a priori* upon the justice or injustice of this great fact, he thought that it was better to observe it; and leaving to others the task of praising or blaming it, he restricted himself to getting acquainted with and understanding it; in a word, considered democracy as an object, not of demonstration, but of observation. This was an entirely new view. Most publicists had written for and against democracy systematic and abstract books; but no one, since Aristotle, had made it the object of attentive observation. Montesquieu himself, the greatest political observer of modern times, did not understand democracy; he saw it only as it existed in antiquity, and, almost like Mably and Rousseau, he had not the least presentiment of modern democracy, as it issued from the American revolution or from the French revolution.

— What results did de Tocqueville reach? This, in a few words, is about the balance sheet which he furnishes of the good and evil in democracy: The principal advantages in the democratic system are the development of well-being, the spreading of intelligence, the progress of sociability, the sympathy for human misery, and, finally, a very great display of activity and energy. In a word, in democracies, except at certain critical moments, men are generally more enlightened and happy. But these advantages are counterbalanced by disadvantages. The principal disadvantages are the instability of the laws, the inferiority of merit in those who govern, the abuse of uniformity, the excess of the love of well-being, and finally, and above all, the tendency to tyranny. It is principally this last characteristic which de Tocqueville has developed. He is one of those who have insisted most on the tyranny of democratic majorities; he has also shown the confusion which attaches to the two fundamental ideas of democracy, equality and liberty; he has demonstrated that these two things are not always in direct proportion to each other, that the progress of equality is not always the progress of liberty. Finally, he has strongly pronounced against centralization; and he was one of the first, while he entirely recognized the necessity of society's advancing in democratic ways, to assert the rights of individual action and to call attention to the encroaching tendencies of popular sovereignties, whether they are exercised under the republican or monarchical form. — It is principally this last problem which science has applied itself to study and to solve in recent times. The events of 1848 in France, socialism, the energetic concentration of the French government in 1852, have led minds to be seriously preoccupied with the relations of the individual to the state. We have seen that the question of the right of sovereignty is not all of the question of politics, but that it is necessary to know, besides, within what limits sovereignty should be exercised, and what are the true functions of the state. This question has given rise to very fine dissertations. Mill, in England, although a radical, was chiefly preoccupied, in his excellent work on "Representative Government," with the means of counterbalancing the omnipotence of the unenlightened classes, and of giving to the superior classes a share of influence commensurate with their intelligence. In his book on "Liberty," he has vindicated to its fullest extent the principle of free thought. At the same time, in the "Principles of Political Economy," he renounces the individualist rigorism of the economic school, and admits the principle of education by the state. In France individualism has had for an original, energetic and impassioned defender, the highly intellectual Frédéric Bastiat; and in different degrees individualism is the spirit which is manifested in the new political school, that of Jules Simon, Laboulaye, Lanfrey, Prévost-Paradol, most of the economists, etc. On the other hand, it must be acknowledged that the principle of centralization and of the state has found an eminent apologist in Dupont-White, who, faithful to the traditions of the democratic school, maintains the predominance of the state over the individual, and separates the principle of political liberty, to which he is most strongly attached, from the principle of *laissez faire* and *laissez passer*, which, from the writings of economists, has passed into those of publicists. Such are the questions which political science is discussing in our day.

PAUL JANET.

POLITICS, Nature and Character of. I. *Politics as the Art of the State and as a Science of the State.* The conscious life of the state, the guidance of the state and the influencing of the affairs of the state, that is, conscious political practice, is what we call politics. Men who by their office or their calling take a prominent part in this practice and in the influencing of the affairs of the state, as for instance, government officials, representatives in legislative assemblies, journalists, etc., we may designate as political men. The honorable and dignified name of statesman is given only to those rare men who distinguish themselves as guides and leaders among politicians. The science of this political practice we also characterize as politics. The representatives of politics as a science, may be called political scientists and political philosophers. — Politics as political practice, and politics as the doctrine or science of the state, stand in a natural reciprocal relation to each other. In the beginning, and in the lower stages of the development of nations, the former precedes the latter: and the latter follows in the wake of the former timidly and late. But, in proportion as the political spirit awakens in a nation, and becomes self-conscious, the importance of politics as the science of the state increases also; it begins to keep pace with the progress of the practical art of the state or political practice. At times it outruns its more powerful companion, and guides the tendencies and movements of the latter, by illuminating with its torch some new, untrodden road.— Aristotle came only after the life of the great Hellenic republics was closed; but, as a teacher, he preceded Alexander. Cicero wrote his scientific political works at the close of the Roman republic, but before Cæsar and Augustus had appeared upon the scene. Machiavelli had the pattern of the Italian princes of the renaissance before his eyes; he wrote after the time of Louis XI. of France, but became the teacher of Louis XIV. and of Napoleon III. Rousseau was the prophet of the French revolution. Frederick the Great of Prussia and Alexander Hamilton were contemporaneously the founders of a new doctrine of the state, and of a new political practice. Montesquieu appeared after the English revolution, and after the full development of constitutional monarchy in England, which he recommended to the rest of continental Europe, and became the teacher of the people of the United States and of the French restoration. —

The two things which we designate by one and the same term, politics, are radically different. — 1. Politics, as the art of the state, has certain definite external aims, which differ according to the wants of the moment. It seeks to reach a certain external result, for instance, to establish better institutions for the people or for society, to overcome an enemy, to secure or extend the power of the state, etc. Political practice manifests itself in deeds, and success is the aim and the test of the art of the state. A successful policy constitutes the fame of the statesman; and an unsuccessful policy is the sign of a defective and frequently of a bad and unfit policy. On the other hand, politics, as the science of the state, does not pursue any external aim, and is not estimated by external success. It has no aim but the knowledge of truth. Its glory consists in the destruction of an error, in the discovery of a permanent and fruitful law, in the clear exposition of a correct and opportune rule for guidance. — 2. As the aims of the art of the state and of the science of the state are different, so also are the means they employ. It is not enough for the statesman that he thinks correctly. He wishes, also, to realize his thoughts in deeds, and to this end he requires power. He must overcome or evade the obstacles that oppose him, and he requires the actual transformation of the stubborn matter which he has to give shape to. He must strain the authority of the state, which, in case of need, can enforce a following; or he must invoke the support of public opinion. According to circumstances, he must have money, or even troops, at his disposal. — Politics as a science can dispense with all these external means of power. It does not trust in violence, but in logic. When it observes carefully and thinks correctly, it is certain of its progress, and does not need the authority of the law, nor the applause of the multitude. With all the treasures of the land at one's command, it would be as impossible to lift an error into a truth, as, with the aid of all the armed power of the state, to lower a truth into an error. — 3. Politics, as political practice, can not dispense with external struggles if it will accomplish anything. The statesman must take into account both the hostile and friendly passions. He is very frequently compelled to take some side. He can not avoid the excitement which accompanies the struggle with frequently bitter foes. He must preserve his courage in the midst of danger, his presence of mind in the hour of battle, and his will power in action. Without a manly character, there can be no genuine statesman. The political scientist, on the contrary, examines the object of his investigation in peace. He can consider that object from different points of view, without prejudice or partiality, undisturbed by the noises of war of opponents. He enjoys that perfect peace of mind which belongs to scientific thought, and draws his conclusions dispassionately. — 4. Even the statesman's way of thinking is different from that of the political scientist. The statesman is excited to action by the wants of the particular case, and when he weighs principles he does so on the supposition of their serviceableness and applicability in the case he has to deal with. Very frequently, if he wishes to attain his purpose, he is compelled to bend the straight lines of principles out of shape, and, at the sacrifice of strictness of principle, to effect compromises even with opposing principles and party tendencies. The result of his thoughts is conditioned by the success which he is striving to achieve. — The political scientist who only labors for the acquisition of knowledge, seeks to develop principles in their pure form, and may proceed logically and undisturbed. He is not compelled to make any compromises. — The psychology of the statesman is mainly penetration in judging and making use of actual men; that of the political philosopher is chiefly insight into the general laws of human nature. — The men who are at the same time renowned as statesmen and political philosophers are rather few. The two greatest political philosophers of Hellenic antiquity, Aristotle and Plato, were but poorly qualified for political practice, or practical statesmanship. There are many notable diplomates, generals and ministers, who have distinguished themselves as statesmen, but who have achieved nothing for the science of the state. Nevertheless, the greatest statesmen of history were, if not political philosophers or political savants, at least political thinkers of a high order; for instance, Pericles, Alexander the Great, Julius Cæsar, Charlemagne, Frederick the Great, Washington, Hamilton, and Napoleon I. — In our own times, every practical politician is compelled more deeply to reflect on the ideas that at present enlighten and move the nations, and to render to himself a full account of the principles which determine his own action. In his practical calling, therefore, he can not dispense with scientific labor. On the other hand, the science of the state, in order to be applicable in actual life, must understand the conditions of the real life of the state, and correctly appreciate its interests. In this manner practical statesmanship and the science of the state reach each other a helping hand, and each may look to the other for support. — There certainly is in some men a natural talent for politics, that may be developed through practice alone, without the aid of science, as there have at all times been great captains and leaders in war who never frequented a military school, but developed their talent on the field of battle. Yet, with equal natural talents, and under equal circumstances in all else, the scientifically trained politician will be greatly superior to the rude practitioner. In our times the combination of practical statesmanship and political science has become indispensable to politicians, and if not absolutely necessary, it is at least highly useful to the political scientist. The science of the state not only enlightens political practice or practical politics, but *purifies* and *ennobles* it. (Compare de Parieu, *Principes de la science politique*, Paris,

1870, p. 9.) But then, political practice quickens the glance of the political scientist, and protects him from a childish trifling with the imaginings of empty speculation. — In the search after truth each of the different sciences has its own method, and frequently calls into activity different mental powers, and some one mental power more than it does the others. Thus, natural scientific thought depends chiefly on the exact observation of facts perceptible by the senses, and usually from visible effects infers the invisible cause. Its method is induction, and its proofs are mostly borrowed from analogy. The speculative philosopher denies the sensually perceptible phenomenon, and endeavors to discover or reach the infinite idea, the absolute, through the self-conscious human mind. Beginning here, he then draws his conclusions by the way of logical deduction. *Legal* thought is generally the subordination of a concrete fact under a general legal principle. Its method is, in the first place, judgment by means of subsumption, and the inference from the general legal principle to the consequence of its violation: restitution or compensation or punishment. *Political* thought is directed particularly to organic distinction, to the estimation of forces, the calculation of means, the psychological study and influencing of men, and, lastly, to the development and improvement of human affairs in conformity to nature. — II. *The Relation of Politics to Morals.* Machiavelli was the first to separate politics from morals, and to proclaim political practice independent of moral prescriptions. The adaptability of the means to the ends of the state was, with Machiavelli, the only allowable measure or criterion in politics. To him it was a matter of indifference whether the statesman acted morally or immorally. Machiavelli only demanded of him that his action should be useful to the state. When a crime is of advantage to the state, he recommends crime; when noble-mindedness becomes injurious to the state, he condemns it. He expressly remarks, that the appearance of virtue is frequently more useful to the prince than real virtue, and, when it is so, he gives the former the preference over the latter. Since his time the name of Machiavellism in politics has been given to that kind of immoral, conscienceless, though certainly bold, politics, which is profitable to the state, or only to the head of the state. Frederick the Great, in his "Anti-Machiavel," when a young man, gave vent, in eloquent language, to his indignation at this doctrine. When king, however, he too distinguished between politics and morals, and made the good of the state the supreme law in all political action. But he was still full of the conviction that politics was intrinsically and indissolubly connected with the moral government of the world, and that it was exceedingly injurious to separate the one from the other. — In the scientific distinction between politics and morals, we recognize a great and lasting progress, a distinction which alone has rendered possible an independent science of politics. To think, in a political sense, is to think from the point of view of the state; to judge morally is to consider human actions from the point of view of the moral order of the universe, conformably to the category, "good and bad." But Machiavelli, who certainly can not be denied the credit of this distinction, by his reckless exaggeration of it, even to the point of complete separation of politics from morals, weakened the power of the good among men, greatly stimulated the ambition of princes, and thoroughly corrupted political practice. We accordingly hold firmly to the relative independence of political science, but we at the same time recognize that political practice must not place itself in contradiction with the laws of the moral order of the world. — We do not speak here of the moral law, which religious revelation proclaims as the command of the Deity. Such a moral law is religion, which influences only believers in it. We here allude rather to the moral law derived from human nature, and understood by human reason, as the intrinsically well-grounded ordering of all human life. It is unthinkable that politics, as the rule of external life in common of man in the state, can be absolutely separated from, and completely independent of, the moral law, considered as the rule of proper human conduct in general. It is just as unthinkable, as in the economy of the state it is impossible, to ignore the laws of physics or mathematics. As politics, moreover, should advance the prosperity of society, and endeavor to promote the improvement of the community, the determination of these tasks can not safely be undertaken without, at the same time, paying due regard to the moral duties of human life in general, and to the destinies of humanity, pointed out by the moral law. Thus, not the complete separation of politics and morals, still less the hostile opposition of the two, but the preservation of the intimate relationship between them, is the correct view in this matter. Both in the determination of political ends and aims, and in the choice of political means, moral considerations must not be lost sight of. — 1. *Ends and Aims.* The ends and aims of politics *may*, indeed, be *morally indifferent*, but they *should not be immoral.* Many political reforms are effected from juridico-technical, or from military or politico-economical motives; thus, public monuments owe their form to the enthusiasm of the artist for the beautiful. When a new mode of procedure is introduced, or when the army is organized and exercised; when a new system of duties is adopted, or a new style of architecture employed: in all cases of this kind, moral considerations have no share, or only a very subordinate one. But, since statesmen are human beings, they should not exempt themselves from the general duties of men, and in their political calling they should not act contrary to the moral destiny of mankind; that is, they should not pursue political ends which morality condemns. — This truth was by no means hidden from the nations of antiquity. It was emphatically proclaimed in the sacred books of the Hindoos, Jews and Chinese, and greatly

strengthened by their religious reverence for the authority of God or of the gods. But ancient practice was, notwithstanding, exceedingly lax in this respect. The ambition of nations, and the selfishness of rulers helped them, for the most part, to an easy settlement with conscience. The extension of power and the exploitation of subjects were but seldom moderated or limited by moral considerations. — In the politics of the last centuries, likewise, the moral criterion was but seldom applied. The law of morals forbids man to exploit his fellow-man, as the mere object of his pleasure and his rule, and requires every one to honor his fellow-man as a being of the same species endowed with reason. Yet how frequently has the capricious authority of rulers and their favorites been immoderately extended, and improperly used, contrary to this moral law, to indulge the evil inclinations of the human heart. But by degrees public opinion develops into a public conscience, and more clearly enunciates its admonitions and warnings, and bestows praise or blame according as it perceives a contradiction or harmony between political ends and the moral duties of life. — The liberation of an oppressed nation from a foreign yoke, the insurance of peace, the spread and improvement of civilization, the education of citizens to freedom, the ennobling of culture, and the encouragement of humane institutions, are all, at the same time, moral and political duties of life, and honored as such. Yet sophists here find a convenient field. Only too easily do they succeed in cloaking selfish passions in the mantle of moral endeavor, by representing tyranny as order, conquest as the spread of civilization, and revolt against political authority as freedom.—2. *Means.* It is much more difficult to determine the relation of moral demands to the means of politics. Moralists are inclined to apply the same rule to political means that we have here recognized as applicable to political ends. They grant that means morally indifferent may be employed in political practice, but they do not allow that morally impure means should at any time be used. Moral feeling and logical consistency seem to declare this to be wholly incontestable. — And yet a glance at history, or into the practical political life of the present time, shows that there are great difficulties in the way of the strict application of this rule, and that, as a matter of fact, such application is scarcely possible. We can not ignore this: that it is better for the state that it should be saved from some great danger by an energetic man, led by an inordinate love of power, than weakened by a timid but personally virtuous ruler. Nor can we ignore that it is of greater advantage to national well-being when aroused vanity helps build works of common utility, than when pious humility does nothing. Many politicians have, therefore, entirely denied the applicability of the above-mentioned rule to political means, and maintained that the principle, "The end sanctifies the means," may be wrong in private morals, but can not be dispensed with as a political maxim. But a closer examination at once reveals how very dangerous this opinion is to the whole moral condition of things. When the state excuses the immorality of the political means employed, by the morality of the end to be attained, what prevents individuals from imitating the example of the state? There is a natural inclination in men, when they commit a wrong, to excuse it to themselves and to others, by the allegation that it was a means to a good end. If the maxim that "the end justifies the means" thus became general, the authority of the moral law would be completely paralyzed, and the wild chase of sinful desires after satisfaction would not be stopped by any cunning allusion to laudable aims, but continued with increased ardor. The harmony of the moral order of the world would be destroyed if the open rupture between moral ends and immoral means was recognized, and if the moral law only retained a certain authority in respect of the ends, but was entirely powerless as to the choice of the means to be employed in politics. — It is not easy to find an exit from this labyrinth. The inconsiderate demands of moralists seem altogether impracticable, while the opinion of political sophists is ruinous to the moral order. We can gain safe ground only after we shall have more closely examined the nature of the state, and more deeply investigated the relation of evil to the moral order of the world. — 1. The state, as a man-like, composite person, produced by the union of men, is not merely a civil person, but a *moral* civil person. As the moral law embraces all mankind, and is valid as to all, the state can neither release itself from its moral duties to humanity, to other nations, to its subjects, to those who live under its protection, but should heed those duties and fulfill them. The duties of the state bind the representatives of the power of the state and the organs of the authority of the state, as well as the ruled and parties. Patriotism, fidelity, justice, bravery, the diligent and careful fulfillment of official duty, are especially the virtues of political life. Civilization as it advances develops this sense of moral duty, and enhances its demands. — The moral law does not limit itself to political aims. It is binding on the whole state, in all its doings, and in all its life. — 2. But the state is the ordering of the external life of men in common. The moral demands addressed to the politician lie in a direction and have a criterion different from the moral demands that religion makes on men. The latter are addressed to the inner life of the soul, the former to the external organization of the community, of the people, using the word people in its political sense. The saint may consider *suffering* as the highest perfection; but the statesman's duty is *action*. The preponderantly religious man may seclude himself from the world, and like the hermit withdraw into his innermost soul. The political man must remain in human society, and through men influence other men. The church may give the conscience of the individual

the highest commands of ideal perfection, as the duty of his life; the state must moderate its requirements with a due regard for the actual capacity and deficiencies of the many. Religion lifts its expectations even to the height of divine perfection; the state can not strain its coercive laws beyond what the average nature of the majority can bear. The priest may tell the believer *how and what he should be;* the statesman must take men *as they are.* — In judging political conduct, therefore, we must apply only the relative standard of moral demands which corresponds with the stage of moral culture that a nation or a society has, for the time being, attained, so far as that culture is represented in its better average constituent parts. This standard is the standard of the good citizen and of the dutiful official, as both are at the time understood by the people. — When we consult history, it affords us some satisfaction to observe that humanity, in this respect, has incontestably made notable progress. From age to age moral demands have risen, and the moral standard or criterion has become more refined. The ancient Greeks and Romans considered almost everything permissible against an enemy with which the state was engaged in war. They felt no moral repugnance to kill defenseless foes, to sell the wives and children of the conquered, as well as the conquered themselves, as slaves; to sack towns and burn villages. If a general of the present day were to treat his conquered enemy in such a brutal and cruel manner as only too often was done by even the best warriors of antiquity, as was done by the amiable Alexander the Great, and the magnanimous Julius Cæsar, such a man would be shunned as a maniac, or outlawed as a human monster from the civilized world. — In like manner the Christian nations of the middle ages looked upon every form of cruelty to unbelievers and heretics as perfectly just and permissible. The Roman popes, whom Christendom revered as the highest moral authority, repeatedly approved the horrible maxim, that no one was bound to keep faith with unbelievers. Even the sanctity of the oath, when it came in contact with the glowing religious fanaticism of the Roman priest, disappeared in smoke. (Instances by Laurent, *Etudes sur l'histoire de l'humanité*, ix., 142, x., 338.) The civilized world of the present day unanimously condemns such immorality. Our manly feelings revolt at the thought that formerly the ambassadors of European powers in Stambul were obliged to throw themselves on the ground before the Turkish sultan. We consider the incense of base flattery which, at the close of the seventeenth century and beginning of the eighteenth, was offered to Louis XIV. even by the most renowned writers of that time, both contemptible and unworthy of human beings. Even in the eighteenth century, in the English parliament, corruption was so much at home, and general to such a degree, that an English minister, to obtain a majority, could not avoid bribing individual members of parliament with money and other gifts. It did no injury to the honorable name of the renowned statesman, Pitt, that he effected the dissolution of the Irish parliament and the union of Ireland with Great Britain by bribery. A minister who should do the same thing to-day would be lost, in the opinion of the public. — In the diplomatic intercourse of the eighteenth century, equivocation and intentional deception were still so much in vogue that even a sincere and truthful man was occasionally compelled to wear a mask, just as a merchant, obliged to do business with rogues, can scarcely avoid dissimulation. And even now falsehood and deception are not unheard of in international intercourse. But sincerity and truthfulness dare, at least, openly engage in war against this kind of immorality. — 3. If we can not require political leaders to pursue a course above the understanding, pliancy and tractableness of the average man with whom they have to deal, we may at least require that they should not remain below the moral height of the average culture of their time and nation; but that here also they should remain the guides and leaders of the many. Precisely because they are leaders, and shine forth as models to those who stand lower than they, or follow behind them, the moral demands that are made on them are greater. A virtuous prince produces an elevating and ennobling effect on the society which looks up to him, while a vicious ruler lowers even the moral condition of his subjects. — Humanity's moral duty is the fulfillment of its destiny. When men harmoniously develop their faculties, they advance morally. Nations and their leaders are responsible to humanity if they do not take part in this progress. They owe it to humanity to take such a part. — 4. The mere turning to account of immoral acts committed by others, by the statesman for the good of the state, is permissible to the statesman, in so far as such acts appear a happy accident for his purposes. But when the statesman himself causes or favors such acts he becomes a party to them, and, as such, a participant in the responsibility and guilt of their immorality.—When King Philip II. of Spain delegated murderers to kill Queen Elizabeth of England, he became guilty of a crime, which can be excused neither by the plea of the good of Spain nor mitigated by the approval of Pope Pius V., given it on religious grounds. (Laurent, supra, ix., 190, x., 171.) It bears witness to the still uncertain feeling of the public opinion of that time, that it extolled the chevalier Bayard as a hero of rare virtue, because he decidedly rejected the proposal of the duke of Ferrara, to kill the pope, although the latter had conspired against his own life and that of the duke. (Laurent, supra, x., 390.) The connivance at crime, allowing it to be committed, by one in power, whose duty it is to prevent and prosecute it, should be regarded as a moral offense, even when not punishable. The mere expression of the wish to get rid of a dangerous adversary, is frequently the only thing needed to put a dagger into the hand of an assassin to kill the obnoxious

person. But, as the general can not be blamed who takes advantage of the reports of a traitor concerning the weakness of the enemy's position, so neither can we blame a prince who avails himself of the murder of a pretender to the throne, which he neither provoked nor favored, for the purpose of, strengthening his own authority. — 5. Private morals and state morals rest on the same basis of the moral order of the world, and are pervaded by the same spirit of man's destiny and duty in life. They therefore belong together as twin buds of the same parent tree, and of the same species. Nevertheless, the instinct of nations has, from time out of mind, ever felt that there existed a subtle difference between them. There are, indeed, cases in which the same action appears in a different light, and is differently judged, according as it is performed by a statesman with patriotic intention, or by a private individual from selfish interest. The reprobate principle of Machiavellian policy, "The advantage of the state excuses all the crimes of the statesman,"* is only the caricatured, and therefore blameworthy, expression of a correct idea. There is in fact such a thing as a reason of state, a *raison d'état*, the effect of which on the public conscience and on the moral judgment is sanctioned by the history of the world. What is the reason of this difference? and how is it to be understood?—It seems to me that this question can be answered only by first investigating the meaning of evil in the moral order of the world. Evil appears in an entirely different light, according as it is considered as the act of an individual who despises and violates the moral order of the world, or as it is examined from a higher point of view, from a point of view overlooking the aggregate life of humanity. What in the individually guilty man appears as evil, as blameworthy and reprobate, in its connection with the all, shows itself a necessary condition precedent of the good, and, to that extent, it *is* good. What Mephistopheles said of himself, that he was —

> "*Ein Theil von jener Kraft,*
> *Die stets das Böse will, und stets das Gute schafft,*"

applies in an eminent degree to the case we are discussing. The highest virtue is attained only in the struggle with evil inclinations, whether one's own or those of others. All progress in good is conditioned by the overcoming of evil. As human error is necessary to the knowledge of the truth, so is evil in the world of men the necessary stage preliminary to moral perfection. — Evil has no permanency in the world. It is always combated and overcome, and finally conquered. It ceases to be evil as soon as it has really been conquered. Then it becomes clear that it has served the development of good. But so far as the aggregate is concerned, everything depends on this: that evil should be made subservient to good; that evil should be conquered by good, and that it should be, as it were, the mere background of good. To this extent we may distinguish between good aims and evil means, but this distinction is allowable only when the latter stands in a subordinate relation to the former, or has been completely conquered by it, and rendered good. — What is thus true of the moral order of the world in general, may by analogy be applied to the state. The state also is a great whole, a world in itself. In the state also it is possible that what seems evil in a particular case may become good in its relation to the whole. The guilt of the individual, which considered apart is evil, may, when brought into connection with the progressive life of the whole people, reveal itself as an advancement of the good, and hence become good, yet only in as far as the evil in the individual has really been overcome by the improvement of the whole, only when the evil has really been made subservient to the good. — The state, as an aggregate being, can as little dispense with human passions, to promote its progress, as can the Deity in his government of the world. If it were possible to extirpate selfishness, ambition, vanity, love of glory and love of strife from the hearts of the citizens of a state, the community would lose immensely in elastic force, and a great deal less of good and of what is useful to the common weal would be performed in the world. The manly virtue of patriotism is never entirely free from admixture with passions of this kind; and as the noble metals can become a current coin only by being alloyed with a baser one, so is the admixture of patriotism with the passions necessary in practical politics. — We therefore must not claim that the statesman should refuse the support of morally impure means. We can not reproach the ruler who, under certain circumstances, employs in the public service persons whose moral worth he may despise, but from whom he expects great results for the state. We must not blame the minister who understands how to use the moral weaknesses of a prince, or the blind zeal of a party, to carry out a measure of common utility. — But we must at all times take heed lest the evil, which must be overcome while it is used, should grow too powerful. It should never be allowed to rule, but always be made to serve. Only when this subordination has been insured, may evil be admitted as a spur to exertion in the way of good. Yet even in this sense the principle remains a dangerous one, and may easily be misused by the sophist. Its danger, however, is greatly lessened when this subservient relation of evil in the individual to the moral progress of the whole is correctly estimated and honestly taken into consideration. — *Disproportionate* means, that is, means the moral injury of which is greater than the progress of the whole, which they should serve, are always to be reprobated. For this reason the public conscience unqualifiedly condemns every open and direct breach

* An expression of the French president Jeannin, in Laurent, x., p. 344: "*Les princes font bien quelque fois des choses honteuses, qu'on ne peut blâmer, quand elles sont utiles à leurs états; car la honte étant couverte par le profit, on la nomme sagesse.*" *i. e.*, "Princes, indeed, sometimes do shameful things, which we can not find fault with, when they are useful to their states; for shame, in the mantle of profit or advantage, is called wisdom."

of faith, as for instance, the breach of the conditions of capitulation by a victor, because faith in one's word of honor forms the moral cement which holds together the ordering of the world of men. The destruction of such faith would so dangerously shake the general security of the law, that the injury caused by an open breach of faith would by far outweigh the profit which the state might possibly derive from it. On the contrary, public opinion is but little shocked when it sees that a treaty injurious to the state has not been executed. Public opinion distinguishes decidedly between an illicit breach of faith, and the unsatisfactory or the hindered fulfillment of a treaty. It is likewise strongly inclined, even too much so, to excuse the deceiving of a political adversary as permissible when profitable to the state, and it expresses its indignant reproach only when the general danger of malicious deception assumes the form of fraud and imposture. Frederick the Great said of himself, that as a private individual he would keep his word under all circumstances, but that as a prince he would sacrifice even his personal honor to the state, if the existence of the state required that sacrifice. — No crime excites both the moral and the legal sense of a people to greater horror than murder. Public opinion reprobates the excuse, often attempted, of political murder, by the plea that it was committed for the good of the state. In vain has the authority of Pope Gregory XIV., who ordered that the horrible Saint Bartholomew massacre should be commemorated by a *Te Deum*, been appealed to; and in vain has it been attempted to defend the September massacres of the French revolution in 1793, by showing that they secured the liberation of France from a foreign yoke, and the protection of republican freedom. The unbiased moral judgment of the modern world revolts at the recital of those horrors. The malevolent, premeditated attack on a human life seems to us such a dangerous and serious evil and injustice, that murder should never be employed as a means to a political end. — But even this rule is not without exception. There are undoubtedly political murders in history concerning which public opinion, even in the case of sensible, thinking and moral men, begins to waver and be divided; and there are even a few murders which have been unconditionally approved by good men. It is not merely morally frivolous men who think like Brutus about the murder of Cæsar, and who excuse the murder of the Russian emperor, Paul I., as a political necessity. The act of Judith, who killed Holofernes, and that of Charlotte Corday, who killed Marat, are universally extolled. The Athenians celebrated the murder of Hipparchus in songs of praise; and the humane and noble-minded Schiller has celebrated the murder of Gessler by William Tell in a drama admired not only by the German nation, but by the whole civilized world. The very same men who, spite of the political motives which dictated them, condemn the assassination of Henry IV. of France and that of President Lincoln, defend the deeds above referred to. — History manifestly makes a distinction here. It by no means approves the principle that the end justifies the means; for history does not palliate or excuse murder because committed from religious or political motives. History absolves the murderer only when his act has served to free his people from an intolerable tyranny, to combat which there existed no other sufficient means, when the tyranny, with its pernicious effects, is a far greater evil than the murder of an individual, and when the expression of Spinoza has become applicable, that "the tyrant should be killed like a mad dog." — It is impossible, indeed, to deny the danger of even this limited excuse of a naturally unjust and immoral act, by its manifest subordination to a higher good which it serves. A fanatic may foolishly believe that he is doing an act agreeable to God, one necessary to humanity, and even to the state, while sound reason accuses him as an immoral criminal. The assassination of Cæsar did not save the Roman republic, and did not avert the empire; on the contrary, it shook the Roman state to its foundation, and threw the Roman people into confusion. — The public conscience absolves the political murderer, not when the perpetrator himself is simply exempt from selfish motives or low passions, and has engaged in the struggle for the permanent security and well-being of the family, of the state, or of humanity, but when, besides, his deed must be objectively considered as *necessary*, in the light of all related circumstances; in other words, only when it is manifest that the evil done has really served the furtherance of the good. — To our modern development corresponds the strong sense of duty that pervades the entire population, and the clear consciousness of duty that teaches each of us to devote his life to the service of the whole, to the extent to which the whole, that is, the state, may need his powers. To this modern development corresponds particularly the fundamental idea which considers public right as public duty, and purifies and ennobles politics by the idea of duty to humanity, to nations and to individuals. — The duty of princes and rulers consists in serving the state and the people, and the duty of subjects and citizens consists in remaining loyal and obedient to the authority of the state, and, in case of need, in spending their blood and treasure for the fatherland. — Duty goes beyond legal forms, and beyond the sphere of possible compulsion by the state, and its effects are felt beyond their limits. It strains all powers, strengthens the character, elevates the mind; and in this way, while suppressing selfishness, duty, by the much which it accomplishes, powerfully contributes to the general well-being. — III. *The Relation of Politics to the Legal Order of Things.* Public law is the sum total of the principles, admitted as necessary and enforcible, which regulate the public life of the state. It creates and shapes the organs through which the will of the state is expressed, and the forms in

which social life moves. Its highest, most general and permanent expression is the constitution and the laws. Hence, necessarily, the fundamental political principle: All politics (political practice) must be constitutional, and conformable to the laws. *Politics should never be unconstitutional, nor otherwise than conformable to the laws.* Any disregard of this rule, on principle, would be a manifest contradiction of the life of the state with the order of the state, that is, a contradiction of the state with itself. An unconstitutional policy would attack the state at a point in which it ought to be safest, that is, in the very basis of its existence. An illegal policy would shake men's faith in the law and in the authority of the will of the state. It would weaken and paralyze the power and blessings of the law. But, thus, the progress of civilization, which consists in this, through the law to curb and control brute force and unbridled passion, would be rendered of no effect. — A policy that, on principle, does not concern itself about the right or wrong of its actions, by so doing considers the law as a barrier only against the weak, and not against the strong as well, and thereby ignores the highest task of legal order, which is called upon to protect the weak against the maltreatment and oppression of the strong.—When, on the contrary, politics treads the firm ground of the law, it is in turn sustained by the sacred authority of the law. It is thus made safe against attacks of various kinds, and may more readily calculate on support and following, and more readily attain a given purpose, than can an illegal policy, which provokes contradiction and resistance.— Hence the developed consciousness of right of modern times rejects decidedly the opinion which Machiavelli proclaimed, in conformity with the custom of the rulers of his time, that expediency is the only standard of political conduct, and that law and right should be taken into account only in as far as they seem useful for the attainment of the proposed end, but that wrong merited preference when useful to the state. At the same time, the above rule has only a relative value, and not, like the laws of nature, an absolute effect. The absolute application of that rule is prevented by the unavoidable faults and deficiencies of all human provisions of law. — 1. All actual constitutional and other law has had an historical origin, and hence is subject to the changes of history. Although law has a durable character, it has no claim to be eternal. It may answer the conditions of a given age, and become useless or obsolete when the times have changed. The immunities of the clergy, and the exemption from taxes of the knights, during the middle ages, had then some sense, and good sense, but are now devoid of meaning. Hence, to ask of politics that it should esteem obsolete law and the law suited to the times equally, and look upon the former as the rule of its conduct, just as much as it looks upon the latter as such rule, would be unnatural and irrational. For politics determines the progressive life of a people who have outgrown the obsolete rules of the past. — 2. A written constitution is always an imperfect representation of the real people and the real state. In the actual people and the actual state there are *latent* forces, which become manifest in course of time, and demand a consideration that can find no support in the letter of the constitution, but which, on the contrary, at times seem excluded by it. In this manner, side by side with the written law, there exists an unwritten law, which completes and corrects the former. Here the chief task of politics is, to obtain recognition for law in the becoming (*nascent law*), and to protect the hitherto *latent*, law. To this end, politics should not timidly hold to that which is written, nor allow itself to be bound by the letter. We need only call to mind the history of the estates, or the difference between the acts of the English parliament and the political practice of the English king and his ministers, to find sufficient proof of this. — 3. All law must be externally perceptible, and must accordingly have a form. But, for this very reason, human law is exposed to the risk that the form may not completely answer to the spirit, so that there may be a want of harmony between the form and the spirit of the law (*jus* and *æquitas*). In such case it becomes the chief task of politics to do away with this want of harmony, and to reconcile the form and spirit of the law. If politics considered that formal law should be invariably maintained, it would ruin the state. In doubtful cases, politics should allow itself to be guided rather by the spirit than by the form of the law; yet politics can not completely escape the reproach that it must sometimes act contrary to the formal authority of the law, in order to allow the spirit of the law freely to develop itself. Under certain circumstances this may even reach the point of an open breach of the law, and yet be necessary. — The constitution of the German confederation of 1815 was, as to its form, the preponderance of the many small German states over the few large ones. But the essence of that constitution consisted in the guidance of all the German states by the two German great powers. When the medium states presumed to assume the leadership because they were in the majority, they succumbed to the preponderance of the great powers; and when the two great powers dissolved partnership, the whole confederation lost its support and went to pieces.— It is impossible that constitutional monarchy should exist as a form of the state when the king pushes his formal war power to an extreme, or when the national representation pushes its formal right of voting the budget to a like extreme. Constitutional monarchy can thrive only under a policy that understands how to mediate between conflicts of rights, and which is ready and inclined to effect compromises. — 4. All public law, finally, has its foundation in the state, and is intended for the state. It subsists only through the state, and for the state. An institution repugnant to the nature of the state, or a law that stands in the way of the well-being of

the state, is in contradiction with the nature of the state, and with the main purpose of all public and constitutional law. Hence we can not ask of the politician, that he should regard a law repugnant to the nature of the state with the same reverence that he does a law in harmony with the nature of the state, and with the national well-being that it ministers to. The politician is, therefore, frequently compelled to fight against an injurious institution, and to limit as far as possible the application of a law, perhaps entirely to abrogate it. —When there occurs one of these possible contradictions between the obsolete law of the past and the germs of new law, or between written and latent law, or between the unsatisfactory form and the intellectual principle of the law, or between a law repugnant to, and another in harmony with, the nature of the state: in all such cases, there is some defect in the order of law itself, which requires to be cured. It is the duty of politics to effect that cure. In such cases the law itself ordinarily needs, either still further development, a transformation, or a formation anew, so that, instead of the obsolete law, a new law, adapted to the times, may come into existence, and latent forces obtain recognition and the protection of the law; so that harmony may be restored between law and equity; that useless or injurious law may be replaced by a better; and, lastly, so that in case of need exceptional law may be provided for. — If the constitution itself has foreseen the need of such changes and improvements, and prepared the means to undertake and carry them out, the leading politicians are in the favorable position of being able to work, by the way of reform, both as to form and matter. The advantages of such reform over violent action are so great that the disadvantages of a slow, laborious road to the end aimed at, a road perhaps beset with many petty obstacles, do not weigh very heavily against the advantages. The Romans and the English have understood this, and they frequently struggled, during years and decades, for a reform, which they at last effected in a more constitutional way, and which became firmly established because it had struck such deep roots in the legal consciousness of the people. — But the avenues of reform are not always open. It frequently happens that a constitution has not foreseen, or has not provided for, its general or partial revision. It is even more dangerous, when the existing constitution intentionally places artificial obstacles in the way of future reform, or when the existing legal order in principle is in conflict with a transformation of the law, a transformation which perhaps has become unavoidable. In the former case, new means for the revision of the law must first be discovered; in the latter case, it is impossible to make any advance without breach of the law. Instances of the latter kind are: the definitive rupture of the Stuart dynasty with the English nation since James II.'s time; the development of new state interests and state ideas in the North American colonies as opposed to the English constitution; the German confederation of 1815, which required the unanimous vote of all the states, where such unanimity was not possible, to wit, for a fundamental change in the constitution. — Politics can not and should not hesitate at an innovation, as soon as it appears necessary to the existence or the natural development of the state, even if the change can not be made without breach of the law. Politics can not hesitate here, because the power of the new spirit which demands the change is stronger than the authority of any constitutional provision which attempts to suppress the manifestation of life by means of a magic formula; stronger even than the power of some particular institution, which for a time undertakes to stem the current of the age, but which is itself finally over-flooded and swept away. Politics should not hesitate at the change, because its duty to protect and promote the life of the people is greater and higher than its duty to protect a mere form of law. Religion may find the highest perfection in suffering, in the endurance of injustice, and in self-sacrifice. But politics must look to action, to success, and to the development of the external life of man. A doctrinarian politician, therefore, who for legal considerations neglects this essential duty, commits as great a fault as the violent politician, who, in his fondness for innovation, heedlessly and arbitrarily trespasses the limits of the constitution. — The genuine statesman, accordingly, admits the second rule of exception, which completes and limits the first main rule above mentioned, viz. : *The authority of existing constitutional law loses its binding power in proportion as it becomes manifest that that law endangers the existence of the state instead of protecting it, or prevents the natural development of the state instead of advancing it.* But the statesman will apply this second rule with great caution, and only when, after conscientious investigation, he has become convinced that adherence to the first and chief rule would be pernicious, and that a case of real necessity for the application of the second has arisen. He will also return as soon as possible to the normal path governed by the first and chief rule. — If the transformation politics proceeds from those in power in the state, it is extolled as a policy of redemption; or else, as the policy of *coups d'état*, it is seen in an ambiguous light. If such transformation politics breaks forth violently from below, it is, when victorious, recognized as revolution; but when defeated, it is called rebellion and insurrection. Princes in such cases appeal to the right of self-defense of the government; and the people, to the right of self-defense of the governed. Both refer us to the law of nature and of reason, which serves as a basis and limit to the law given by history. The court of history decides, whether they appeal to it with or without reason, by granting lasting success to certain deeds, thus recognizing them as necessary, and smiting others with sterility, and allowing them to perish. — The conflict of opinion is most violent when the question at issue is the authority

in the state itself. In subordinate things the change may be more easily effected. But when the dispute is as to the right to the throne itself, forces appear in the arena which claim for themselves a sovereign position, and are not willing to admit a new law as binding, to which they have not given their assent. In this connection the unfortunate politics of the legitimists appears as the antipode of revolutionary politics. It does not reflect great honor on our age, that the leading statesmen of Europe, at the beginning of the third decade of this century, should have ventured to proclaim legitimist politics as the true politics of Europe.* This policy has every where in the world proved incapable of being executed, and unfortunate wherever it has been carried out by force. It has everywhere been in conflict with the wants of national life, and with the progress of the age. It hampered, but did not develop, the powers of the people, while it vainly squandered its means and labor to attain a goal which ever receded from it. — History, since the year 1830, has shed a flood of light on the impotency of this legitimist policy. It had neither the courage nor the energy to protect the elder line of the Bourbons on the French throne. Neither in Italy nor in Spain was it able permanently to guard the absolutism of the restored kings against the revolution. Its authority, artificially and violently restored, collapsed everywhere as soon as external pressure was removed, and the nations began again to breathe and move freely. It loaded the states under its guardianship with debts, without giving any compensation in return, and it uselessly consumed its own energies. It did not even gain a short respite from the blows of the revolution, which it had momentarily conquered, because it could not prevent hostile tendencies and inclinations from accumulating under cover until another explosion became inevitable. — The revolutionary shocks of the year 1848, the European wars for the emancipation and unification of Italy, and for the national organization of the German states, deprived the legitimist policy of all credit. The legitimist powers always succumbed. If the divine guidance of the world be at all visible in the history of the world, the policy of the legitimists has been condemned in the most unambiguous manner by divine decree. The *form* of the law, no longer suited to the conditions of the time, fell into dust, and the forces of growing national life were in every instance victorious. Only the statesmen who had cleared their heads of the crotchets of legitimist politics had great and lasting successes, while the politicians who, like modern Don Quixotes, had striven for the cause of legitimacy, everywhere met with defeat. — IV. *Ideal and Realistic Politics.* All politics should be realistic. All politics should be ideal. Both principles are true when they are combined together, and mutually complete each other. Both principles are false when they exclude each other. — By *realistic politics* we understand the politics which proceeds from the real, and not from the imaginary, wants of the people, which correctly estimates the forces and means at hand, carefully calculates friendly and hostile power, and only strives after attainable ends. Only with politics of this kind is success possible. In this sense, able statesmen have always been realistic politicians. — We call *ideal politics* that which is determined and guided by *ideas*, which strives to develop and perfect the existing situation, and to realize practicable ideals, adapted to the times. The great statesmen of all nations, and of all times, were in this sense ideal politicians also. — When, on the contrary, realistic or ideal politics is understood in a one-sided sense, such politics should be rejected. One-sided, realistic politics is brutal, inasmuch as it relies on brute force, or on the power of money; it is spiritless, because devoid of higher ideas. For such politics only material interests have a value, and selfishness is the mainspring of all its action. Hence it becomes vulgar, immoral, low, inhuman. Machiavellian politics has often been understood and practiced in this sense. But Machiavelli himself, although he complacently recommended realistic means, kept in view an ideal aim, to-wit, the liberation of Italy from a foreign yoke. — The earlier colonial policy of the European mother countries toward their colonies beyond the sea was of this character. It was calculated chiefly to exploit the latter to the advantage of the former. For this reason it finally forfeited the supremacy it had abused. — It is not impossible that exclusively realistic politics may be successful. It may make conquests, accumulate treasure, procure enjoyments for rulers, and, under certain circumstances, a rich, luxurious life for the governed. But it extinguishes the nobler instincts of the nation, it prevents the development of the intellectual powers, it suppresses all true freedom. It looks to the animal side of human nature, and neglects the intellectual. — Politics of interest must not be always classed with merely realistic politics, for all politics must take general national interests into account, and seek to satisfy them. But the out-and-out politics of interest, which subordinates everything to material and selfish interests, belongs to this kind, and partakes of the faults of one-sided realistic politics. — One-sided ideal politics is equally false, and more foolish, because attended with less success; because it does not test the ground on which it stands and moves, and hence walks in the dark and falls; it incorrectly estimates actual forces and conditions of power, and is hence defeated; it runs after impracticable and unattainable idols; or, finally, it rushes to its ruin, the victim of obscure feelings. — Of this kind is the politics of the phantasy, which imagines conditions that do not exist, and becomes enthusiastic over phantoms. Of this kind, too, is politics of the romanticists, who fell in love with the pictures of mediæval life,

* Circular of Prince Metternich, May 12, 1821: "*Conserver ce qui est légalement établi, tel a dû être le principe invariable de leur politique (des souverains alliés) le point de départ et l'objet final de tous leurs résolutions.*"

and who thought, that, by the wave of some magic wand, they might revive the class differences of the middle ages, their pious clergy and knights, and fill our modern industrial world with monasteries and castles. Germany had different kinds of such romanticists, longing for an imaginary middle age: romantic kings, longing for the revival of the theocratic feudal system, and romantic students, who reveled in visions of the national black, red and gold (the German *tricolore* before 1866). Both failed in actual politics. But even celebrated statesmen have occasionally fallen into this same error. Thus, imagination had a large share in the Egyptian campaign of Napoleon I.; and his nephew at Strasburg and Boulogne was carried away by very childish fancies. — The statesman, however, may legitimately work on the imagination of peoples, and hold up to their mental vision pictures of greatness, power and freedom, in order to increase their energy of action. But the statesman should never rely on the imagination; he must beware lest the latter weaken entirely, when brought into contact with stern reality. — The politics of feeling is another kind of false ideal politics. In politics, leadership belongs to reason, wisdom and masculinity. When politics allows itself to be guided by passion or excited feeling, by love or hatred, by fear or revenge, it goes dangerously and easily astray, and is certain to be worsted. — It is doubtful whether the politics that in the middle ages produced the crusades should be ascribed to the imagination, or to over-excited religious feeling; at all events, it was one-sided and unfortunate politics. Religious wars, with all their ruinous effects, must be ascribed entirely to the politics of feeling. Senseless race hatred, a blot on humanity, a hatred which sometimes exists between kindred nations and tribes, is calculated to mislead the best feelings of a people, and to play a ruinous part in politics. The right course, therefore, is not the separation, but the union, of real and ideal politics. The realistic side forms the basis of rational politics; the ideal side is its guiding star. The former has to do chiefly with the means; the latter, with the ends. — It is with politics as with art. The mere naturalist, who faithfully paints stone, wood, woolen or silken stuffs, is no true artist, unless he employs his talent in the service of the beautiful. But the man who draws beautiful lines, and is unfaithful to nature, satisfies us no better. Great artists, like Michael Angelo and Raphael, were both realists and idealists. Shakespeare is the greatest of poets because, in his works, truth to nature is united with the most abundant wealth of thought, in such perfect harmony that the two are bound indissolubly together. But only in the greatest statesmen do we see the personification, so to speak, of such a combination of realistic and ideal politics; as, for instance, in Pericles and Alexander the Great, in Julius Cæsar, in Charlemagne and King Henry I., in Frederick II. of Prussia and Washington, in Lord Chatham and Pitt, in Napoleon I., in Baron von Stein and Count Cavour. In individuals and nations the realistic or the ideal, for the most part, preponderates, yet neither the ideal nor the realistic should be absent from either the nation or the individual. — English politics is predominantly realistic, and, first of all, the politics of interest; yet English politics is not wanting in the ideal, as is proved by the immense influence English ideas of popular rights and political freedom have exercised in the world. French politics prefers the ideal, and always advances an idea as its flaming beacon. Napoleon III. boasted that, "Only the French were ready to go to war for an idea!" But, by the side of this idealism, French politics manifests strong features of realism. The French never yet scorned to get in return for their ideal enthusiasm the highest material advantages. This Europe has always been made to feel, whether France happened to be governed by legitimist kings, by revolutionary directors or presidents, or by Napoleonic emperors. — During the last centuries the German nation did not succeed in establishing a harmonious union between realistic and ideal politics. It unfortunately vacillated hither and thither, between the realistic pressure of absolute governments, and nebulous, idealistic dreams. Prussian politics was the first to understand how to collect and intensify the bodily reality of the forces of the people, by proposing higher tasks to the nation. The greatest of these, the unification of Germany and the rise of the German empire, are due chiefly to the efforts of Prince Bismarck, whom people, by way of preference, designate as a realistic politician; who, in fact, better than any other living statesman, knows how to estimate and reckon with actual forces, but who, at the same time, is uncommonly fertile in ideal thoughts, and, on the whole, allows himself to be determined by the ideas of a national and masculinely free state organization, adapted to the nature and destinies of the German people; and who, accordingly, is an ideal politician, as well as a realistic one.

J. C. BLUNTSCHLI.

POLK, James Knox, president of the United States 1845–9, was born in Mecklenburgh county, N. C., Nov. 2, 1795, and died at Nashville, Tenn., June 15, 1849. He was graduated at the university of North Carolina in 1818, was admitted to the bar in 1820, and served as congressman (democrat) 1825-39. (See CONGRESS, SESSIONS OF.) He was governor of Tennessee 1839–43, and in 1844 was elected president. (See ELECTORAL VOTES, XV.) For the principal events of his administration see ANNEXATIONS, III.; WARS, V.; WILMOT PROVISO; FREE-SOIL PARTY; INTERNAL IMPROVEMENTS; TARIFF. His personal resemblance to Jackson, their general agreement in political feeling, and their neighborhood in birth, life and death, gave him the popular sobriquet of "young hickory."—See Hickman's *Life of Polk* (1844); Chase's *Administration of Polk* (1850); Jenkins' *Administration of Polk* (1851); 8 *States-*

man's Manual, 1537; 3 Woodbury's *Works;* 2 Benton's *Thirty Years' View*, 737.

ALEXANDER JOHNSTON.

POLL TAX (Fr., *taxe personnelle* or *capitation;* Ger., *kopfstener*), a tax levied upon each poll or head of population. It is one of the most ancient and universal taxes, being met with in the history of almost every nation, and has survived in many countries to the present day. Although a very unequal tax, in that it takes from each payer a like sum, irrespective of his circumstances, and although it is not in its simplest form an elastic tax, the ease with which it is collected has recommended its adoption. It is a direct tax, and when imposed upon laborers forms a tax upon wages. Adam Smith (book v., chap. ii.) claims that such taxes when collected upon slaves are properly taxes upon the profits of a certain species of stock employed in agriculture. — Aristotle ("Economics") mentions one instance of a tax of two minas imposed upon those who possessed no real property, but it was exceptional, as all direct taxes, whether levied on the soil, trades or persons, were deemed tyrannical unless self-imposed. "The most ignominious imposition was the poll tax, which none but slaves paid to their tyrant, or to his deputy the satrap, or subjugated nations to their conqueror, as, for example, the inhabitants of the provinces to victorious Rome. 'As the field,' says Tertullian, 'is of less value when it is subject to a tax, so are the persons of men more despised when they pay a poll tax; for this is an indication of captivity.' He whose person was not free had assuredly to pay a tax upon his head, that it might not be taken from him." (Boeckh's "Public Economy of the Athenians.") There is some doubt as to whether the capitation or poll taxes levied at Rome were really such, or rather property taxes. An account of them as levied under the empire is to be found in Gibbon. A law of Valens and Valentinian recites that up to that time each man had himself paid a certain capitation tax, but henceforth two and even three might unite to pay this tax; an arrangement that probably resulted from the imposition of other taxes. — Although the Romans collected this tax from the tribes subjugated by them, in France it was after a time abolished. During the reign of John the estates voted a capitation tax, to be levied upon all, without exception, from the members of the royal family to the peasant. It was not, however, until 1695 that the poll tax assumed a definite form, and it then became a graduated tax, twenty-two classes of payers being recognized, with taxes ranging from 2,000 livres to twenty sous, the basis of classification being the estate and rank of the person assessed. (See Taine *L'ancien Régime*, book v., chap. ii., for the injustice of such a scale.) During the revolution all internal taxes on consumption were abolished, and among new imposts established, was that of three days' labor upon the roads. This could be commuted into a payment of money, the value of the labor being determined by the local administration. This charge passed through various forms, and finally became the *taxe personnelle* of the present day, which is based upon the value of three days' labor. But as the tariff for estimating the money value is the same that was used in the last century, although wages in the meantime have doubled and even tripled, the revenue is small, and much less than it ought to be.—In some countries of Europe, as, for example, Russia and Hungary, the poll taxes appear to have been paid to the landlord, but in the other cases, and they form much the larger number, they have been paid to the government. In the former instances they may be regarded as a sort of rent, but in the latter they are taxes upon wages. In England a poll tax was first levied during the reign of Richard II., and its subsequent history forms quite an important episode in history. In 1377, to meet the demands of the treasury, in addition to the usual taxes and duties, a new charge of a groat a head was imposed, which was intended to reach every person in the realm. In 1379 it was renewed in a somewhat different form, being graduated according to the dignity of the payer. The duke of Lancaster was to pay ten marks, earls £4, barons and baronets £2, and so on down to the lowest ranks, in which every person above the age of sixteen was to pay one groat. The chief result of this impost was the preparation of the poll tax rolls of 1379, "one of the most important records of the state of the population of England that was ever drawn up." As a financial measure it proved miserably inadequate, producing in 1379 not more than £22,000, and was in the following year made more severe. This led to the peasant revolt of 1381. Never a popular tax, the feeling against it became stronger each year. "One of the attractions of the new mode of taxation seems to have been that the clergy, who adopted it for themselves, paid, in this way, a larger share of the burdens of the state; but the chief ground for its adoption lay, no doubt, in its bringing within the net of the tax gatherer a class which had hitherto escaped him, men such as the free laborer, the village smith, the village tiler." (Green.) The constant pressure of taxation, which by the poll tax was felt in its most irritating form in every household, goaded into revolt the oppressed peasants. "Nothing," says Stubbs, in his "Constitutional History of England," "had helped so much to maintain the national feeling against the papacy as the payment of Peter's pence, the penny from each hearth due for the Romescot. So the poll tax interpreted to the individual, far more intelligibly than any political propaganda, the misdoings of the rulers. The appointment of the chancellor and the treasurer, the misdoings of the court, the mismanagement of the war, became home questions to every one who had his groat to pay." Graduated poll taxes were imposed during the reigns of Henry VIII., Charles I. and II., and lastly in that of William III., when they were abolished. — The federal government has the

power to impose poll taxes, but only in proportion to the enumeration or census. (Constitution, art. I., § 9.) This power has never been exercised. The states have, however, assessed them until recent times, but very few do now. The capitation tax was doubtless among the first charges imposed, as the condition of the colonies would tend to show. In the early days of a community there is almost nothing besides visible and tangible property that can be taxed. And as men were more nearly equal in rank and condition, and regarded as being equally protected by the law in the enjoyment of life and property, the poll tax naturally suggested itself as the simplest and most equitable form of taxation. As an example may be mentioned the occurrences of the poll tax in Maryland, as described by a writer in the circular of the Johns Hopkins university. In 1641 a capitation tax was granted by the assembly, in testimony of its gratitude toward Lord Baltimore for his efforts to promote the welfare of the colony. In the act of 1692, establishing the Protestant religion in Maryland, every taxable person was made to pay forty pounds of tobacco yearly for the building of churches and the support of parish ministers. To hinder the growth of papacy, an act was passed in 1704 taxing all Irish servants who came into the colony. The same year a tax was imposed on all imported negroes. In 1717 the proceeds of this latter tax were appropriated toward the public school fund, and for erecting one free school in each county. In 1728 every taxable person was made to present the local authorities with three crows' heads or squirrels' scalps. Poll taxes were at various times levied for special objects, such as the building of almshouses and the construction of highways. The last poll tax in Maryland was levied in 1774, for the purpose of constructing a new road. In fact, from 1641 down to the last year of the proprietary government (1774), a poll tax was collected in this state. — In 1860, according to a report made to the New York state legislature, twenty-seven states and territories employed the poll tax. Some of the special features are worthy of notice. Thus, while Alabama taxed both male and female free negroes, Mississippi, North Carolina and Virginia taxed slaves. In California, Mongolians not engaged in production paid a monthly special poll tax of $2.50, known as the Chinese police tax, and in the same state a special federal war tax was laid on polls. In Nebraska and Utah this impost could be commuted into so many days' labor on the roads, probably on account of a scarcity of ready money. Louisiana appropriated the proceeds exclusively for the support of her free public schools. In Connecticut and Delaware the polls were rated at a certain capital value, which varied from $300 in the former state (it was at one time only $10) to $2,700, which was the highest limit in Delaware. In South Carolina the state constitution provided, that, whenever a tax is laid upon land, a capitation tax of not less than one-fourth of the tax levied upon each hundred dollars of the assessed value of the land taxed shall be imposed upon polls, and the constitution of Virginia contained a somewhat similar provision. There were many exemptions from poll taxes mentioned in the laws, among which were persons attached to the army or navy, or who had been wounded while in the military service of the country; paupers and the insane, the deaf and dumb, the blind and infirm; ministers of the Gospel (Tennessee); persons of color (Wisconsin), and uncivilized American Indians (Nevada). In some states the payment of a poll tax was made a necessary qualification of the voter, as it is in Massachusetts to-day (1883). — On the other hand, Pennsylvania, Kentucky and Michigan levied no poll taxes; the constitutions of Ohio and Maryland declared them to be grievous and oppressive, and Rhode Island provided by law that "no poll tax could be laid for any purpose," although the constitution allowed the collection of a registry tax, which was in reality a capitation tax. — To take from each payer an equal sum, which is the simplest form of a poll tax, does not necessarily make each man pay an equal tax. On the contrary, such a duty is very unequal in its incidence, as the condition of the payers must vary within wide limits. It would obviously be unequal to levy this tax upon every member of the family, parents and children, because the number of children in a family is no measure of comfort or of ability to pay taxes. Leroy-Beaulieu believes that only males should pay a poll tax, and that it should be joined to political rights. Every man, he says, who possesses and exercises the right of suffrage, ought to pay a direct tax, the rate to depend upon the needs of the local administrations and the existing indirect taxes. Among some of the United States, in which the payment of a poll tax is necessary to an exercise of the elective franchise, the door has been opened to abuse and frauds, as it is customary for the party managers to indirectly buy the votes of the delinquent tax payers by settling for them their poll tax dues. — The inequality of the capitation tax has frequently been noticed, and in attempting to make it more equal the tendency is to change it into a tax upon income; if not based directly upon the income of each payer or class of payers, it may at least bear a certain relation to it. Where the existence of privileged classes permits such a graduation by rank, it has been resorted to, as in France and England. In Prussia a tax of this description is still levied, the *classenstener*. The population is divided somewhat arbitrarily into various classes, according to their supposed income, and a tax proportioned to this classification imposed upon each group. Thus, the tax that is paid by each member of one class or group is the same, and is to that extent a poll or capitation tax; but as the tax payers are grouped according to their supposed or determined incomes, it partakes of the character of an income tax. The one or other feature predominates according as the number of groups

formed is small or large. The *classenstener* has proved a very productive tax, but poll taxes as a rule can never be counted upon to furnish a large revenue, and are being superseded by other and more productive taxes. — AUTHORITIES. Leroy-Beaulieu, *Science des Finances;* Levi, and M'Culloch, on *Taxation; Report on State Assessment Laws*, N. Y., 1863; and the various *Manuals of Political Economy*. WORTHINGTON C. FORD.

POPULAR SOVEREIGNTY (IN U. S. HISTORY). The acquisition of territory from Mexico (see ANNEXATIONS, IV.–VI.) brought with it a most troublesome and dangerous question, the status of slavery therein. Was the new territory to be entirely free? was it to be entirely slave? was it to be equitably divided? or was congress to refrain from interfering in any way, and allow the problem to gradually eliminate its own difficulties? The first proposition, the basis of the free-soil and republican parties successively, is elsewhere treated (see WILMOT PROVISO); the third had comparatively few advocates, for the time had passed when even a Missouri compromise line could settle the difficulty; the second and fourth represent the two opposing influences which, after twelve years of widening, finally split the democratic party in 1860. — The second proposition above referred to is primarily untraceable, but its rounded and ultimate completion is certainly due to Calhoun. The argument for it took two directions, which may be briefly stated as follows: 1. The power given to congress by the constitution (article IV., section 3), to "dispose of and make all needful rules and regulations respecting the territory" of the United States, referred only to the territory then held by the United States, in which slavery had already been prohibited. (See ORDINANCE OF 1787.) This meaning was so clear at the time that a separate section was necessary to empower congress to govern the territory thereafter to be acquired for a national capital. Plainly, then, in the cases of Louisiana, Florida, and the Mexican annexations, congress was to govern them, not by virtue of this territorial section of the constitution, but by virtue of the sovereign power by which it had acquired them. But congress was itself the creature of the constitution, and could exercise in the territories no powers prohibited to it by the constitution: it could not erect a state church there; or take away freedom of speech, or trial by jury; or allow any one to be deprived of property without due process of law. If, therefore, it found slave property in any of the territories, it was constitutionally bound to legislate for the protection of this species of property, as well as of others. This was the branch of argument intended for the country in general. Historically it is very strong, as may be better seen in Taney's opinion in the Dred Scott case. Logically it is almost as strong, its radically weak point being in the definition of "property." How could congress be said to "find slave property" in the territories? State law or custom might create a property in man, but this could cover only the jurisdiction of the state: the state law or custom of Georgia could no more justify property in slaves in a territory than in the sister state of New York. Slave property could not be justified by territorial law, for the territories were under the sovereign jurisdiction of the United States; nor by that consensus of recognition by all men which justifies the holding of other animate objects as property. It could hold up absolutely no other shield than state law. Was congress to protect every man in the territories in the enjoyment of whatever he might see fit to claim as his property —air, sunlight, black men, or even other white men? But the whole argument is no stronger than its weakest part, and must stand or fall with that. 2. As the constitution was a compact between separate and sovereign states, congress, as the joint agent and representative of the states, had no right to so legislate against slave property in the territories as to prevent citizens of slave states from emigrating thither, since that would be a discrimination against such states, and would deprive them of their full and equal right in the territories. This branch is elsewhere considered. (See NATION, III.; STATE SOVEREIGNTY.) In this case it was addressed more directly to the slave states than to the country at large, and it furnishes the connecting link between the theory of state sovereignty and its practical enforcement by secession, when Calhoun's hypothetical *casus belli* had occurred. In this point of view, Calhoun's resolutions of Feb. 19, 1847, whose language has been used in the statement above, were the ultimatum on which the southern states originally declared war, in 1860. — The first enunciation of the fourth proposition is generally found in the Nicholson letter of Cass, Dec. 24, 1847. In this Cass asserts that the principle of the Wilmot proviso "should be kept out of the national legislature, and left to the people of the confederacy in their respective local governments"; and that, as to the territories themselves, the people inhabiting them should be left "to regulate their internal concerns in their own way." This idea was the essence of "popular sovereignty." Its advocates generally accepted the territorial section of the constitution, above refered to, as applicable, not only to the territory possessed by the United States in 1788, but prospectively to any which might be acquired thereafter. They therefore held that congress might make any "rules and regulations" it might deem proper for the territories, including the Mexican acquisitions; but that, in making these rules and regulations, it was wiser and better for congress to allow the "inchoate state" to shape its own destiny at its own will. Properly, it will be seen, there was nothing in the dogma which could constitutionally prohibit congress from making rules for or against slavery in the territories, if it should so determine, though gradually Douglas and some of its more enthusiastic advocates grew into the belief that popular sovereignty was the constitutional right

of the people of the territories, which congress could not abridge. Still, it should have been plain that, if a democratic congress might make a "regulation" empowering the people of the territories to control slavery therein, a congress of opposite views might with equal justice make a "regulation" of its own, abolishing slavery therein. This point, however, never became plain to the south until the new republican party secured control of the house of representatives in 1855–7. After that time the whole south came to repudiate popular sovereignty and the territorial section of the constitution, and rested on the Calhoun doctrine that congress and the immigrant both entered the territory with all the limitations of the constitution upon them, including its provisions for the protection of slave property as well as property of other kinds. — At its first declaration, however, the idea proved to be a very taking one, south and north, for it promised to relieve the states from any responsibility for or consideration of the question of slavery in the territories. This was to be decided by the territorial legislature, as representing the people, and by the popular convention, upon the final formation of a state constitution. The democratic platform of 1848 did not directly refer to or indorse it, but its highly colored reference to the French revolution of that year, and to "the recent development of this grand political truth of the sovereignty of the people and their capacity and power for self-government," was at least suggestive of the Cass doctrine of popular sovereignty in the territories. The suggestion was made still plainer by the convention's action in rejecting, by a vote of 216 to 36, a resolution offered by Yancey, of Alabama, recognizing "the doctrine of non-interference with the rights of property of any portion of the people of this confederacy, be it in the states or territories, by any other than the parties interested in them [*i. e.*, in such rights]"; the democratic convention was not willing, therefore, to sustain the right of any slaveholder to transfer his slave property into a territory against the will of its people. — The sudden growth of population in California in 1848–50 gave Calhoun an opportunity of fastening a nickname upon the doctrine which he opposed. No territorial government had been formed in California when it applied for admission as a state. Its inhabitants, said Calhoun, were therefore trespassers on the public domain, mere squatters, who surely had no right on any theory to regulate their own government. His ridicule only made the terms "squatter sovereignty" and "popular sovereignty" interchangeable, though the former properly applied to an unorganized, and the latter to an organized, territory. — The original discoverer of the doctrine of popular sovereignty in the territories did not perfect his claim by occupation, and Douglas almost immediately became its strongest and most persistent champion, so that his name is most entirely identified with it. Henceforward the Douglas doctrine became the shibboleth of most of the northern democrats, as a medium between the Wilmot proviso and the demand of many of the southern democrats for active congressional protection of slavery in the territories. It is significant, however, of the timorous and evasive statesmanship of 1850, that it is exceedingly difficult to say whether popular sovereignty was a feature in the compromise of that year. (See COMPROMISES, V.) Southern democrats asserted that it was not, and their claim is supported by the provisions that the legislatures of Utah and New Mexico (the only territories organized by the compromise) should have power over "all rightful subjects of legislation consistent with the constitution of the United States," and that its laws should be submitted to congress, and, if disapproved, should be null and of no effect. Douglas asserted that popular sovereignty *was* the basis of the bill, and the course of proceedings on it in the senate seems to confirm his assertion. He reported the bill in the senate, March 25, the powers of the legislature being as above stated. The committee of thirteen reported the same bill, May 8, adding the proviso "with the exception of African slavery." Amendments were offered by Jefferson Davis, of Mississippi, to empower the territorial legislature to protect, but not to attack, slavery, and by Chase, of Ohio, of exactly the opposite purport. Both were rejected; a motion of Douglas, through another senator, to strike out the committee's exception of slavery from the powers of the legislature, was carried by a vote of 33 to 19; and the bill passed as originally framed by Douglas. Even with this explanation, the best that can be said of the whole arrangement is, that it was a provoking verbal juggle, meaning anything but what it appeared to mean on its face, and best calculated for citation as a precedent in two opposite senses, for an increasingly bitter wrangle over its meaning, and for the final disruption of the party which had passed it. (See DEMOCRATIC-REPUBLICAN PARTY, V.) — In 1854 the Kansas-Nebraska bill (see that title) again purported to enforce the popular sovereignty idea in the new territories, although slavery had been prohibited in both of them by the Missouri compromise of 1820. The fourteenth and thirty-second sections of the act put the laws of the United States in force in the two territories, "except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-intervention by congress with slavery in the states and territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act, not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States." It will be noticed that the language is simple and direct until the point is reached where "popular sovereignty" was to be

defined; then it becomes circumlocutory. The people were to "form and regulate their domestic institutions in their own way"; did that mean that they were at liberty either to allow or to prohibit slavery? "Popular sovereignty" and common sense said, Yes; the very senate that passed the bill said, No: Chase's amendment, "under which the people of the territory, through their appropriate representatives, may, if they see fit, prohibit the existence of slavery therein," was rejected, March 2, by a vote of 36 to 10. What other meaning than that of the Chase amendment could be given to the bill, it is impossible to see, and, unless the vote above mentioned was only significant of a general dislike of Chase, the popular sovereignty part of the Kansas-Nebraska bill must be set down as another verbal juggle, intended to be read in different ways north and south. — In the meantime Calhoun's original theory had been growing in favor at the south. There the leaders were rapidly growing more dissatisfied with "non-intervention by congress," with the idea that congress was of itself to do nothing for or against slavery in the territories; but was to delegate to the people of the territories the powers which it would not or could not exercise itself. A convention of delegates from nine southern states at Nashville, June 2, 1850, had declared that the federal government had no right to decide what should be held as property in the territories; that the slaveholding states would not submit to any restraints upon the removal of their citizens with their property to the territories; but that, for the sake of peace, they would consent to the equitable division of the territories by the line of 36° 30′ to the Pacific. Four years afterward they assisted in carrying through the extension of popular sovereignty to *all* the territories, by the Kansas-Nebraska bill, partly from the desire to gratify the northern democracy, but much more from the delusive hope that all the territories would thus be opened to slavery. Within two years this hope had vanished forever. (See KANSAS.) It was plain that, without the reopening of the African slave trade, "popular sovereignty" in the territories meant their inevitable final admission as free states. From the moment that this result was apparent, there was no longer any hesitation among southern leaders. They accepted every link of the reasoning which Calhoun had forged ten years before: in the territories neither congress nor the territorial government could legislate against slavery; on the contrary, congress as the agent of the states, and the territorial governments as the agents of congress, were bound to fulfill the essence of good government by protecting those rights of property which were recognized by the states; and popular sovereignty would only come into play when the territory should itself become a state, and should decide whether it should be a free or a slave state. These were the basis of the Southern demands for a platform, on which the Charleston convention split in 1860. They had previously been accepted by the president and the official leaders of the democratic party, and by its majority in the senate. Douglas' non-concurrence led to his removal from the committee on territories in the senate, and practically placed him out of the party fold.—Throughout all this twelve years struggle, "non-intervention by congress" meant, in the north, that congress was to do nothing for or against slavery in the territories, but was to allow the people of the territories to do as they pleased; and, in the south, that congress was to do nothing against slavery in the territories, either of itself or through the territorial legislatures. By dexterous manipulation of phrases the northern and southern democracy had united to pass the territorial bills of 1850 and 1854, neither insisting on the full expression of its demands in words. But in 1857 the supreme court, in the Dred Scott case (see that title), decided against Douglas and popular sovereignty, and for the full vigor of the Calhoun theory. Thereafter the southern leaders, as law-abiding citizens, could of course do nothing else than amplify their previous demands into consistence with the supreme court's doctrine, and, further, insist upon their expression in plain terms. In the democratic national convention of 1856 both sections had been content with a bald approval of "non-interference by congress with slavery in the territories," leaving the interpretation of this phrase undecided. In the convention of 1860 the two sections formulated their respective demands in plain terms. No manipulation of phrases could reconcile them, and the convention and the party at last divided. (See DEMOCRATIC-REPUBLICAN PARTY, V.) With the election of 1860, and the outbreak of the rebellion, popular sovereignty disappeared with the evil for which it was designed to be the remedy. — The best exposition of the doctrine of "popular sovereignty" is that published by Douglas in September, 1859, as cited below. In it he insists desperately that the Dred Scott decision had not condemned his doctrine, though he admits that, if it had so condemned it, the Seward dogma would be correct, that "there is an irrepressible conflict between opposing and enduring forces, which means that the United States must and will, sooner or later, become either entirely a slaveholding nation or entirely a free labor nation." This belief of Douglas will account for the offer of his followers at Charleston "to abide by the decisions of the supreme court on questions of constitutional law." But his belief, honest as it undoubtedly was, was evidently unfounded. How can "the opinion of the court, that the act of congress which prohibited a citizen from holding and owning property of this kind [slave property] in the territory of the United States, is not warranted by the constitution, and is therefore void," be reconciled with a power in congress to authorize the people of the territories to impose the same prohibition? The court could hardly have decided against Douglas more plainly, except by naming him and his doctrine. Nevertheless, the doctrine

of Douglas, that the territories are held only for the purpose of becoming states, that they are therefore really "inchoate states," that it is wise and just to allow their inhabitants the powers of self-government and "the regulation of their domestic institutions to suit themselves," is well founded, and has been the foundation of the American territorial system since 1787. (See TERRITORIES, I.) But the power of congress, nevertheless, is always latent, and may be exercised whenever congress, rightly or mistakenly, conceives it to be "for the general welfare" to do so. If the people of the territory undertake to harbor anything which seems to congress a moral evil, a lottery system, polygamy, or slavery, it is the right and duty of congress, for the welfare not only of the future state but of all the states, to intervene and destroy it. It is a little odd that the congresses of 1854–8, which were so quick to recognize this truth in the case of polygamy in Utah, were so slow to recognize it in the case of slavery in Kansas. Popular sovereignty in the territories is, and has always been, a privilege, not a right; and the privilege is to be exercised in strict conformity to the terms of the grant. — The historical authorities for the rise and fall of the idea of "popular sovereignty" in the territories will be found under DEMOCRATIC-REPUBLICAN PARTY, V.; REPUBLICAN PARTY, I. The Calhoun doctrine will be found in 4 Calhoun's *Works*, 339 (resolutions of Feb. 19, 1847), 535; see also Taney's opinion in DRED SCOTT CASE; 2 Stephens' *War Between the States*, 202; and Jefferson Davis' senate resolutions of May 24, 1860, in Greeley's *Political Text Book of* 1860, 194. Cass' Nicholson letter in full is in Cluskey's *Political Text Book of* 1860, 462. The Douglas doctrine is in *Harper's Magazine*, September, 1859, and in Cutts' *Treatise on Party Questions*, 123. The former article was answered by attorney general J. S. Black in pamphlet *Observations* on it; and the medium between the two is taken in Reverdy Johnson's *Remarks on Popular Sovereignty*. H. A. Wise's *Territorial Government*, 47, 148, accomplishes the difficult feat of reaching Calhoun's conclusions from Douglas' premises.

ALEXANDER JOHNSTON.

POPULATION. I. POSITION OF THE QUESTION OF POPULATION. — *The Principle of Population, imperfectly seen by several Economists, demonstrated by Malthus, and strangely misapprehended.* The term population embraces the most extensive subject of political economy; for in treating of questions of population, even though we restrict ourselves to labor and its remuneration, we might traverse the whole field of the science and write a complete course of political economy. Population is, in fact, at once the end and the means of human industry. For it and by it production takes place. By it also consumption is effected. We shall not, therefore, here consider this vast subject under its general aspect, but will confine ourselves to the questions suggested by the number of people, the elucidation of which must precede those connected with the fundamental questions of demand and supply, competition, wages, and social conditions. This range is still, as will be seen, very extended. The questions it embraces have been frequently discussed, especially during the past century, and in our own time: but of all writers, he who has most thoroughly investigated them, he whose ideas on this subject are, so to speak, the pivot of the discussions of economists, moralists, and publicists of every class, is the celebrated Malthus. To his investigations, and, we may say, discoveries, we will first give our attention. — It was Malthus who stated the question. He it was who first showed its supreme importance. He brought together the scientific elements of the discussion, in his celebrated "Essay on the Principle of Population," published in 1808. This had been preceded by a preliminary sketch of the subject in 1798, in his reply to some propositions by Godwin, who was, in his turn, twenty years later, to attempt to refute him, but without success. Not that before Malthus some correct ideas on population had not appeared from a few writers, among others those of the physiocratic school, and James Stewart, Adam Smith, Wallace, Hume, and Gian Maria Ortès; but to the English philosopher belongs the honor of having seen and pointed out the profundity of the problem, of having made it the subject of numerous statistical and historical researches, and obtained a great amount of information upon it. Until the beginning of this century, *i. e.*, up to the time of Malthus, legislators, statesmen and philosophers set out with this aphorism: "Where there is population, there is power." They took no account of the conditions under which the population might be living; no one questioned the proposition, and all social institutions aimed to increase the number of the people. Colbert, Pitt, and even Napoleon, favored granting rewards to the producers of large families; and it was not until 1852 that the parliament of Sardinia repealed a law to the same effect. People had no idea, that, in order for capital and labor to produce their greatest effect, the number of men must bear some relation to the disposable capital; they supposed that if, for example, a thousand laborers produced a million dollars, it was only necessary that two thousand laborers should be born to the state, to obtain two millions. The laws of all European countries originated when that idea prevailed, and even to-day there are legislators and publicists, priests and philosophers, moralists and poets, who appeal to that doctrine. It is still a quite common belief that a good government will do everything in its power to increase population. — Malthus pointed out the dangers to society in general from this error, and especially to the poorer classes, who are the first to suffer from violations of natural laws. We will therefore, at the outset, give an exposition of his ideas, and indicate, as we proceed, the support he has received, and the modifications which his doctrine has experienced, from other

eminent economists, as well as the exaggerations which have been substituted for it, the follies for which ignorance has made it responsible, and the principal objections or criticisms of which it has been the object. But first of all, we will say a few words concerning the way in which his ideas and sentiments have been misrepresented.— Malthus affords a curious example of popular aberrations, for which fact many publicists and some economists, who have opposed, or even approved him, are responsible. Not only is Malthus not known, not only are people ignorant of his actual ideas, but men have succeeded in creating in the minds of the public a Malthus that never existed, a chimerical Malthus, to whom the strangest propositions are attributed, and who has been the subject of harsh reproaches and violent imprecations. This strange phenomenon may be thus explained: Most of those who have spoken of Malthus, have spoken of him without having read him and without knowing him otherwise than by extracts or by mutilated, if not incorrect, quotations. They have thus created the most deplorable confusion concerning him, by attributing to him ideas which he never had; by making of a philanthropist especially interested in the condition of the poor, a theorist favoring aristocracy; by holding him responsible for sentiments and errors belonging to his adversaries; or, it may be, for absurd propositions emanating from unhealthy minds. — It must be confessed, however, that this condition of things is in part attributable to Malthus himself. The different parts of his book are not logically put together; his scattered reasons are nowhere presented in orderly sequence, in support of the principles he lays down; his style, moreover, is not particularly engaging. The great truths which he has set forth in regard to population would, without doubt, have become much more popular had he written like Rousseau or Lamennais, or with the ardent style of a pamphleteer, that one finds in the writings of Godwin and Proudhon, his sharpest critics. Malthus, however, though immovable in his principles, was considerate and good-natured to his opponents, who had no difficulty in obtaining control of public opinion at his expense. — II. STATEMENT OF THE PRINCIPLE OF POPULATION. — *Doctrine of Malthus.* This doctrine is stated, as we have said, in his "Essay on the Principle of Population." After having formulated, in his two celebrated propositions, the law of the development of population and that of the increase of food, this illustrious economist verifies it by means of the history and statistics of ancient and modern peoples, and shows by what checks the growth of population has been arrested. At the same time he points out the dangers, both to private families and to society in general, arising from a misconception of these laws, and shows by what means the evils may be avoided which have resulted and still result from the improvidence in which the greater part of mankind have lived and do live. These laws of the increase in the number of human beings and of the means of subsistence, and these means of obviating the evils he points out, are what he has called the "principle of population." The evils he sums up as "vice" and "misery." The remedy he proposes, and which is one of the forms of foresight, he calls "moral restraint." To show the importance of this means, Malthus was led to discuss the value of the doctrines put forth the latter part of the last century and the beginning of the present one, on population and the means of raising it to a better material and moral condition, as well as the checks to its excessive growth. He then examines the social theories which had then appeared; among others, those of Godwin and Owen, Condorcet's theory of indefinite progress, the efficacy of emigration, and the effects and dangers of charity. In treating of the latter subject, Malthus makes a profound criticism of the poor laws, and is led to an examination of the question so much agitated in our times, of the right to employment and the right to state aid. — *Statement of the two propositions.* In the first pages of his book, after stating a few facts and considerations corroborated in the course of the work, Malthus says: "It may safely be pronounced, therefore, that population, when unchecked, goes on doubling itself every twenty-five years, or increases in a geometrical ratio." (7th ed., p. 4, London, 1872.) "It may be fairly pronounced, therefore, that, considering the present average state of the earth, the means of subsistence, under circumstances the most favorable to human industry, could not possibly increase faster than in an arithmetical ratio." (Ibid., p. 5.) Translating these two laws into figures, Malthus adds, a little further on: "The human species would increase as the numbers 1, 2, 4, 8, 16, 32, 64, 128, 256; and subsistence as 1, 2, 3, 4, 5, 6, 7, 8, 9. In two centuries the population would be, to the means of subsistence, as 256 to 9," etc. (Ibid., p. 6.) — These propositions are true, if not literally, at least approximately. And here we will anticipate certain objections, less serious than is generally supposed, by observing that Malthus, in using a geometrical progression to express the increase of population, and an arithmetical progression to represent the increase in means of subsistence, meant nothing more than to express a *tendency*. Some persons did not thus understand him, but their dissertations in reference to the matter lead to false conclusions.—*The first proposition demonstrated by the increase of the population of the United States, and conformable to the laws of nature.* Near the close of the last century, when Malthus began to write, Dr. Price stated, that, according to data examined by himself, in certain parts of North America, the period of doubling the population was fifteen years. ("Price's Observations," vol. i., p. 282, and vol. ii., p. 260.) He supported this statement by some extracts from a sermon by Dr. Hyles, who had found, in 1748, that the period of doubling was twenty-five years in Rhode Island, taken as a whole, and twenty and fifteen years in certain districts in the

interior of that state. The period was twenty years in the county of Kent, and eighteen years in Providence county. Euler had constructed a table based on statistics taken from the registers of births and deaths, according to which the doubling had taken place in less than thirteen years. W. Petty had advanced the opinion, that, under particularly favorable circumstances, a population might double in ten years. Malthus, relying on these three authorities and the United States census, thought he was safe from exaggeration in saying, that, when population is not arrested in its growth from any cause, it goes on doubling every twenty-five years, thus increasing from period to period in geometrical progression. If the fact of doubling in twenty-five years, independently of immigration, had been once proven, science would be justified in adopting *a posteriori* the assertion of Malthus.—We have now valuable statistics on this subject in the decennial census of the United States, covering nearly four times the Malthusian period of twenty-five years. In 1790 the United States were free, and organized under one general government. They have continued to live under the same government. The civil war is the only important event which has put a serious check upon the natural course of things. Moreover, the United States, not having yet attained the limits of disposable land and subsistence, have continued to obey the law indicated by the census previous to this century, and which served Malthus as a starting point. We have here one of the most remarkable facts in regard to population, a fact remarkable both for its clearness and its continuity. According to the official census statistics, the progress of population has been, in round numbers, as follows:

	Inhabitants.		Inhabitants.
In 1782	2,389,000	In 1840	17,069,000
" 1790	3,929,000	" 1850	23,192,000
" 1800	5,308,000	" 1860	31,443,000
" 1810	7,240,000	" 1870	38,558,000
" 1820	9,634,000	" 1880	50,156,000
" 1830	12,866,000		

If from the population of 1850, we deduct that of the then newly annexed territory, including Texas, New Mexico, Utah and California (166,000 persons in all, a large part of whom, however, were immigrants from the United States), we have remaining a population of 22,990,000 for that year. If we divide the population of 1840 by that of 1790, we find that the population more than quadrupled in these fifty years. Dividing that of 1850 by that of 1800, we find the population quadrupled in the first two periods of twenty-five years in this century. Taking, in like manner, the fifty-year periods from 1810 to 1860, 1820 to 1870, and 1830 to 1880, we find the population more than quadrupled in all but the last period, and very nearly quadrupled in that. Comparing periods of ten years, we find that the population had increased—

35	per cent.	from	1790 to 1800	35¼	per cent.	from	1840 to 1850
36¼	"	"	1800 to 1810	35¼	"	"	1850 to 1860
33	"	"	1810 to 1820	22 3-5	"	"	1860 to 1870
33½	"	"	1820 to 1830	30	"	"	1870 to 1880
32¼	"	"	1830 to 1840				

The smaller per cent. of increase between 1860 and 1870 was a result of the civil war. — When we examine the census of the individual states, we find several in which the increase has varied greatly from the above rates. The population of the state of New York increased more than seven-fold in the fifty years from 1790 to 1840, and has more than doubled from 1840 to 1880. The population of Ohio more than tripled from 1820 to 1850. It had previously increased more than twelve-fold from 1800 to 1820; but this was largely the result of immigration from other states. Pennsylvania quadrupled her population in the fifty years from 1790 to 1840, and has little more than doubled it from 1840 to 1880. That of Virginia did not double in the fifty years from 1790 to 1840, and (including West Virginia) has barely doubled in the sixty years from 1820 to 1880. — The statistics previously given of the general population show, however, that the ratio given by Malthus, which he had based on the increase observed in the second half of the last century, continues to express the facts during the present century, and over a wider area of territory. — But, aside from the results of the census, we might have conceived this ratio *a priori*, as many economists have shown. J. B. Say reasons on the subject as follows: "If we leave out of account all the causes which limit the increase of the human race, we find that a man and woman, married as soon as they are mature, may easily have at least a dozen children. * * Experience, indeed, shows us that about half of those who are born die before the age of twenty-six. Consequently, if each couple can not rear twelve children who will have progeny, they can rear six as capable of increase as themselves. Hence we may conclude, that, if there were no check to this increase, *the population of any country would be tripled at the end of twenty-six years.*" Rossi accepts Malthus' ratio, and adds: "This is easily demonstrated. Whenever you have several products, each with a reproductive power equal to that of the producer, you will necessarily have a more or less rapid geometrical progression. If one produces two, and these have each the same productive power as the first, the two will produce four, the four eight, and so on. Abstractly speaking, Malthus announced an indisputable principle, as true in regard to man as it is with animals and plants. Obstacles not being taken into account, it is evident that at the end of a certain number of years, the earth would be covered with men, as it is certain that the entire soil would be soon covered with wheat, and the ocean filled with fishes, if nothing checked the reproductive power of each grain of wheat and each fish." The observations of naturalists support Rossi's statement. A single plant of Indian corn produces 2,000 seeds, a sunflower 4,000, the poppy 32,000, an elm 100,000. A carp spawns 340,000 eggs. It has been calculated that one henbane plant would cover the earth in four years, and that two herrings would fill the sea in ten years, if the ocean covered the

whole earth, were there no check to their increase. — *Objections drawn from immigration and the exceptional case presented by the United States.* Attacks more animated than serious have been made upon Malthus' first proposition, which is one of the principal foundations of his argument. Godwin, among others, went so far as to maintain that the exceptionally large increase of population in the United States must be attributed entirely to immigration. We will consider the untenability of this position. Up to 1783 war and various other circumstances hindered immigration, and took from the United States more persons than Europe added to the population. The immigration occasioned by the French Revolution was soon interrupted by the war of 1793; and from that time to the peace of 1815 but few immigrants came from Europe, and these almost exclusively from England. These facts are obtained from the "Statistical Annals of the United States," by Dr. Adam Seybert, of Philadelphia, and are based on official documents from 1780 to 1818. (Seybert's valuable work was published in Philadelphia in the latter year, and a copy may now be found in the Astor library, New York.—*Translator.*) Dr. Seybert states there, that the immigrants came principally from Great Britain, Ireland and Germany; that in 1794 there was a strong tendency in Great Britain to emigrate to the United States, which, however, had been restrained by acts of the British government; that in 1794, according to Cooper, the number of immigrants had been 10,000; and that in 1806 Mr. Blodgett had stated, that, according to the records and estimates most worthy of credence, the annual average for the ten years preceding 1806 had not exceeded 4,000. Admitting that, in 1794, 10,000 foreigners landed in the United States, Dr. Seybert did not admit that they arrived in as great numbers during any of the preceding or subsequent years up to 1817; and, in view of the facts he had been able to obtain, he arrived at the conclusion that the number of immigrants who settled in the United States from 1790 to 1810 could not have exceeded 6,000 annually, on the average. The official records published in England of passengers to America, are confirmatory of Dr. Seybert's conclusion, or, where they differ from it, differ only by making the numbers less. Even were we to admit an annual immigration of 10,000 persons, we should still fall far short of the number necessary to explain the rapid increase of population in the United States. Hence the term of twenty-five years, assigned by Malthus for doubling the population by procreation alone, is far from being exaggerated. — This testimony has also the confirmation of Mr. Warden (a former United States consul and correspondent of the *Institut de France*), who was a careful collector of all statistics pertaining to the United States. In his opinion, the population of the United States had doubled in every twenty-one years, and the immigrants, in 1820, had not exceeded an annual average of 4,000. Now, 4,000 immigrants could not have produced more than 84,000 inhabitants: and yet the population increased 5,000,000 in the twenty-one years up to 1820. — Inasmuch as, prior to 1820, no statistics of immigration were officially kept in all the ports of the United States, we will admit that the records of passengers landed in the ports of the Union previous to 1820 were inaccurate, and in several places negligently kept: we will also leave out of account those returning to Europe, or who passed over into Canada; and we will suppose, that, instead of 4,000 immigrants a year, there were double, triple or even quadruple that number: the marriages, during this period of twenty-one years, must, nevertheless, have given an increase of 4,500,000, so that even this exaggerated immigration would not have added more than from 150,000 to 300,000 new inhabitants. — From 1820 to 1856, although a record was kept of all foreign-born persons arriving in the ports of the United States, no separate account was made of those who came to remain permanently; of those, that is, to whom the term *immigrants* would now be applied. To obtain the number of this class of persons during the decennial periods from 1790 to 1840, a calculation was made (which appeared both in the "British Review," and in vol. xxiii. of the *Revue des Economistes*), according to the following method pointed out by Godwin. The children under ten years of age were subtracted from each general census, for the reason that all the children who, *e. g.*, at the census of 1830, had not attained the age of ten years, were born since 1820, and belonged to the natural increase by means of birth. The difference was taken between this number of children and the increase of population indicated by the census; and this difference was considered to be the number of foreign immigrants. In this way it was calculated that there must have been 160,000 immigrants from 1790 to 1800, 229,000 from 1800 to 1810; 312,000 from 1810 to 1820; 494,000 from 1820 to 1830; and 862,000 from 1830 to 1840: making a total, in fifty years, of about 2,000,000. Admitting this estimate as correct, the total population, nevertheless, increased from 1790 to 1840 from nearly 4,000,000 to more than 17,000,000. Admitting, also, that 862,000 settled in the United States from 1830 to 1840, the population had increased in that period from 12,866,020 to 17,069,453, an increase of 4,203,433, or of 3,341,433 after deducting the number of immigrants; that is to say, an increase of nearly 26 per cent. — Since 1856 a separate record has been required to be kept, by United States collectors of customs, of all foreign-born passengers arriving in their respective districts, who have come to the United States to settle here, and a quarterly return of the same is made to the United States treasury department. From these tables we learn that the total immigration of settlers from June 30, 1869, to June 30, 1879, was 2,742,137 persons. The total increase of population, as indicated by the census, from 1870 to 1880, was 11,597,412. If from this number we deduct the above number of immigrants, we have

left 8,855,275 persons, as the increase exclusive of immigration, an increase of about 28 per cent. This calculation, however, does not leave out of account (as it should do in order to exhibit accurately the natural increase of population) such of the children of these immigrants as were born in the United States between 1870 and 1880, nor of the immigrants themselves during the same time; nor have we yet the statistics for a just estimate of this matter. It is to be hoped, however, that the completed census of 1880, when published, will furnish the desired data. The above given per cent. is, consequently, in excess of the ratio of increase from births alone. — Since, however, the conditions of the population of the United States have changed since Malthus wrote, and there are now obstacles to its increase which did not then exist, we deem ourselves authorized to conclude, from the above given data, that Malthus was within the limits of truth in estimating that any population would double in a quarter of a century, if there were no obstacle in the way of its increase. He did not say that population in fact doubles in that period. On the contrary, he said the fact was not manifest; and he sought to ascertain the checks by which this increase was prevented. — *Proposition second, relating to subsistence.* The second proposition of Malthus amounts to saying that subsistence has a tendency to increase less rapidly than population. Its demonstration results from a comparison of the ease with which families may multiply, and the difficulty with which harvests are obtained. But few considerations need be presented to make this apparent. — First, it must be remarked that cultivated land, that which yields the means of subsistence, is limited; that it produces only by the aid of capital, which is limited, and is obtained only through difficulty and sacrifices; that it is only by the aid of capital, hard labor, and time, that people succeed in rendering these lands productive and maintain their productiveness. This power of the earth becomes, in fact, quickly exhausted; and in a few years the soil would refuse all return, if rotation of crops, fertilizers and fallowing did not renew its strength. Now, rotation of crops, fertilizers, drainage, and improvements of any kind, imply capital; and fallowing implies cessation of production. Suppose we grant the wholly inadmissible hypothesis, that capital can increase as rapidly as population, it might be said, that, in agriculture, though every increase of labor and capital increases the product, this increase of product is not in the ratio of the increase of labor and capital. Let us suppose, that in consequence of well-directed improvements, the product is doubled within a certain time; can it be supposed, that, by doubling the outlay in another like period of time, the product can be again doubled, and so on continually? Would any agriculturist reply in the affirmative? — III. Continuation of the Exposition of the Principle of Population. — *Consequences of the two propositions. Obstacles in the way of the increase of population in a geometrical ratio.* Evidently, then, population and subsistence do not follow the same principle. The course of the one tends naturally to become accelerated; that of the other is much less, and tends to come retarded, and to vary more and more from the former, in long-settled countries which are wholly occupied. In other words, the productive power of man to increase his species is greater than that to increase his means of subsistence. Hence, wherever both kinds of reproduction take place without any obstacle being voluntarily interposed by man, population is always pressed for means of subsistence, and the balance between the two is only maintained by physical evil or death. — This energy of the principle of population, added to the wants inherent in our nature, is, then, a powerful spur to the human race, who must make a constant appeal to all their intellectual, moral and physical faculties to avoid being overtaken by the pangs of hunger and by other privations. Since it incites the species to gradual increase, and since, on the other hand, this same species is endowed with faculties susceptible of development and an ambition to better its condition, the law of increase results in progress when it is maintained within certain bounds, and is a cause of unhappiness and destruction when arrested by no constraining influence. — This being granted, let us ascertain by what checks the force of these two principles has been and can be counteracted. The checks are of two kinds, and of an opposite nature. One class prevents births, and the other produces premature deaths. The former checks are *preventive*, and the latter *repressive*. Malthus called the latter *positive* checks. This term, however, is not a good one, and may lead to confusion, for the checks which prevent population are as positive as those which cause its destruction. Among the checks to the increase of population through the action of its principle, are the insalubrity of localities inhabited; the uncleanliness of dwellings, or their insufficient shelter; the lack of suitable clothing and hygienic care; unwholesome or insufficient food; irregular habits; the abuse of tobacco, strong drink and other irritants; famines, and industrial and financial panics, the effects of which are felt for many years; war, which entails the waste of a vast amount of capital, the devastation of crops, and diminished agricultural production; diminution of labor, and false economic measures; anxieties and moral sufferings; and abortion, and even infanticide, terrible means which are more frequently employed than is generally supposed. Most of these causes produce epidemics, or render them more fatal, prevent the proper development of children, weaken the faculties of maturer years, and cause a considerable mortality, which counterbalances the effects of reproduction. Malthus comprehended them all in his expression, "vice and poverty," which he regarded as by turns cause and effect of each other, and as shortening human life. — Preventive checks belong to two quite distinct classes, one of which comprehends

those which result from vice, and the other those which come from the exercise of reason. Those caused by vice are: debauchery, promiscuity of the sexes, and prostitution, which destroy fecundity; polygamy, which acts in the same direction, as is shown by the statistics of the people of oriental countries;* slavery, which acts both as a repressive check, in consequence of the bad treatment of slaves, and as a preventive check, by trampling on the family sentiment. — Preventive checks of a different kind are all those prudential considerations which lead men to defer marriage or to limit their number of children to their means of supporting and educating them. These checks have at all times contributed more or less to retard the increase of population. It would be impossible to tell precisely to what extent they have acted, but it is not unlikely that their action has, from time to time, been extended or restricted concurrently with certain moral influences which have given direction to the minds of mankind. — Among the number of checks to the increase of population at a given point, Malthus omitted to mention emigration. This may exceed immigration, and may in part (much less, however, than is generally supposed) neutralize the effects of the increase of the poorer classes. Malthus, however, discusses this question in speaking of the means proposed to remedy excess of population. Emigration, in fact, has only existed in a marked degree in recent times, since the improvements in maritime communication; and it had not, in his day, been an important check to the increase of continental population in Europe. Two brilliant writers, Louis Reybaud, in the *Journal des Economistes*, and Blanqui, in his charming "History of Political Economy," in explaining the doctrines of Malthus, have rightly said that emigration has rendered immense service to the civilization and industry of all nations. They find the fears of Malthus chimerical, and his law sufficiently counteracted; and they count on emigration to maintain the equilibrium. But, without denying the civilizing effects of emigration, what we desire to know is, whether it has proved a sufficient check to population in the past, and will prove sufficient in the future. This subject we shall examine farther on. — Malthus has also been accused of having omitted to take into account the happy effects of increased wealth and of the industrial and economic progress which produce it. Now, with wealth, it is said, and the remark is just, the fecundity of families diminishes. Whence this consoling result would follow, that civilization is at once remedy and check to the evil capable of arising from the principle of population. Malthus did not ignore this fact. — The effects of wealth in retarding the growth of population were long ago observed, and it was noticed that rich families (save numerous exceptions) have a tendency to propagate less than poor families. But what is the cause of this phenomenon? Does competency diminish the fecundity of people? or is it rather better adapted than want and misery to increase morality, forethought and parental dignity, and to render people more fitted to exercise their free will, and more capable of prudence in marriage? It is evident that the tranquil life of a well-to-do couple is far more favorable to healthful reproduction, to pregnancy, and to the cares which early childhood demands, than is a life of destitution. There may be as many births among the poorer classes; but, other things being equal, death will take his victims more frequently from the abodes of poverty and wretchedness. — The check arising from competence brings us naturally to the doctrine of the plethoric check, or fatness, which is an exaggerated form of it, advanced by Fourier, and also presented by Doubleday, in his book entitled "The True Law of Population shown to be connected with the Food of the People." Doubleday's doctrine may be summed up as follows: 1, when animal or vegetable species are threatened with death from insufficiency of nutritious food, nature makes a supreme effort, and increases their prolific power, and gives them an impulse which is checked only when proper nourishment is again afforded; 2, when these species receive food luxurious in kind, or excessive in amount, they pass to the plethoric or sterile condition, and reproduction is assisted or altogether ceases; 3, if the individuals are moderately fed, and their food is not luxurious in kind, the generative principle acts wisely, the race is continued, but does not increase; 4, when ill-fed species are brought into union with others whose food has been abundant and strengthening, the balance is at once restored: the increase of the former compensates for the decrease of the latter, and the race remains stationary. — Doubleday and Fourier are not contradicted on the subject of plethoric races:† but, on the subject of the relative fecundity of races which live moderately, physical anthropology would, we think, have more than one reservation to make. Villermé (*Journal des Economistes*, November, 1843) earnestly combated this theory of Doubleday by arguments based on facts, in a report to the French academy of political and moral sciences. A consideration of the arguments drawn from natural history would

* According to Niebuhr, monogamous marriages resulted in more children than polygamous. Volney stated (*Voyage dans la Turquie*, vol. ii., p. 445), that married men in Turkey were frequently impotent at the age of thirty. Roscher (vol. ii., p. 300, Amer. translation) says: "Polygamy, also, is a hindrance to the increase of population. Abstract physiology must indeed admit that a man may, even without any danger to his health, generate more children than a woman can bear. But, in fact, the simultaneous enjoyment of several women leads to excess and early exhaustion. * * In the civilized countries of the east the polygamy of the great may lead to the compulsory celibacy of the many in the lower classes, as a species of compensation. The monstrous institution of eunuchism, which has existed time out of mind in the east, is a consequence of this condition of things, as well as of the natural jealousy of the harem." The reader will find much of value in Roscher's chapters on "Population," and their copious notes.—*Translator.*

† Roscher (Polit. Econ., vol. ii., p. 287, foot notes) quotes the "Edinburgh Review" and other authorities to the contrary.—*Translator.*

unduly extend the limits of this article: so we refrain from recapitulating them. — Let us now consider the objections offered against the theory of checks limiting population. In the first place, it has been denied that repressive or preventive checks have acted or do act. A sufficient answer to this objection is a statement of the facts of ancient and modern history, and the reports of travelers, and these are confirmed by geography and statistics. Malthus devoted a part of his work to a consideration of these facts, and every one can complete his argument by observations of his own. It is an indisputable fact that men die more or less rapidly according to the places where they reside, their conditions of existence, their occupations, and the classes to which they belong. In France it has been observed that rich or well-to-do men, from forty to forty-five years old, die at the rate of .85 of 1 per cent. annually; but that men of the same age who are poor and needy die at the rate of 1.87 per cent., that is to say, two and a fifth times as many of the poor die. In the British colonies there was a time in which negro slaves died in the proportion of one to six annually, and free negroes in the proportion of one to thirty-three: that is, five and a half times as many slaves died. In Paris, from 1817 to 1836, one inhabitant in fifteen died in the twelfth arrondissement, which was peopled mostly by the poor; and one inhabitant in sixty-five in the second, occupied by a different class. At Manchester, Eng., the average of life in certain districts was formerly only seventeen years, while in others it was forty-two. There are places and occupations in which children are reared more successfully, and in which more old men are found, than in others. What do these facts prove, if not that there are places, districts, occupations, classes and families in which men die prematurely, and in consequence of the causes pointed out by Malthus? If this is the case, can we deny that it would have been better if the greater part of these men, especially those who die in childhood and youth, had never been born, since they came into the world only to suffer, and to occasion suffering and privation directly to their families, and indirectly to society? — In investigating the question of population, there is need to take large account of the difference of localities, occupations and social conditions. For lack of knowledge of these, statistics are of comparatively little value. Present communities are the resultants of an infinite number of causes, and if they are considered as a whole, no proper judgment can be formed of the changes which take place in them. Take, for instance, the tables of the mortality in cities in the United States in 1880. We perceive, that in that year the city of Yonkers, N. Y., had 14.3 deaths to 1,000 inhabitants, and that Savannah, Ga., had 32.6 in 1,000. Before we can form a just judgment in regard to the comparative salubrity of these two cities, we must know their location, atmospheric conditions, drainage, the social condition of their inhabitants, their character, age, and many other circumstances. Again, there are certain departments in France in which the population has actually diminished for many successive years, but before we can base any judgment of value in reference to this fact, we must know certain other facts, among which are the loss by war and by emigration, and how much of the decrease is due to intemperance and other vices, how much to destitution, how much to disease, how much to heredity, sanitary conditions and other causes. Then we might form some proper estimate of the measure of decrease resulting from prudence, and be able to judge whether or not there was a failure of what Malthus called the "principle of population." — Another objection is made, based on the price of cereals. From the stability of the price, the conclusion is drawn that progress in agriculture has kept and will keep pace with the growth of population. M. Passy, a French authority who investigated this question about thirty years ago, attributed the steadiness of the price of grain for the fifty years from 1797 to 1847 to the improvements in agriculture. On examining the prices of wheat (as given in Spofford's American Almanac for 1882, p. 102) from 1825 to 1880 inclusive, *i. e.*, for fifty-six years, we find twenty-six years in which the price was higher than in 1880, and twenty-nine years in which it was less. Many elements, however, are always to be considered in connection with prices, among which are short crops in our own or in other countries, wars at home or abroad, cost of transportation, and other causes which affect supply or vary demand, not the least of which is the value, *i. e.*, the purchasing power, of money: and as there is no way of determining, otherwise than approximately, the amount of effect from each of these various causes, it is impossible to say to what degree the prices have been affected by them, or whether wheat, if we consider only the causes which are constant in their action, tends to increase or diminish in price. This, however, we do know, that some classes of the population have, at all periods of which history gives us information, experienced at times the repressive check of a lack of sufficient nutritive food; and we might, *a priori*, conclude, that if the world continues to be populated increasingly, the time *must* eventually come, when, with all conceivable facilities for the production and transportation of food, not enough of the latter could be produced (for lack of room) to afford nourishment to all the inhabitants. That time is, however, in a future so remote that the question of population, as presented by Malthus, derives its chief practical value from the motives to prudence it presents, rather than from the danger it threatens of increase of population beyond means of subsistence. — Another objection to Malthus' doctrine has been drawn from the advantages and productive resources which a population finds in its own density, or, in other words, from the benefits civilization derives from an increase in the number of men. Mr. Everett, of Boston (author

of "New Ideas on Population"), and Henry Carey, of Philadelphia, in particular, reproached Malthus with not having taken sufficient account of this density of population. Mr. Carey stated that increase of population is accompanied by an increase in the quantity of products, and an increase in the share of the laborers in that increased quantity; and, finally, that the doctrine of Malthus is false and dangerous, since he makes assertions which might arouse bad feeling in the masses. Let us say, in the first place, that the doctrine of Malthus can not be held responsible for the bad feeling of the masses misled by false assertions; and that, in any case, the feelings of the masses can not be regarded as the criterion of scientific truth. We will next say, that, as a general fact, it may be true that increase of population leads to facility of association, and the latter to increase of wealth; but, for Mr. Carey to be right, the capital needed by the population must also necessarily always increase in like ratio with production and facility of association. Moreover, the wealth produced must always be sufficient for the increasing population; for, as Bastiat says, (*Harmonies Economiques*, 2d ed., 1851, p. 427), "if, as wealth increases, the number of men among whom it is divided increases still more, the absolute wealth may be greater, and individual wealth less." Finally, this wealth must comprise a sufficient quantity of the means of subsistence. Then alone would the counsels of Malthus and the wisdom and forethought of the heads of families be unnecessary, without, however, being dangerous; for there is never danger in preaching prudence to the poor, destroying their illusions, and enlightening them in regard to anti-social rights. Things have taken place, as Mr. Carey says, in several parts of the United States, and they may take place again in various states of this new country, and in some localities in Europe even; but we can not admit that this is the general expression of constant and universal facts. — Bastiat thought that Malthus did not take sufficient account of the progressive principle of the human race, *perfectibility*. In virtue of this principle, he said, man sees his wants increase. When the natural wants are satisfied, others arise which habit renders natural in their turn; and this *habit*, which has so appropriately been called second nature, performing the functions of valves in the human system, interposes an obstacle to any retrograde step. Consequently the intelligent and moral restraint he exercises over his own propagation, is affected and inspired by these efforts, and combines with his progressive habits. The first inference which M. Bastiat draws from this view of the matter, is, that in proportion as people become accustomed to superior means of subsistence, or to more means of living, to use the broader expression of Mr. Tracy and of J. B. Say, forethought is stimulated, the moral and preventive check neutralizes more and more the brutal and repressive check, and better living and forethought engender each other. Bastiat's second inference is, that in critical times, people may sacrifice many enjoyments before encroaching on their food, or may even come down from food of the first quality to that which is inferior. "It is not so," he says, "in China or in Ireland. When men have nothing in the world but a little rice or potatoes, with what will they buy other food if this rice and these potatoes fail?" A third inference is, that an intelligent man may make an unlimited use of the preventive check. "He is perfectible," says Bastiat; "he aspires to improvement; deterioration is repugnant to him; progress is his normal condition. Progress implies a more or less enlightened use of the preventive check: consequently, the means of existence will increase more rapidly than population. If it were true, as Malthus says, that to each excess of the means of subsistence, corresponds a greater excess of population, the poverty of our race would be fatally progressive, civilization would be at the beginning, and barbarism at the end, of time. The contrary is true: consequently the law of limitation has had sufficient power to restrict the increase of men below that of products."— Our first remark upon this is, that all that Bastiat says before his conclusion, and which appears to us perfectly correct, is found here and there in Malthus' work. Our second remark is, that it is a gratuitous assumption of Bastiat that Malthus advanced the idea that to each excess of means of subsistence there corresponds a greater excess of population. Malthus did say that such a correspondence might easily arise from the law of human propagation, but that it could be avoided by the preventive check; and he composed his work only to point out the dangers of that correspondence and the advantages of men using their limitative faculties, which are the more efficacious the more an appeal is made to reason. — One word in reference to the two conclusions. Bastiat claims that, in the past, the increase of mankind has been restrained by forethought. This opinion, which he elsewhere more than once himself contradicts, would be more consoling than that of Malthus, who attributes the greater influence to the action of repressive and preventive checks of a bad kind. But an assertion is not a demonstration; and the demonstration, by means of history, geography and statistics, is found in the work of Malthus. Bastiat also claims that the means of subsistence increase faster than population; but as he supposes this to be by the action of foresight, he juggles, so to speak, with the difficulty, solving the question by the question. If he had said or had meant that the means of subsistence might, by the aid of foresight, or, as he calls it, of the preventive limitation, increase more rapidly than population, he would have simply formulated the desideratum of the problem of population, the very end that Malthus, and all those who treated the question after him, had in view. — IV. Means or Remedies proposed to Counterbalance the Principle of Population. — *Moral restraint and forethought.* The various checks to the increase of population are

so many means of counterbalancing this principle; but all, with the exception of forethought, are outside of our present discussion. We will, however, mention the grossest charge brought against Malthus. Some have asserted, and others repeated, that Malthus counseled prostitution and debauchery as a remedy for the evils that might result from a disproportion between the quantity of subsistence and the number of people; or again, that not only did he not deplore, but that he even desired, the action of these repressive checks. To serious men the mere mention of such nonsense is its sufficient answer. There are, however, frequent traces of these absurdities in the ideas current concerning Malthus and his doctrines.—The check to the principle of population which Malthus recommends, in order to avoid the great number of deaths resulting from the action of repressive checks, is *prudence in marriage*, which he calls "moral restraint." The substance of his doctrine is in the advice of that father who instructs his children to take the greatest care to proportion the number of their children to their means for supporting them. "Do not marry," he says, "and have children, except when you can support them. Remember that your family have no other support than you, and that those causes which have rendered dormant your judgment and your forethought will be powerless to extricate you from the misery into which you will fall, by which you will be continually exposed to become the prey of evils and vices which drive generations of men to the grave."—Malthus discussed in detail the various improvements which might ameliorate the condition of the needy classes, and, after having considered their bearing, repeated and reinforced his advice with much power in an appendix, which forms the fifth part of his work. In this appendix, after having again confuted the principal objections made to his ideas, he summed up his doctrines.—Certain publicists, Sismondi among others, admitting the tendency of population to outrun the limits of subsistence, proclaimed the fatality of this condition of things, and the inutility of the remedy. Malthus did not fall into such an error. He thought it possible to prevent births; for man is intelligent and free; he can anticipate the evil, and avoid the danger when he knows it. It is because of not having read Malthus thoroughly, or of having forgotten what he wrote, that people have brought such charges against him: for he took much pains to show the efficacy of the remedy as well as the reality of the danger: he, in fact, spared no effort to show how pauperism could be prevented.—The principle of moral restraint, or, the preventive check, which finds expression in abstinence and late marriages, has been accused of being aristocratic, contrary to the teachings of the gospel, and inefficacious. Is it to be considered aristocratic, because it recognizes that people of wealth or competence can rear larger families? The reproach is ill-founded. The happiness of parents depends not so much on the number as on the health and well-being of their children; and from this point of view it is better not to have children than to see them deprived of the necessities of life. In the second place, to recommend to poor people not to take upon themselves the cares of married life too early, is to exhort them to an abstention which will enable them to have a family under better conditions, and one not too numerous, and will also help them not to create too great a competition, and, consequently, to be more independent. Considered in this light, the advice of Malthus is essentially democratic. As to the religious aspect of the question, we would say that *Crescite et multiplicamini* is not an exhortation to incessant procreation: it is rather a benediction. We consider its true significance to be: "Increase and prosper." But, in order to prosper, we must use freedom, reason and forethought, those qualities in which man is superior to a quadruped or to an oviparous animal. This is not alone the idea of Malthus, although he was himself a minister of the gospel; it is also that of St. Paul, who, in advising the Corinthians of the imprudence of marrying in those troublous times, says: "Such shall have tribulation in the flesh: and I would spare you."—The charge of inefficacy seems better founded; because, in the first place, conjugal unions, though late, may be very prolific, and the more so because of being late, since the parties may be in a better condition for having a well-constituted progeny; secondly, because it would seem that celibacy for an entire life should be only exceptional; and thirdly, because there seem to be people to whom chastity or entire abstention seems impossible. So we are led to say that forethought not only means late marriages, and celibacy for those who can live thus, but also prudence in marriage. Malthus did not in very explicit terms include this prudence in what he called moral restraint, but it is evident that he implied it.—By late marriages we must then understand those in which the contracting parties wait for the capital or the employment needed, in order to provide for the wants of a family, rather than marriages from which young people are excluded; for experience shows that men who marry early lead more regular lives, and this prevents illegitimate births. These marriages, however, must be prudently conducted, in order to avoid misery. If the begetting of children is a chief object in marriage, a no less evident object is the care for these same children, that from the moment of conception to the time when they can support themselves, they should have the necessary means of existence, in material and hygienic respects, as well as in intellectual and moral ones. Consequently, parents are wanting in the foremost and most indispensable of their duties, if they have more children than they can support, properly educate, and have taught some occupation which will at least provide them with the necessaries of life. It is certainly incumbent on parents to exercise the will in this matter more than in any other, and to act as intelligent, moral and respon-

sible beings. — Will a man be immoral, if, wishing to have only a limited number of children, proportionate to his means and the future his affection dreams of for them, he nevertheless does not, with this object in view, devote himself to the most rigorous and unconditional abstinence? It is useless to discuss this question, and we shall merely appeal to every enlightened conscience to say whether it is more moral, more in conformity with the sense of human right, to bring children into the world in the midst of privations, than to prevent their existence. — Some have claimed (Proudhon among others), that in the latter case, lack of affection is added to lack of bread. We are unable to see that this is the case, when the number of children of poor people is restricted because of prudence and foresight. The contrary seems to us evidently true. Nor are we able to comprehend how prudence will lead, as some assert, to the suppression of marriage and the debauchery of youth. Is it not a legitimate effect of prudence to render the marriage state more prosperous and attractive? and does not experience prove that a lack of foresight is one of the causes of concubinage and demoralization, either through violation of the marriage covenant, or in consequence of the culpable heedlessness which leads people to render themselves liable to have a family without undertaking to support one? — There is also another point of view which should not be disregarded. It is that marriage, apart from the consideration of a family, may be regarded as a most natural partnership for mutual aid. From this point of view, marriage is far from being a superfluous institution. We will not speak of abuse of pleasures of sense, save to say that improvident unions are not exactly those which are most exempt from it. Finally, far from weakening the social bond, ideas of forethought, prudence and responsibility seem to us to tend to strengthen the family principle, and likewise that of property. Young people are more encouraged to marry by the example of prosperous and well-conducted households, than by those suffering the pangs of wretchedness. — But this conjugal forethought is amenable to morals and to hygiene, both of which are, from their respective points of view, in accord in prescribing to the head of a family respect for his life companion. *Maxima debetur sponsæ reverentia* is a precept which perhaps is not given its due prominence in the confidential education which a father owes his son when he has attained years of discretion and aspires to have a family of his own. This respect can not be too thoroughly instilled into the minds of all classes of society, especially of those addicted to intemperate indulgence in the pleasures of the table and to intoxicating drinks. Excesses of all kinds, and particularly in the matter of drink, have a great part in the miseries of this world; they make men lose the feeling of self-respect, and the sense of their duty to their families; they stifle the voice of reason; they neutralize all domestic forethought; they bring on despondency, quickly followed by a weakening of the mainsprings of morality. — Having reached this point in our discussion, it seems unnecessary to reply to the two following sophisms. We are told that we ought not to deprive the poor of the only pleasure which nature has given them, and that if the poor have more children, it is because Providence wills it so, to counterbalance the debauchery of the rich. Strange means for Providence to take, to punish some for the fault of others, which fault, besides, is much exaggerated! Must we repeat that the children of the needy die sooner and more frequently, and that when they arrive, they fill no deficiency? — We will now conclude this important part of our subject by repeating that to labor and good conduct every man should add foresight in all its forms, including that prudence which will render him extremely careful to avoid having a family more numerous than comports with the resources his industry furnishes. This is the principal means upon which men may reasonably rely, because it is at their disposal: it is also the only really efficacious means, as we shall see on making a rapid review of the other means proposed as remedies to the force of the principle of population. — V. Other Means proposed to Counterbalance the Principle of Population. — *Plan of Dr. Loudon. Strange means proposed by Fourier, Pierre Leroux, Marcus, Greek philosophers*, etc. Dr. Loudon, a doctor of medicine and an inspector of factory children in England, deriving the suggestion from natural history and physiology, thought he had found a solution of the problem of population and subsistence in the plan of having infants suckled for three years, and the contrariety of function between the breasts and the uterus. ("Solution of the Problem of Population and Subsistence." 2 vols., 1842.) He calculated that with the nursing period thus prolonged, a woman could not give birth to more than three or four children. Were we to admit Dr. Loudon's premises (which, by the way, are much disputed), it is easy to see that families might still become large, and exceed the limits of their resources. A woman might still give birth to eight or more children. Consequently, there would always be reason for commending foresight to heads of families, even with triennial nursing, admitting the latter to be practicable for the industrial and agricultural classes.* We now ask pardon of our readers for introduc-

* According to Dr. P. H. Chevasse, a child should not be nursed more than nine months; and he quotes Dr. Archer Farr as follows: "It is generally recognized that the healthiest children are those weaned at nine months complete. Prolonged nursing hurts both child and mother: in the child, causing a tendency to brain disease, probably through disordered digestion and nutrition; in the mother, causing a strong tendency to deafness and blindness." Dr. Chevasse adds: "If he be suckled after he be twelve months old, he is generally pale, flabby, unhealthy and rickety, and the mother is usually nervous, emaciated and hysterical. * * A child nursed beyond twelve months is very apt, if he should live, to be knock-kneed, and bow-legged, and weak-ankled, to be narrow-chested and chicken-breasted."— *Translator.*

ing the following theories: Fourier calculated that with work carried on according to his system of association, land would yield a "four-fold product," *i. e.*, there would be four times the present produce, if men combined in phalansteries and worked in the ways he describes; but, after having uttered these words of hope, he calls attention to the fact that population would soon again reach the limit of subsistence, in its future social condition. In this his views correspond with those of Malthus; but he holds in contempt this corypheus of "economism," who could find nothing but forethought as a remedy for excess of population, which excess Fourier would remedy by means far more efficacious. His methods are: 1, the complete exercise of all the passions, and attractive labor, to divert the sexes from the act of procreation; 2, *gastrosophy*, or the science of feeding wisely and acquiring a stoutness little adapted to that act; 3, the vigor of the women, which, in his opinion, was in inverse ratio to their fecundity; 4, the customs of the society he dreams of, which he calls *phanerogamic*, which are to produce effects analogous to those of the polygamy practiced in oriental countries, and the polyandry and polygyny found among civilized peoples. We will make no other comment here, than to say that the teaching of forethought was treated by Fourier and his disciples as immoral! and that, on the other hand, Leroux (*Lettres sur le Fourierisme*, par M. Pierre Leroux, in the *Revue Sociale*), and Proudhon (*Avertissement aux propriétaires*, by M. Proudhon, pamphlet, 1841), rendered severe justice to the monstrosities of Fourier. But Pierre Leroux did not confine himself to criticism: he, too had a theory on population. He called it the *circulus*, and meant by this word the principle in virtue of which every man produces sufficient fertilizing material for his subsistence! But Leroux does not state how agriculture must go to work to feed the human race from this source. He also makes the customary attack on Malthus and the Economists. (*Malthus et les Economistes*, 1 vol., 16mo.) As to Proudhon, after having both attacked Malthus and confuted the arguments of the latter's opponents, he ended by arriving at nearly the same conclusions as did Malthus; so that the most ardent Malthusian would cheerfully indorse many eloquent pages of his book. (*Contradictions Economiques*, 1846, 2d vol., p. 453.) But this only applies to the matter in some studies published by this writer in 1846. Later, in 1848, when the right of labor to employment was discussed in the national assembly, Proudhon wrote a very caustic pamphlet (*Representant du Peuple*, Aug. 10, 1848; republished by Garnier Frères), aimed at the opponents of this right, whom he called Malthusians. This writing, full of censurable misstatements and arguments made for the occasion, was merely the work of a political writer, and is not worth discussion as of scientific value. (See *Journal des Economistes*, of March, 1849, article by Du Puynode on "Malthus and Socialism," also a discourse by Michel Chevalier on "Political Economy and Socialism.") — But to continue the account of singular methods. A German writer, Weinhold, a town councillor in Saxony, proposed, some fifty years ago, to prevent a surplus population by the same means employed by the Roman Catholic churches in Europe to obtain a certain quality of voices for their choirs, and by the Turks to secure faithful guardians for their wives. (*De l'excès de population dans l'Europe centrale*, Halle, 1827.) Another writer, an Englishman of great celebrity, (so says Rossi) whose name we do not venture to give, since he was unwilling it should be made public, but who wrote under the *nom de plume* of Marcus, proposed to prevent a surplus population by asphyxiating newly-born infants with carbonic acid. Was this work that of a mind diseased? or could its object have been to caricature Malthus? Neither would seem to be the case, for its tone and style are serious. But, however this may be, the traducers of Malthus took it up, and, because of the resemblance between the two names, cast renewed reproach on the doctrines of the author of the "Essay on the Principle of Population," to whom the ignorant attributed the travesty by Marcus. — Nor are these all. Proudhon has revealed to us the process of a certain Dr. G . . . , who proposes "the extraction of the fœtus and the extirpation of germs that had found lodgment contrary to the intention of the parents," and one or two other means which we will not mention. (*Contradictions Economiques*, vol. ii., 1846, p. 453.) — Is not the mere mention of such ideas their sufficient refutation, and enough to clear from responsibility for them the worthy, humane and reasonable man who wrote on the "Principle of Population"? It is of little use to-day to compare the eccentricities of our times with the ideas of the Greek philosophers on this subject; but we will cite a few of the latter taken from Montesquieu. (*Esprit des Lois*, book xxiii., chap. 17.) "The policy of the Greeks had particularly in view the regulation of the number of citizens. Plato wished procreation to be checked or encouraged, when necessary, by honors, shame, and the admonitions of the elders. He even wished ('Laws,' book v.) the number of marriages might be regulated in such a way as to maintain the population, without having the republic overstocked. 'If the law of the country,' says Aristotle ('Politics,' book vii., chap. 16), 'prohibits the exposure of infants, it will be necessary to limit the number of children which each man may beget.' When people have more children than the law allows, he recommends abortion before the fœtus has life. The infamous means employed by the Cretans are mentioned by Aristotle; but modesty would be shocked were I to describe them." — VI. Other Methods proposed to Counterbalance the Force of the Principle of Population. — *Prohibition of marriage and immigration. Political changes in the form of government. Remodeling society, and a better distribution of its products. Emigration. Charity. Economic reforms and agricultural and industrial progress.* We are glad

to arrive at the discussion of more serious methods. These are very many. It has been proposed to restrict the liberty to marry, and to prohibit immigration into countries where an excess of population is manifest. It has also been maintained that if a population suffered from its density, this was due either to a bad form of government, a bad organization of society, or in particular to a vicious distribution of the social revenues; and people have consequently come to believe that some other form of government, some especial method of reorganizing society, or some socialistic system, would have power to correct these evils. The adequacy of emigration and colonization has been maintained: the extension of charitable measures has been advocated as a sufficient solution of the problem: and finally, it has been contended that it would be enough to create economic and financial reforms, or to cause an increase of production in all the activities of society; and that, in consequence of such a course, there would be no reason for concern about the power of the principle of population and its results. The discussion of most of these questions would furnish material for volumes; but the elucidation of our subject does not require us to enter into them at length here. — It is said that restriction of the liberty to marry has at times been demanded and introduced in the legislation of certain German states. Without examining here the principles of justice and equality which oppose this restriction, we will simply say that measures of this kind would be wholly ineffectual, either because of promoting illegitimate births or of interposing but a slight obstacle to legitimate ones. It is as wrong to prohibit people from marrying as to offer rewards for large families. There should be entire freedom in forming this alliance, and the contracting parties should be wholly responsible for its results; and customs, we think, will be found more efficacious than laws in this matter. — On the subject of immigration, Destutt de Tracy, (*Traité d'Economie Politique*, 1825, p. 244) has given utterance to the following opinion: "Immigration is always useless and even harmful, unless it be that of a few men who introduce new ideas: but, in this case, their knowledge, and not their persons, is what is of value; and such men are never very numerous. Immigration may be prohibited without injustice,* though this is a subject to which governments have never given due consideration. Nor have they often given many reasons for desiring immigration." Destutt de Tracy is right in some respects; but he has perhaps taken too little account of the moral, economic and providential advantages of immigration. It is well and useful for the various nations of the globe to come in contact with one another, to mingle together and to know something of one another's interests; it is advantageous for races to cross; and all the results of such intermingling can only be attained by emigration. Still, it is evident that certain immigrations have the effect to lower wages and deprive those people among whom the emigrants settle, of a part of the advantages their foresight gave them; but, in any case, the advantage always remains on the side of the prudent man. We here see the solidarity of nations, and that all nations have a common interest in helping one another to become moral by the example of good habits. We think with Malthus that there should be freedom of immigration; but we will say that restriction would be more easily justified in this case than in that of products. When the Parisian populace demanded, in 1848, the departure of the foreign operatives, they were barbarous, but logical; and we remember that the protectionist school at that time had some difficulty in explaining, through its press, how those who opposed competition in labor were less right than those who opposed competition in provisions and other products. However, prohibition of immigration would not be sufficient to counteract the force of the principle of population.—Godwin, and many publicists before and after him, maintained that the fate of populations depended chiefly on the nature and form of the government, and on the good will and ability of those in power. This is a great and deplorable error, has given rise to many revolutions, and has been a partial cause of most of the political changes in France since 1789, to the great detriment of society. All political parties who wish to come into power, take advantage of this error; and when they have attained their end, it is useless for them to advocate the opposite doctrine: their opponents take up the same arguments, and the people listen to them. —"The greatest danger, perhaps, of modern times," said the president of the French republic in 1849, addressing the exhibitors of industrial products, "arises from the false idea which has taken hold of people's minds, that a government can do everything, or that it is in the essence of any system to answer every requirement, to remedy every evil." This belief, entertained without due consideration, was combated by Malthus, and his ideas as a whole are in accord with the sentiments of almost all economists since Quesnay. Malthus doubtless spoke in hyperbole when he said that the evils arising from a bad government, compared with those produced by the passions of men, were but as feathers floating on the water; but there is no such exaggeration in the spirit of his book. We can but acknowledge that bad governments may do much injury to a people, may ruin, and, what is worse, demoralize them;

* Roscher, in his chapter on "Temporary Emigration," thinks such emigration would be a great national misfortune to the country from which the immigrants obtain their wages, inasmuch as its working class may thus be forced to a lower standard of living; and he queries whether the immigration of Chinese into Australia and the United States may not have a like result. In Australia a fine of £10 per capita was imposed to prevent such immigration. Recently (1882) the United States has passed restrictive laws in this regard. Even J. S. Mill, at the time when the national life of the English people seemed threatened by the immigration of Irish laborers, would have had no hesitation in prohibiting this immigration, so as to keep the economic contagion from spreading to English workmen.—*Translator.*

still, experience shows that the action of the best government should be limited to guaranteeing security and justice, and superintending certain public services which can not, as advantageously, be left to private industry; and if, in the exercise of this supreme and natural function, good governments may be of great utility to civilization, they are, nevertheless, wholly powerless to bring about the happiness of the citizens, who are the only agents of their own fortunes, their own competence, and their own social position. — This fundamental error, shown to be such by all economic studies, has engendered all socialistic doctrines properly so called, and all those which, without having this term applied to them, are connected more or less logically with the same principle, which is the principle of communism: such as the absorption of private activity and responsibility into governmental action; the transformation of citizens into employés, and of private industries into society workshops; a system which leads to the conception of the existence of organized society where there is no distinction of *meum et tuum*, that is, to a radical transformation of the human race. — Admitting the hypothesis that any one of these systems is practicable, and has been put in practice, and that it secured the happiness of the people living under it, such a system (as Fourier himself would be the first to acknowledge), far from checking the power of the principle of population, would surely be its promoter, acting in this like the combined physical and moral conditions which exist in North America. Consequently, although the errors of these systems may be easily proven, those who are liable to become the victims of such illusions should be especially warned to follow the counsels of wisdom and foresight.—In view of the facts we must admit that emigration is not likely to relieve a country of any considerable portion of its population; that, whatever the amount of the emigration may be, it is more than counterbalanced by the natural increase in numbers. Molinari estimated that the tide of human beings from Europe to the new world in 1850 might be half a million. This was due to the following causes: the already confirmed tendency of the people of Germany and England to leave their country; the monetary pressure of 1846–7; improved means of traveling; and the discovery of gold mines in California and Australia. But who does not see, that, admitting the permanence of this current, the emigration is but a small fraction in comparison with the increase by births in Europe? Let us consider, in the second place, that emigration is an exportation of capital and labor; that the exportation of capital is a cause of misery to the country abandoned; that those who leave their native land are the more enterprising and industrious, and their departure is for this reason another cause of degeneration and poverty to their country. Finally, let us consider that the emigration of needy classes often turns to their disadvantage; and consequently, instead of saying to them, "Increase without consideration of the results," it is more humane, more charitable, more Christian, to say: "It is better not to increase your families than to bring them up in privation, and take them to distant lands to perish." One school (a numerous one) thinks the solution of the problem of population lies in the development of public and private charity. In reply to this, the economic school, especially Malthus, and those writers who have been occupied with philanthropic questions, call attention to the serious difficulties resulting both to society and to the needy classes, from ill-directed charity. "If care is not taken, the person aided or relieved becomes accustomed to seek alms, his feeling of dignity is blunted, the spring of his morality is weakened, and he slips rapidly down to vice, which, in its turn, augments his poverty. He then becomes selfish, thoughtless of the future of his children, as well as of that of his unfortunate companion, and even of his own, intemperate, incapable of the least restraint, and at last even sometimes insensible to the loss of his little ones, from the care of whom death delivers him, and for whom he well knows the loss of a lot like his own is not to be deplored." Montesquieu (*Esprit des Lois*, book xxiii., chap. 11) had already said: "People who have absolutely nothing, like beggars, have many children, who are born supplied with the implements needed for that art."— These effects are notably produced by official and public charity, which, to those assisted, easily takes the matter-of-course character of public dues. These people, being at least as ignorant as other men, do not see that what they receive often comes from the pockets of people as miserable as they, and that it is diminished by all the charges paid to tax collectors and administrators, through whose hands the money passes. Hence we see that public charity demands intelligent superintendence by the public authorities, and that the unfortunate should not be able to count upon it, save in exceptional cases, and then temporarily; that the greater number of them can not experience its good effects, and that it would be the greatest of wrongs for them to count upon it to bring up their families and improve their condition. The greatest aid a state, county or town could give, would not be worth one hour's labor daily, or one degree more of activity, morality and foresight in the family. — If public charity is inadequate, private charity is still more so. Few men seem naturally inclined to share with their fellow-men, and the sublime precepts of the gospel seem to be neither practicable nor practiced save by a small number of elect souls, or by a greater number of persons in quite exceptional cases where human sympathy is excited to an unwonted degree. Berenger spoke reasonably, when, presiding over a benevolent society, he said that charity is a sentiment which must be continually aroused by new demonstrations, by the attraction of pleasures, by the allurements offered to vanity, so to speak; and finally, that it procures but ephemeral resources: that if it were otherwise, as men are constituted,

some would take advantage of the self-sacrifice of others, and would be the more improvident, indolent and intemperate, because they could count on the aid of their more sober and industrious brethren. This is the difficulty with which all communistic associations have to contend. Nothing is simpler in theory than to say: "Let us live like brethren"; nothing is more difficult in practice. This, then, is another illusion which it is both useful and charitable to dispel in the needy classes, who must be repeatedly taught that they can only find the means of improving their condition in themselves, and that they should endeavor to be charitable in their turn, and not live at the expense of their fellow-citizens. This subject admits of lengthy discussion. We shall not treat of it here, but will simply refer the reader to the article CHARITY, with the conclusions of which we are in accord. — It was with similar ideas that Malthus approached this great question of charity; he was led to make a profound study of charitable institutions in general, and notably of the poor tax in England. This tax his critics caused to be very considerably modified for the better, in 1834. In the course of his treatment of this extensive subject, Malthus found in his way the doctrine of the right of the poor to aid; which was maintained by several publicists of the last century, was included in the French constitution of 1791 and of 1793, proclaimed again by the socialistic schools, under the names of right to employment, right to assistance, right to live, and right to a minimum of wages, and again embodied in the French constitution of 1848, and is invoked from time to time by all who desire to flatter the passions and prejudices of the populace. We will not dwell longer on this question, but will recall the fact that it was in connection with this subject that Malthus used the phrase which served as a text for most of the declamations against him. This phrase was suppressed in his second edition, but it was taken up by Godwin, and used thousands of times by the opponents of Malthus, who represented it as the foundation of his system. "The socialists," says Bastiat (*Harmonies Economiques*, 2d ed., 1854, p. 424), "repeat it to satiety; Pierre Leroux repeats it in a little 18mo volume at least forty times; it affords a theme for declamation to all second-class reformers." Here it is: "A man born into a world already full, if his family can no longer support him, or if society can not utilize his labor, has not the least right to demand any portion whatever of food, and is really superfluous on the earth. There is no place for him at the great banquet of nature. Nature orders him to withdraw, and she delays not to put this order into execution." The first phrase simply denies the right to employment and to existence. This is not the one which has been most criticised. The second is a rhetorical figure, quite affected and useless, since the idea expressed by it is found again in the third; and this last, it must be said, was neither accurate nor in conformity with the ideas of so excellent a man as Malthus. Malthus did not mean to tell one who has not a family able to support him, or whose labor can not be utilized by society, to depart, but to convey to him, in the most positive and most peremptory, in the most frank and true manner, that he has naught to expect save from the kindness of his fellow-men, from whom he has no rights to demand, and nothing to exact, under penalty of dissolving society. He meant to say to heads of families and all who help increase the human race, that the limits of charity are very restricted, and that miseries and sufferings are not slow in shortening the days of those whose services society can not buy, or, which amounts to the same thing, who can not render it useful service. — We do not mean that this truth is not really distressing, and that it should not astound those who have cherished the illusion that by means of emigration, the cultivation of waste lands, the common use of potatoes, economical soups, or any other means devised by compulsory philanthropy or credulous policy, we might be relieved from uneasiness in regard to the increase of unfortunates; but it should be clearly recognized that if this condition of things is alarming, Malthus did not invent it nor counsel it: he simply showed its existence, and warned heads of families in regard to it, as well as others who help increase the human race out of proportion to their means of labor. It is nature, and not Malthus, that placed human beings on the verge of a precipice, and yet this unfortunate scholar is held responsible; much as if a sentinel should be punished for his cry of alarm, in warning of impending danger! — We desired to quote this passage, because it has a scientific and historic interest, and because it has been said that Malthus shrank from facing his own work. Malthus, far from retracting his statement, reproduced the same idea in another passage in his last edition, in speaking of the liberty which he desires shall be left to the father of a family, at his risk and peril. Malthus always manifested a good disposition in his writings; but he never allowed himself to be turned aside, even by injustice, from what he believed to be the truth; for his calmness, his self-possession, his courtesy toward opponents (who were far from reciprocating it) were truly remarkable. I might cite here many respectable authorities in support of the opinions of Malthus; but I will only quote Bastiat, whom some have represented as against him. Bastiat wrote in 1844 (in a pamphlet on the "Assessment of the Land Tax in Landes," p. 25): "The doctrine of Malthus has been attacked of late; he has been accused of being gloomy and discouraging. Doubtless it would be a happy thing, if the means of subsistence could diminish and even disappear, without mankind being the worse fed, clothed, lodged and cared for in infancy, old age and sickness. But this is not the fact, nor is it possible: it is even contradictory. I can not understand the outcry of which Malthus has been the object. What has this celebrated economist revealed? His system

is, after all, but a methodical commentary on this very old and evident truth: When men can no longer produce a sufficient quantity of such things as support life, they must diminish in numbers; and if prudence and foresight do not provide these things, suffering must ensue." This is, in other words, the very proposition which brought so much reproach on Malthus, most of whose opinions were shared by Bastiat in his *Harmonies*, who, nevertheless, erroneously reproaches him on some points. — We now arrive at the last category of methods enumerated, and the one to which, as we acknowledge, we attribute the greatest efficacy. Economists are the first to maintain that the suppression of abuses and monopolies, the repeal of bad legislative or reglementary measures, that all economic and financial reforms, may, by producing a cessation of the causes of impoverishment and misery, revive labor, bring competence to a population subjected to a bad government, and with competence, morality and instruction, and with morality, foresight. They aim to find the means of increasing capital, the conditions under which land, capital and labor may be more productive, and the laws of distributive justice for the apportionment of the social revenue. They are the first to proclaim that when over-crowded populations exist, the best means of either ameliorating their lot or of preventing the increase of misery, consist in the development of labor and the increase of capital, which raise wages. We might dwell at length on this point; but we limit ourselves to recalling the good effects of the reforms in England, which have had so happy an influence on the condition of the people of that country, since they have resulted in obtaining for them more food, clothing and other means of subsistence, which they have paid for with more and better remunerated labor. Now, what does this example prove? and what are we to conclude from the remedies favored by economists to improve the lot of the people, if not that legislators should study into abuses and charge the government with the responsibility of making them disappear? But while waiting for the termination of these abuses, so slow in becoming eradicated, while waiting for these improvements, so tardy in arriving, generations are successively passing away, and the need of counsels of prudence and foresight continually exists. — Doubtless humanity has progressed, through all its misfortunes, by its inherent attribute of perfectibility; doubtless the arts of production in general, and of agricultural production in particular, have continually distributed a larger share of comfort in the world; doubtless men multiply on the face of the earth, finding in their very numbers resources unknown in countries sparsely populated: but all this in no wise weakens the force of the principle of population, the difficulty of procuring means of subsistence, and the need of men depending first of all on themselves, that is to say, on their own activity, foresight and industry, for their support and that of their families. — VII. CONCLUSION. If we now attempt to formulate the fundamental propositions we have set forth in this article, we shall say: 1. Population has an organic tendency to increase more rapidly than means of subsistence. 2. In fact, every population is necessarily limited by the extent of the means of subsistence. 3. But this limitation may be morally preventive and dependent on the will of man, or physically repressive through the suffering, misery and vice which an excess of population entails, or which arise from the disproportion between the number of men and the capital which may give them employment. 4. The absence of the preventive limitation of the number of children is prejudicial to the interests of families and society, and, consequently, to morals. — To these conclusions we add the following, which embrace the principal points of Mr. Thornton's book on population ("Over-Population and its Remedy," London, 1846, 8vo): 5. A country is over-populated when part of the inhabitants, although able bodied and capable of labor, are permanently unable to earn a sufficiency of the necessaries of life. 6. Over-population is generally produced by misery, the essential characteristic of which is improvidence, which leads to premature (and, we may add, to prolific) marriages.* 7. By parity of reasoning, competence checks the increase of population by giving those who enjoy it a desire to retain it, and by consequently opposing the inclination to marriage; and, we may add, by causing prudence in the married. 8. In countries where population exceeds, not subsistence, but the resources of labor, or, to speak more accurately, the capital which remunerates labor, the inhabitants either live in poverty, or in complete misery. In the former case, the population increases with a rapidity which is not counterbalanced for a greater or less time; in the latter, its progress is retarded by the mortality which results from privation and suffering. 9. The theory of Malthus is true, if not precisely as he stated it, yet according to his general tenor. 10. There are three circumstances which can restore competence to a population a prey to misery: emigration on a large scale; the increase of the capital which remunerates labor, or an extended market for products; and a fall in the price of such things as are essential to life, in consequence of trade being unrestricted, though the rate of wages may be unchanged. 11. A good law in regard to public aid, which shall provide that the poor never receive, either in money or goods, more than the minimum of wages earned by a workman; that aid at the workhouse be the rule, and

* Mr. Thornton's language is as follows: "Misery, the inevitable effect and symptom of over-population, seems to be likewise its principal promoter." "Except when people are placed in situations in which, being unable to estimate correctly the amount of employment, they overrate their means of subsistence; or, when some political arrangement, such as a charitable provision for the poor, encourages them to get families around them which they can not themselves maintain, it will, I think, be found that wherever population has received an undue influence, the people have been first rendered reckless by privation."—*Translator.*

home aid the exception; and the prevention of the more disastrous effects of competition of workmen, by maintaining a sufficient rate of wages. This last conclusion has more especial reference to England. — To these conclusions we add the following: 12. People should not depend on the power of political constitutions, on plans for reorganizing society, or on the ephemeral resources of charity, to counterbalance the effects of the principle of increase. 13. Emigration, improvement in agriculture, progress in the industrial arts, increase of capital, reforms and economic progress may neutralize, to some extent, the force of the principle of population; but their good effects are produced more slowly than the number of men increases. 14. Families should rely, above all, on themselves, on their labor, their conduct, their foresight, and especially their prudence in the marriage relation. 15. The principle of population, far from being an invincible obstacle to the amelioration of the fate of the masses, is, on the contrary, the leaven of progress, when it is supported by the prudence of man. 16. It is for the interest of society that the people be made acquainted with the actual facts, with the condition of things such as they may be according to the laws of nature, and such as political economy, coming to the aid of morals, shows them to be. This knowledge will lead people to ask what is possible, and will enable them to obtain, sooner or later, what is just. It will protect them against the moral epidemics caused by those adventurers in the realm of thought, who throw out upon the world a confused mixture of truth and error; it will give form to those ideas of wisdom and dignity, of order and foresight, without which all conceivable improvements would be, for the poorest classes in particular, and for society in general, almost without object and without significance. (The statistics in this article have been brought down to date by the translator.) (See CHARITY, COMPETITION, EMIGRATION, PAUPERISM, RENT, RIGHT TO EMPLOYMENT, WAGES, WORKMEN.)

E. J. L., *Tr.* JOSEPH GARNIER.

PORTUGAL. A kingdom situated in the southwest extremity of Europe and of the Iberian peninsula, a sixth part of whose area it occupies. Its extent is 88,162 square kilometres; the area of the adjacent islands, Madeira and the Azores, is 1,725 square kilometres; the population was, according to the census of 1864, 3,829,618 inhabitants on the continent, and 358,792 in the adjacent islands; in 1871 the total population was estimated at 4,367,882 inhabitants. At the taking of the last census, in 1878, it was found to be 4,160,315 on the continent, 259,800 on the Azores, and 130,584 on Madeira and Porto Santo; a total of 4,550,699. The total population of the kingdom, leaving the colonies out of consideration, was, in 1878, 4,745,124. Its colonies have an area of 1,322,099 square kilometres and a population of 3,306,247, according to the last official returns.—I. *Constitution.* At the beginning of the Portuguese monarchy public affairs were administered by the *curia*, an assembly of the bishops and of the nobility. The first written constitution is made to date back to the statute of the cortes of Lamégo, which, in 1143, established, it is said, the independence of Portugal and regulated the order of succession to the throne. Portugal thenceforth, like Spain, had cortes, composed of the clergy, the nobility and deputies from the cities, who defended their liberties against the kings. The Spanish domination silenced the cortes. The house of Braganza constituted them consulting bodies. The government ceased, in 1688, to ask them to vote the taxes. After the war of independence maintained against Napoleon I. by Spain and Portugal, the insurrectionary juntas demanded the convocation of the cortes. The king of Portugal had been obliged to betake himself to Brazil, and the English governed the country which they had delivered. The people rose up against English rule, and the cortes proclaimed, in 1822, a constitution very like the one which Spain had adopted in 1812, a constitution which recognized at once the sovereignty of the people and authorized the exclusive exercise of the Catholic religion. The laws were made by one assembly only, without the concurrence of the king. The king, on hearing this, returned to Europe. The cortes refused to admit Brazil to national representation. That vast country separated from Portugal, and the eldest son of the king, Don Pedro, who had remained there, was declared emperor. Another son of the king, Don Miguel, attempted in Portugal a counter-revolution with the aid of the troops; he had the ministers arrested, and put his father under surveillance. French intervention re-established the authority of the king, who repealed the constitution, and replaced it by the feudal charter attributed to the cortes of Lamégo. At his death, in 1826, the emperor of Brazil relinquished his rights to the throne of Portugal, had his daughter Dona Maria proclaimed queen of the latter, and gave Portugal (April 12) about the same charter as that which he had framed for Brazil. But Don Miguel, the regent, overthrew the charter, had himself proclaimed legitimate and absolute monarch, and ordered arrests and executions, so that Don Pedro, who had abdicated in Brazil in favor of his son, returned to Portugal, re-established his daughter in power and proclaimed his charter anew, September, 1833. France, England and Spain guaranteed, a year later, by the treaty of the quadruple alliance, the independence of Portugal, which was not recognized till 1841, by the three powers of the north. We shall not relate the military insurrections which disturbed the new reign. The constitution of 1822 was re-established in September, 1836, and the charter of Don Pedro in 1842. But the insurrections continued. The most liberal *chartists* averted the dangers of the country by uniting with the *septembrists* (the authors of the revolution of 1836), and by consenting to modify the charter. This union formed the progressist

party, called the *regeneratory* party. The sources of public law are now the charter, *Carta Constitucional*, of April 29, 1826, and the additional act, *acta adicional*, of July 5, 1852. — The charter distinguishes four powers: the legislative, the "moderating," the executive, and the judicial; the first is exercised by the king and the cortes, which has, like him, the right to propose laws. The cortes makes the laws, and suspends the execution of them. The king sanctions the laws or rejects them. The cortes is divided into two chambers. The chamber of peers is composed of the infantas, of the bishops, and of citizens nominated at will by the king; their dignity is hereditary. There are about 100 members, but their number is not limited. The chamber of deputies is composed of 149 members, elected for four years. The session lasts three months. According to the charter, they are selected by election of two degrees. Those eligible for election and the electors of each degree (in the province and communes) were required to have an income of 400, 200 and 100 milreis respectively. The additional act of 1852 established direct election by electors aged twenty-one years (instead of twenty-five) and lowered the property qualification of those eligible for election. A new electoral law of Nov. 23, 1859, exacted that the income, theretofore indeterminate, should be territorial, but it lowered it 10 per cent., and even 100 per cent., in favor of the farming population, which renders suffrage almost universal. It is sufficient to pay about six francs or ten milreis of personal taxes or of taxes upon the honararia in the municipal chambers or in the benevolent corporations, or to be a tenant of land paying five milreis of a land tax, etc., to be an elector. The professors of the higher branches of instruction are electors, and eligible without any qualification. The number of electors was, in 1872, 438,306; the number of those eligible to office was 87,228. The same law of 1859 divided Portugal into 165 electoral districts, each of which appoints a deputy; but this number was reduced to 107 by a law of 1869. The colonies are represented in the chamber of deputies by seven deputies. — Under the name of *moderating power*, the charter places in the hands of the king, the appointment of the peers, the extraordinary convocation or prolongation of the cortes, the dissolution of the chamber of deputies, the appointment or dismissal of ministers, the suspension of magistrates in cases provided for by the constitution, the exercise of the right of pardon and of the mitigation of punishments, and the right of amnesty. These prerogatives, which are found in all constitutional monarchies, are those of kings considered as mediators between the different parts of the nation; this *distinction*, wholly theoretical, which forms the most original of the elements borrowed by Don Pedro from the ideal constitution of Benjamin Constant, is found only in the charters of Portugal and Brazil. — The second power of the king is the executive power; he exercises this through his ministers and with the advice of the council of state, which is rather a privy council, composed, when full, of thirteen ordinary and three extraordinary members appointed for life, and whom the king also consults when he wishes to make use of the governmental or moderating power. The privy council in 1882 consisted of twelve members. The king can not enter into any kind of concordat, agreement or treaty without the consent of the cortes; the right of declaring war and concluding a peace rests, therefore, in the last resort, in the legislative assembly. — The judicial power is exercised by independent magistrates and by juries.—The charter guarantees to all citizens individual liberty, inviolability of domicile and secrecy of letters, the right of petition and liberty of the press. But the exercise of all these liberties may be suspended by the government or the assemblies, by virtue of the final article of the charter, of which parties have made the greatest use. All citizens are equal before the law, without prejudice, however, to the titles left to the nobility. The hierarchy of the nobility comprises the *grandeeship*, the titled nobility and the simple nobility of the *fidalgos*. The peerage gives a right to *grandeeship*. Titles have been lavishly bestowed, and the revolutionary nobility is more numerous than the old nobility. A very great part of the Portuguese soil is inalienable in the hands of the nobility, descending with their titles; hence the progressist party demand that it shall be changed into allodial estates. — II. *Administrative Organization*. The central administration is divided between seven ministries and a financial committee, the junta of public credit. The following are the names of the seven ministries: 1. Foreign affairs; 2. Interior (provincial and communal administration, police, health, charity, the press, public instruction and fine arts); 3. Ecclesiastical affairs and justice; 4. Public works, commerce and agricultural and manufacturing industry (created in 1852 after the triumph of the progressists); 5. Finance; 6. War; 7. Marine, and the colonies.— The administration and administrative law are regulated by a code promulgated March 18, 1842. The kingdom is divided, according to this code, into twenty-one districts, seventeen on the continent and four on the islands. They are not quite so large as the French departments. The division into provinces (Estramadura, Upper and Lower Beira, Minho, Tras os Montes, Alemtejo and Algarve) has no interest except in view of economic questions, whose study it facilitates, this division having rather to do with the configuration of the country. The districts are divided into 292 *concelhas*, or cantons, of which twenty-nine are on the islands, and 3,960 *freguezias*, or parishes, of which 172 are on the islands. Each district is administered by a governor, each canton by an administrator, or mayor, appointed by the king. — In the chief town of each district a general junta, composed of thirteen elected *procuradores*, meets, and a district council, composed of the civil governor as president and four councilors appointed by the king upon the propo-

sition of the junta. In the chief place of each commune there is a municipal chamber, composed of from five to twelve *vereadores* and a municipal council of from five to twelve *vogaes*. The chamber presents the budget to the junta of the district, and directs electoral operations; the council administers and deliberates with the chamber upon the more important interests of the commune. The administrator has only a consulting voice. In each parish there is a local junta, composed of the church wardens and of the leading men, presided over by the priest of the parish, which regulates the employment of the revenues applied to the expenses of building churches, of worship and of works of charity; a *regedor* executes the orders of the junta relative to police matters, and represents the parish before the council of the commune. The king can dissolve the chambers of the districts and of the communes; the governor, that of the parishes. — The duties of police are fulfilled in each parish by the *regedor* and certain police guards of the middle class of the place; at Lisbon and Oporto, by a municipal guard and by special police corps. The surveillance of the practice of medicine and of the public health is confided to a board of health. — III. *Finances*. The administration of the finances is divided between the ministry and the junta of public credit, a committee charged with the consolidated debt, and composed of five members, one of whom is appointed by the king; the others are elected, one by the chamber of peers, one by the chamber of deputies, and two by the holders of the bonds representing the debt. — The taxes are voted for one year, and the sums voted for each item of expense can not be otherwise applied without a special law. The transfers from one account to another are voted in the same way, by decree, with the advice of the council of ministers. — The government may open supplementary and extraordinary credits, with the advice of the council of state. There is always a deficit in the finances of Portugal. In 1872–3 it was 3,000,000 milreis; the budget of 1873–4 estimated it at 1,054,000 milreis. The causes of the deficit are of long standing and numerous. (See note.) These causes may be set down as follows: under the old régime, emigration to the colonies, the African and Asiatic wars, the donations to the clergy, the hereditary pensions of the nobility, the exemptions from taxes, and the great landed estates; since the granting of the charter, the issues of paper money, the loans, the division of the goods of the clergy among too large a number of *patriots*, and political troubles. — Various measures have been taken to arrest the deficit. 1. The salaries of all functionaries were reduced. The civil list did not escape this reduction, and the crown surrenders every year to the state nearly a third of its revenues. 2. The liquidation of the foreign debt was suspended. 3. Assured pensions are only given to magistrates and professors; the other functionaries receive pensions only when the treasury has funds on hand. A distinction is made between pensions of consideration and of non-consideration; the first are paid regularly. 4. An unpopular tax was put upon corn and flour, which has provoked many outbreaks without accomplishing the desired result. — The collection of the taxes rests upon very many inextricable bases, certain taxes being local, others general; some are collected directly by the state, others farmed out; some subject to the previous deductions of various corporations; a great number are burdened by hypothecation, often divided among various creditors; almost all are complicated by accessory duties and additional hundredths of the monetary unit. A great number, temporarily established, have become permanent. These complications multiply the expenses of the administration of the taxes and the difficulties of control. — The following are the receipts and expenditures for the years mentioned, in milreis:

YEARS.	Receipts.	Expenditures.
	Milreis.	Milreis.
1860–1861	11,982,580	14,096,950
1861–1862	13,301,512	14,398,702
1862–1863	14,880,415	15,744,520
1863–1864	15,371,266	16,910,354
1864–1865	19,536,747	19,536,745
1865–1866	20,732,357	20,836,363
1866–1867	15,989,378	21,018,049
1867–1868	16,884,419	22,695,979
1869–1870	15,616,096	21,115,460
1871–1872	18,464,394	20,870,629

The following are the list and figures of the various direct taxes for 1873–4. The whole of the receipts was estimated at 23,164,104 milreis.

	Milreis.
Land taxes	3,045,395
Sumptuary taxes	117,040
Taxes on rent	304,920
Industrial taxes	1,235,220
Bank taxes	147,000
Taxes on the interest on capitals	235,950
Taxes on pardons, etc.	154,240
University registration	190,710
Taxes on mines	31,500
Various taxes	205,244
Stamps, etc.	1,987,000
Licenses (sale of tobacco)	41,500
3 per cent. of debts	38,000
Miscellaneous taxes	264,354
Reduction in the salaries of employés	40,400

The following is a table of the indirect taxes for 1873–4:

	Milreis.
Duties on imports	5,182,700
Duties on exports	165,600
Duties on re-exportations	34,350
Complemental duties	320,000
Duties on tonnage, sanatory taxes, etc.	138,664
Duties on consumption at Oporto and Lisbon	1,460,300
Duties on tobacco	287,000
Duties on railway transit	58,500
Duties on fish and cereals	162,000
Duties on wine and meat	1,306,000
Postoffice	511,000
Telegraphs	62,100
Railroads of the south and southeast	427,600
National printing office and official journal	116,000
Total	10,231,814

Ordinary expenditures—	Milreis.
Domestic consolidated debt	6,222,620
Foreign consolidated debt	3,347,889
Ministry of finances	3,645,078
Ministry of the interior	1,852,251
Ministry of justice and ecclesiastical affairs	522,728
Ministry of war	3,406,022
Ministry of marine and the colonies	1,084,860
Ministry of foreign affairs	247,977
Ministry of public works	1,252,186
Total	21,581,611
Extraordinary expenditures	1,325,380
Total expenditures	22,906,991

(See note.) In the expenditures of the ministry of finance are comprised the civil list and the appanages, 612,000 milreis; the cortes, 92,000; the debts to be borne by the treasury, 929,110; pensions, 447,468; customs duties, 633,921; mint and stamps, 30,732; general administration, 757,531. — The expenses of the ministry of public works comprise: administration, 579,174 milreis; roads, 170,000; railways, 22,835; telegraphs and lighthouses, 143,200; postoffice, 314,530; forests, 48,282. (See note.) The object of the extraordinary expenditures is also public works (roads, railways, ports). — The following are the budgets of the different special funds, of local and other administrations: .

	Receipts.	Expenditures.
	Milreis.	Milreis.
Dotations of the clergy (1864-5)	641,009	641,009
Bull of the crusade (1867-8)	64,311	87,363
General councils of districts (1866-7)	324,721	443,539
Establishments of benevolence (1861)	1,131,050	1,038,178

—The amount of the public debt has been as follows:

	Milreis.		Milreis.
1828	39,100,000	1862	149,853,788
1833	26,442,000	1864	185,435,830
1844	79,528,000	1866	194,648,456
1852	88,211,000	1869	293,305,978
1856	89,824,000	1873	350,000,000
1860	125,253,216		

— IV. *Military Organization.* The Portuguese are obliged to serve, from the time they are twenty years of age till they are twenty-three, in the active army, and then five years in the reserve. Recruitment takes place by conscription. Substitution is allowed. Teachers are exempt. The laws of July 17, 1855, and June 4, 1859, insured the regular practice of recruitment and the exact payment of the troops; the absence of these two conditions had formerly made the army "a danger to public order." The present organization of the army rests upon the law of June 23, 1864, modified by different decrees of 1868 and by decree of Oct. 4, 1869; also by the laws of 1875 and 1877. (See note.) — V. *Public Charity.* Outside of Lisbon the public treasury is freed, by the active charity of individuals and the communes, from the necessity of all contribution to benevolent institutions. There is hardly a village in Portugal which has not one or more hospitals or asylums; and they are all magnificent. Lisbon has six. Public assistance is directed by a general board of charity. The institutions of charity have for resources their own property, contributions of the communes, subsidies of the state and the proceeds of the public lottery. But this charity does not appear to exercise a preventive influence on the mortality of foundlings, however well cared for they may be in the asylums open to them. Neither does it prevent the misery, prevalent in the countries of the south of Europe, which differs in many respects from the pauperism of industrial countries. The only escape, and that only a contingent one, from this misery, is emigration, which drives thousands of Portuguese every year to Brazil. — VI. *Public Instruction.* The decree of Sept. 20, 1844, established two kinds of primary schools: some elementary, properly so called, others higher; in the latter, geometry is taught. Primary instruction is obligatory under penalty of a fine imposed on the parents or of deprivation of political rights for five years; but this law is hardly ever enforced. —Although the communes contribute to the primary and university education by annual contributions, the grant of the state is the greatest resource of public instruction. This grant amounted in 1870 to 200,000 milreis; the share of the communes was only 50,000 milreis. In 1838, there were only 966 schools for boys, and twenty-five schools for girls; in 1870 the former numbered 1,950, with 104,000 pupils, and the latter numbered 850, with 28,000 pupils. — Secondary instruction is given in the lyceums: there is one such lyceum in each district. The humanities, the sciences and agricultural and industrial economy are taught in them. Higher education is afforded by the university of Coïmbra. Its course comprises theology, civil and canon law (with political economy), medicine, mathematics and the natural sciences. The king established at Lisbon, in 1859, at his own expense, a higher course of history, metaphysics, and ancient and modern literature. Portugal possesses, besides, three academies of medicine and surgery, at Lisbon, Oporto and Madeira; a polytechnic academy at Oporto, a polytechnic school at Lisbon, two academies of the fine arts, and a conservatory of music. The two most important non-teaching scientific institutions are: the royal academy of sciences, founded in 1778, which corresponds to the French institute, and has two branches, one for physical sciences, and mathematics, and the other for letters and moral sciences; and *gremio litterario*, a free institute. (See note.) — VII. *Church and State.* Portugal did not escape from the reign of terror till the end of the last century, when the marquis of Pombal abolished the punishments of the inquisition and expelled the Jesuits. The Jesuits returned, but the inquisition was definitively abolished in 1820. The old Kings of Portugal were only the tools of the clergy, although one of them subordinated all the ordinances of the pope to the *regio placito.* The clergy possessed immense estates, paid no taxes, and had 750 monasteries and convents just before the liberal revolution.

A royal decree of May 28, 1834, suppressed all the monasteries, but rather through hatred than through philosophy; for the Catholic religion has always remained the religion of the state. Other religions, however, are tolerated. — The ecclesiastical hierarchy consists, in the mother country, of the patriarch of Lisbon, the two archbishops of Braga and Evora, and sixteen bishops, two of whom are in Madeira and the Azores; in the colonies of the archbishop of Goa, the archbishop *ad honorem* of Tranganor, and ten bishops. The patriarch has over the bishops an authority almost equal to that of the pope. These bishops are appointed by the king, and confirmed by the holy see. The archbishop of Goa is primate of the Indies; the struggles, which lasted for a century, between the archbishops of Goa, appointed by the king, as patron of the orient, and the missionaries sent by the pope, were terminated by the concordat of 1857, but the number of suffragan episcopal sees of Goa was reduced. — The state grants aid only to the prelates of the continent, and all the clergy of the islands. The parish priests and their assistants in Portugal are paid by special contributions of the communes, by fees, and by the property and rents of the church. These resources were till recently so insufficient that the ecclesiastics, brought into contempt by their indigence and the ignorance which was the result of it, had no influence upon the education of the people, who could scarcely be taught except by them. But a law of April 4, 1862, ordered the sale of the real estate of the church, and their payment in bonds of the funded debt.— VIII. *Justice.* The Portuguese law goes back to the ecclesiastical laws of the Visigoths, preserved during the middle ages by the toleration of the Moors, and codified by the kings; it comprises, besides, the canon law and Roman law of the renaissance. The civil code was imposed by the Spaniards. The absence of a criminal code is to be regretted; but the penal code of 1852 is relatively indulgent, having been drawn up in accordance with the principles of the charter, which established the institution of the jury, the independence of justice, the publicity of debates, oral defense, and the abolition of torture and confiscation. — Justice is administered: 1, by the senate, when members of the royal family, of the council of state or of the two chambers, and ministers who are accused, are parties; 2, by the supreme court of justice, a court of cassation and of second appeal; 3, by five courts of appeal; two of which are for the colonies; 4, by 142 judges of law and their assessors, judges of first resort (*comarcas*); 5, by 809 justices of the peace; 6, by 3,988 parish justices. The last two orders of judges are elected, and may be dismissed by the courts. All the others are irremovable, and paid by the state, but they can also be remunerated by the parties to the suit. The judges of law only declare the law; the jury pronounces upon the fact. The charter provides for a jury in all criminal and civil cases; but, in civil cases, it is customary not to summon a jury, except by consent of the parties to the suit. There is a public prosecutor in Portugal. — IX. *Resources.* The soil of Portugal is volcanic; earthquakes are frequent. Fertile lands, rivers and streams rest on beds of fire. The earth hides all kinds of stones and metals. The Tagus once flowed with gold, and an ancient king made his sceptre from the gold found in it. There are to be found in Portugal, mercury, lead, copper, manganese, iron, and marble of all colors. But all this was unworked until the establishment of the railways. — The provinces of Minho, Beira and Estramadura are the richest in agricultural lands; Minho, better watered and better cultivated, produces almost as much as the rest of the kingdom. Alemtejo, an immense plain in the centre and south, has aluminous and clayey soils; it furnishes more cereals. The mountains of the south are covered with calcareous soil, mixed with iron and clay, especially in the neighborhood of Lisbon. The seashores of Portugal have sandy or silicious soils.—The forests were formerly very considerable; but the knights *gastadores* destroyed them through hatred of the Moors, who exploited the wealth of the country; and the peasants of Portugal even to-day are rabidly opposed to trees, without suspecting whence they inherit such vandalism. The forests occupy only an area of 18,856 hectares, of which 18,168 are in compact masses. Almost half, 9,914 hectares, belongs to the forest of Leira, of pines and cypresses, planted upon the shores of Estramadura by an old king, to stop the invasion of the sand. — One of the greatest sources of wealth of Portugal consists in her mines of sea salt, which constitute one of the principal objects of exploitation. Portugal has a seacoast of 600 kilometres, low, and with a sandy-clayey soil, upon which the evaporation of salt water takes place under the most favorable conditions for the production of salt. The total production of salt was estimated, in 1851, at 225,000 tons, in 1862 at 193,969, in 1864 at 249,750. The yield of salt is much more considerable in Portugal than in France; it amounts to 250 tons per hectare, while in France it is only 100 tons. The alluvial lands of the Tagus and the Sado are remarkably fertile and proportionally unhealthy. The cultivation of cereals comprises only a fourteenth of the area of Portugal. The cultivation of the vine occupies about half that space, which is relatively considerable. The wonderful fertility of the soil would allow these two branches to increase many times their extent. The total area under cultivation is only 2,500,000 hectares, much less than half the country. The production of wine, moreover, has very much increased since the laws of 1852 abolished the monopolies which Pombal had created in favor of two companies. — The production of cereals in Portugal, continent and islands, was estimated, in 1873, at eight or nine million hectolitres, and that of wines at 3,400,000 hectolitres. — There were in Portugal, in 1870, 79,716 horses, 50,690 mules, 137,950 asses, 520,474 horned cattle,

3,543,646 wool-bearing animals, and 776,868 hogs. —The oils of Portugal, although poorly prepared, are very highly esteemed, and their production is considerable. The country produces also lemons, oranges, and all the fruits of temperate climates. Rice is cultivated in Algarve, upon inundated shores. Finally, attempts at silk growing have recently been made with success.—The distant fisheries of Portugal are almost destroyed. Coast fishing alone preserves a certain importance. The absence of routes on land has made coasting an indispensable means of transport, which is carried on largely by steam navigation. The tonnage of Portuguese sailing and steam ships is about 800,000.—The shipping in all the ports of Portugal, in 1869, amounted to: entries, 5,887 Portuguese and 4,525 foreign vessels; departures, 5,854 Portuguese and 4,428 foreign In 1870 the total number of ships departing was 10,088, gauging 1,459,008 cubic metres. — Portugal, having products similar to those of the south of Europe, has not much maritime commerce with the Mediterranean. It is mostly carried on with Brazil and the west of Europe. The movement of Portuguese commerce has constantly increased since 1852; the imports rose from 9,286,023 milreis in 1852 to 25,841,244 in 1870; the exports, in the same period, rose from 6,580,533 milreis to 20,293,457. (See note.)—There were, in 1856, only two banks; in 1873, the number had increased to fifteen, four of which were established during that year. The operations of these establishments, in 1858, were represented by a sum of 11,800,000 milreis; in 1872 by 24,421,400. The amount of the deposits rose from 3,182,502 milreis to 12,167,916; that of notes from 1,855,083 milreis to 3,258,978; that of discounts from 4,333,385 milreis to 15,869,442. The activity which the ministry and the legislative chambers of Portugal have displayed in comparatively recent years, has improved the financial situation, commenced a *cadastre*, and abolished monopolies. The construction of roads, on which depends the success of agriculture and commerce, must not be forgotten. The company of public works, founded in 1845, built roads from Lisbon to Cintra, from Oporto to Braga, and from Lisbon to Badajoz. In 1873 the length of the national highways was 2,918 kilometres, and that of district highways 569 kilometres; the communal roads, 122 kilometres, and 326 in course of construction. These roads cost the treasury about 50,000,000 francs. The clearing of the beds of rivers, the canalization of rivers, the extension of canals, and the construction of royal highways by the state, and of district and communal highways by the districts and communes, have been undertaken. The length of the principal railways was, in 1873, 804 kilometres; chiefly the one from Lisbon to the frontiers of Spain (275 kilometres), and to Oporto and Coïmbra (230 kilometres). These railroads, constructed by the aid of subsidies from the state, cost the treasury about 90,000,000 francs. Many branches are projected, notably one from Oporto to Braga and Rego. The length of the system of telegraphic lines is 3,111 kilometres, and comprises the telegraph from the frontier, and that from the capital to the provinces of the north and the neighboring cities. The Spanish wires have been connected with the Portuguese wires. Up to 1866, Portugal had expended for all public works (highways, railways, telegraphs, ports, canals), 45,419,496 milreis. (For later statistics see note.)* — BIBLIOGRAPHY.

* *Political History during the last decade.* During the last decade the history of Portugal was more peaceful than that of Spain. A few riotous assemblies were held, and a few insignificant plots took place, but no civil war; neither did the parliamentary parties combat one another very violently, because in Portugal the republicans and social-democrats met with little sympathy among the people. The permanent financial deficit constituted the principal object of contention; it furnished to every opposition, whether conservative or liberal, both the means and occasion for opposing and overthrowing the cabinet for the time being in power. In the chambers the *regeneradores* (conservatives), under the counselor of state de Fontes Pereira de Mella, on the one side, were opposed by the historians under Marquis Louié and Braamcamp, and the reformers (liberals) under the leadership of the bishop of Vizen. The historians and the reformers at times combined, forming a great progressionist party. The reformers there, as reformers in general are wont to do in other parliaments, spoke of retrenching the expenditures of the state, of reducing the taxes, of thorough reforms in all branches of the administration, and made motions to that effect, which, however, could not be entertained by a cautious and conservative government. The *regeneradores* tried to restore the national wealth, by going to the utmost limit of taxation, supporting industry and increasing trade, thereby gradually doing away with the deficit. One cabinet after another vainly tried to solve this difficult problem. The republican and communistic agitation, which originated in Spain after the abdication of King Amadeus, only slightly disturbed Portugal. A republican committee, consisting of Spaniards and Portuguese, in 1873, issued a manifesto to the people of Portugal, by which the latter were urged to agitate in favor of an Iberian republic. But just as in 1869, when King Louis of Portugal, as well as his father, the titular king, Ferdinand, refused to accept the crown of Spain, which had been offered to them, the majority of the population neither felt like tying their future to revolutionary Spain, divided by exceedingly extreme parties, nor like exchanging their independence for the blessings of a Spanish province. The Portuguese press most emphatically rejected the proposition of an "Iberian Union." The cabinet of d'Avila, which by imposing new taxes had caused great dissatisfaction, was succeeded, on Sept. 13, 1871, by a conservative ministry, of which de Fontes Pereira was president and minister of finances. In a conflict with the chapter of the cathedral of Braganza the ministry energetically defended the rights of the state as against the church, and in 1873 a majority of the chamber and the press expressed themselves as opposed to the intentions of the clericals. The chambers of 1876 passed the bill for suppressing the last remnants of slavery on Sao Thomé. Although slavery had been abolished there, the emancipated negroes, who had been reduced to a state of bondage to the planters, were cruelly maltreated by the latter. Notwithstanding all its exertions within the province of economy and the increase of taxation, the Fontes Pereira cabinet was unable to do away with the deficit; for which reason the cabinet was violently attacked by the historians and reformers, and being unable to meet these attacks satisfactorily, the cabinet handed in its resignation March 6, 1877. Thereupon a cabinet of the coalition was formed, Marquis d'Avila e Bolama, whose supporters occupied a position midway between conservatives and liberals, becoming president of the cabinet and minister of foreign affairs and of the interior. This cabinet, formed from the moderate elements of the *regeneradores* and of the opposition, was only able to maintain itself as long as it did not by any measures arouse the hostile feelings of those who constituted the majority in

Balbi, *Essai statistique sur le royaume de Portugal et d'Algarve*, Paris, 1822, and *Variétés politico-statistiques sur la monarchie portugaise*, Paris, 1822; Eschwege, *Portugal, ein Staats-und Sittengemälde nach 30 jährigen Beobachtungen und Erfahrungen*, Hamburg, 1837; Heeringen, *Meine Reise nach Portugal im Frühjahre*, 1836, Leipzig, 1838; Minutoli, *Portugal und seine Colonien im Zahre*, 1854, Stuttgart and Augsburg, 1855; Vogel, *Le Portugal et ses colonies*, Paris, 1861; *Diccionario abreviado de chorographia, topographia e archeologia dos citades, etc., de Portugal*, Lisbon, 1867; For-

the cortes. At the election for members of the city council in Lisbon the cabinet opposed the *regeneradores*, and it also appointed progressionists to the most important offices of the administration; for which reasons the *regeneradores* endeavored to overthrow the cabinet. In this they succeeded the more easily as the deficit had increased still more, and as the ministry had shown great weakness in dealing with the bishops. The vote of want of confidence offered by the *regeneradores* on the occasion of the debate on the address, and by which the ministry was accused of having violated the principles of liberalism and the rules of proper administration, was passed, Jan. 26, 1878, by a vote of 69 to 19. The cabinet thereupon resigned, and Fontes Pereira formed a new cabinet. This latter, it is true, had a decided majority in both chambers; but disagreement among the ministers themselves caused the cabinet to resign May 29, 1879. The new cabinet of the 1st of June was formed from the liberal opposition; Braamcamp, the leader of the historians, occupied the position of president and of minister of foreign affairs. But as, on the 3d of June, the conservative majority by 75 to 29 passed a vote expressing a want of confidence in the ministry, the latter dissolved the chambers and ordered a new election. The election resulted in a majority of 70 to 30 in favor of the ministry; the republican party was able to elect but one representative. The submission of the so-called Delagoa treaty, concluded with England in 1875, gave rise to severe conflicts. According to that treaty, England was to have the right to transport its goods through Delagoa Bay, a Portuguese possession in South Africa, from and to Transvaal free, also to build warehouses for goods free of duty, in the port of Lorenzo-Marques, to build a railroad from that city to Pretoria, in the Transvaal, and to operate the same on its own account. This was considered by public opinion as an abandonment of Portuguese territory and an actual repeal of the arbitration, made in 1875 by Marshal Mac Mahon in favor of the rights of Portugal to Delagoa Bay. The opponents of the Delagoa treaty, on March 8, 1881, asked to postpone the consideration of that matter until the English squadron should have left the harbor of Lisbon. The chamber of deputies, however, declined to pass this motion, and on the 10th of March sanctioned the treaty by a vote of 74 to 19; this vote was openly declared by the English press to be equivalent to a cession of Lorenzo-Marques to the British crown. The upper chamber, it is true, refused to entertain the vote censuring the government, which had been proposed, by a vote of 50 to 49; but, as there were two ministers among those who voted with the majority, the censure was in reality voted by a majority of 49 to 48. At that time great excitement prevailed in Lisbon. The republican party took the opportunity to call a meeting of the people, in which the government and even the dynasty were violently attacked. An emphatic protest against the treaty was voted, and handed to the president of the chamber by a deputation from the meeting. When the chamber, in spite of this protest, ratified that treaty, the ministers and their followers were publicly insulted by the mob, and cries of "Down with the ministry!" "Long live the republic!" were heard. In view of the exasperation of the populace and of the vote of the upper chamber, the Braamcamp cabinet was unable to maintain its position, and it resigned. Thereupon Rodriguez Sampajo formed a new ministry on the 28th of March, composed of conservatives of the second class and of members of the independent party. The chamber was dissolved, and general new elections were ordered. By these elections the ministry obtained an overwhelming majority, while the reformers, who, in the previous chamber had been in the majority, had but six votes left. Nevertheless, this cabinet tendered its resignation on the 13th of November, because it had been accused of excessive indifference toward the reformist and republican agitation, and because the municipal elections resulted strictly in favor of the conservatives. In consequence thereof, Fontes Pereira, on the 14th of November, formed another conservative cabinet, which was completed on the 16th of the same month. Fontes took the presidency, the ministry of finances, and provisionally that of war. The deficit in the budget for 1882-3 still amounted to 5,622 contos; the revenues amounted to 29,654, and the expenditures (including the extraordinary expenses) to 35,276 contos. Besides the financial question, public opinion also agitated the question of reforming the constitution. The general demand was in favor of transforming the upper chamber into a senate, partly filled by election, and in favor of a change of the elections for deputies, for the purpose of facilitating the representation of the minority. Opening the cortes in January, 1883, the king declared, in his address from the throne, that the government was considering a reform of the constitution. For the purpose of securing its authority in the Congo district of Africa, threatened by France, Portugal, in March, 1883, concluded a treaty with England, promising freedom of trade and measures against the slave trade; England, in turn, acknowledging Portugal's sovereign authority. At the same time Portugal equipped an expedition for the Congo, intended to guard Portugal's interests in that part of Africa. — *Late Statistics.* The number of Protestants in Portugal, mostly foreigners, does not exceed 500. They have chapels at Lisbon and Oporto. The superintendence of public instruction is under the management of a superior council of education, at the head of which is the minister of the interior. Public education is entirely free from the supervision and control of the church. Within the last few years, there has been great progress in primary education. The expenditure on public education by the government amounted to 868,648 milreis, or £196,033, in 1882-3. — The following were the estimated sources of revenue and branches of expenditure of the budget, approved by the general cortes, for the financial year ending June 30, 1883:

REVENUE.

Direct taxes	£1,348,140
Stamp and register duties	683,488
Indirect taxes and customs	3,380,171
National domains and miscellaneous receipts	572,941
Repayments and sundries	245,484
	£6,230,224
Extraordinary receipts (loans)	359,555
Total revenue	£6,589,779

EXPENDITURE.

Public debt	£2,908,738
Treasury	1,290,860
Home office	480,255
Justice	139,416
War	1,022,206
Marine and colonies	369,715
Foreign affairs	68,552
Public works, ordinary and extraordinary	1,569,413
Total expenditure	£7,839,155
	6,589,779
Estimated deficit, 1882-3	£1,249,416

As remarked above, there has been no budget for the last thirty years without a deficit. The revenue of the kingdom during the thirty years 1850-80 increased by about 60 per cent. At the end of 1881 the debt was £97,512,000, the annual interest being £3,065,285. Included in the existing debt is the "old debt," which has been nearly all converted, only about £400 000 remaining unconverted. The external debt amounts to about £50,000,000, the last loan issued being one of £5,189,000 in 1883. The funded debt of Portugal, per head of population, is nearly as large as that of the United Kingdom, the quota of debt for each inhabitant amounting to £20 11s., and the annual share of interest, at 3 per cent., to 13s. 6d. Besides the funded debt, there is a large floating debt, estimated variously at from £2,500,000 to £4,000,000.

rester, *Portugal and its Capabilities*, London, 1860; Pery, *Geographia e Estatistica geral de Portugal e Colonias*, Lisbon, 1875; Latouche, *Travels in Portugal*, London, 1875; Murray, *Handbook for Travelers in Portugal*, London, 1876; Gebauer, *Portugiesische Geschichte*, Leipzig, 1759; Fortia d'Orbay and Mielle, *Histoire de Portugal*, Paris, 1828–9; Schäfer, *Geschichte von Portugal*, Hamburg and Gotha, 1836–54; Rebello da Silva, *Historia de Portugal nos seculos, xvii. e xviii.*, Lisbon, 1860–71; S. J. da Suz Soriano, *Historia da Guerra Civil*, Lisbon, 1870–76; Latino Coelho, *Historia Politica e Militor de Portugal*, Lisbon, 1874; Barbosa de Pinho Leal, *Portugal Antigo e Moderno*, Lisbon, 1873–7.

J. DE BOISJOSLIN.

POSTOFFICE. *History.* The first extensively organized postal service was the *cursus publicus* of the Roman empire. It was developed in connection with the system of Roman roads, and, like them, was primarily intended to subserve military and administrative purposes. It amounted to nothing more than a fully equipped set of relay stations for the rapid forwarding of official correspondence, not for the use of the general public. Traces of it survived the fall of the old Roman empire, and lasted well on into the middle ages; but not as an institution with which modern postage can be shown to have any historical connection.—The postal systems which sprang up in the middle ages were, as might be expected, not centralized, but in the hands of local organizations: commercial cities, universities, or orders of knights. The city postoffices were the earliest organized, and in the time of prosperity of the Hanseatic league attained a high stage of development. Originally intended for purposes of trade communication between the guilds and merchants of Westphalia and those on the seacoast, they became an important convenience to the general public of northern Germany. The postal arrangements of the universities were developed in a similar way. First intended as a channel of communication between scholars and their homes, the same facilities were soon afforded to others who lived where they could avail themselves of them. The most important example of the third class was the postal service of the knights of the Teutonic order, extending over the northeast of Germany almost as widely as that of the Hanse towns over the northwest.—At the end of the fifteenth century, as centralizing governments grew up and supplanted the feudal system, national postal service was attempted, and ultimately prevailed. In this, as in all other similar matters, France took the lead. The first steps were taken by Louis XI., and they were followed up by Charles VIII. The wars of the sixteenth century checked this development; but it was resumed under Louis XIII.; and in 1681 was so far advanced that letter carrying was made a government monopoly, though largely controlled by private hands till the legislation of 1790. In England there are traces of a postal service and postal regulations going back to a very early time; but the organized business of letter carrying seems to date from the reign of James I. It made a government monopoly by the legislation of 1649 and 1657, although the business was farmed out until 1709.—In the countries ruled by the house of Austria an international postal system was started, under the administration of the Taxis family. At the beginning of the sixteenth century they established regular communication between Brussels and Vienna; soon a line was added to Milan and beyond, and not long after a further line to Madrid. In 1595 Leonard von Taxis received the office of postmaster general of the empire; and in 1615 this dignity was made hereditary. It was much harder to establish a monopoly here than in France or England, owing to the extent of ground to be covered, the full development of special postal services, and the weakness of the imperial authority. The nominal rights granted by the investiture could only be carried into effect by treaties with the individual states; and many of these preferred to maintain postal systems of their own. This was the case in Austria on the one

A large portion of the foreign debt of Portugal consists of loans raised between 1877 and 1882. The first of these, a foreign loan of £6,500,000 nominal, at 3 per cent., was issued at 50 in 1877. Only £4,000,000 of this loan was subscribed at the time. This was followed by the issue of another foreign loan of £2,500,000, on the same terms, in July, 1878, and by a foreign loan of £5,000,000, issued in December, 1880, and, finally, in 1882, by a loan of £5,189,000, in 5 per cent. bonds. The floating debt of Portugal has been increasing in recent years, although its gradual extinction was decreed in 1873, when the government raised a loan for this special object. The interest on the public debt has frequently remained unpaid. Portions of the national debt have also been repudiated at various periods.—The effective strength of the army is fixed annually by the cortes, and was nominally 78,200 officers and men, in 1882, on the war footing. The actual strength of the army in 1882 was reported to consist of 26,059 rank and file, chiefly infantry, the cavalry numbering 3,241, and the artillery 2,709, officers and men. The number of troops in the Portuguese colonies amounts to 8,500 infantry and artillery, besides a reserve of 9,500 men. The navy of Portugal was composed, at the end of 1882, of thirty-one steamers and sixteen sailing vessels, most of the latter laid up in harbor. The steamers (1883) comprise: eight corvettes, of 2,300 horse power, having forty-six guns; ten sloops, of 637 horse power, having thirteen guns; nine gunboats, of 840 horse power, having thirty-one guns; two transports, of 420 horse power, having four guns; and two torpedo boats, of 600 horse power; making a total of thirty-one steamers, of 4,797 horse power, with ninety-four guns. The navy is officered by one vice admiral, ten rear admirals, forty-two captains, forty-one lieutenant captains, 149 lieutenants, and manned by 3,034 sailors. The commercial navy of Portugal consisted, on Jan. 1, 1881, of 453 vessels, including forty-one steamers, of an aggregate burthen of 88,829 tons.—The total length of railways open for traffic in October, 1882, was 1,673 kilometres, or 1,045 English miles, with 144 kilometres, or ninety English miles more, in course of construction. All the railways receive subventions from the state.—The number of postoffices in the kingdom, in September, 1881, was 858, besides forty-five on the islands. There were 20,338,171 letters and postal cards, and 15,276,552 packets and newspapers carried in 1881.—The number of telegraph offices at the end of 1880, was 196. There were at the same date 4,369 kilometres, or 2,715 English miles, of telegraph wires. The number of telegrams dispatched in the year 1880 was 1,121,384, comprising 423,937 inland dispatches, and the remainder international or transit. Of the whole number, 688,065 were official dispatches.

hand, and in Brandenburg (and thus eventually Prussia), as well as many less important states of North Germany, on the other. The postal service of the Taxis family was thus chiefly exercised in the smaller states of middle and southern Germany, where it survived the fall of the empire, and lasted till 1866. — A long time elapsed after the governments took control of the postal service before they made it efficient. The usefulness of the English postoffice dates from the year 1784, when measures of reform were introduced by Palmer, the postmaster general, with the warm support of Pitt. Previous to his time the mail conveyance had been infrequent, slow, irregular, and utterly unsafe. In the eight years of his tenure of office he doubled the frequency and speed of conveyance, and secured a reasonable degree of regularity and safety, chiefly by the substitution of coaches for single riders as a means of carriage. But, though the service was much improved, the rates continued exorbitant; so much so that a vast deal of private letter conveyance was done, in defiance of government rights. In the years 1830–35 the pressure in favor of low rates began to make itself felt; and the movement in this direction was ably headed by Rowland Hill, whose work on "Postal Reform, its Importance and Practicability," appeared in 1837. His proposal to reduce inland postage to about one-tenth of its former figure was so sweeping as to cause a great sensation and not a little opposition; but the idea was carried out in 1840, and the example thus set by England was soon followed by the other civilized nations; though generally with gradual instead of sudden reduction. — The bill which established penny postage also introduced the use of postage stamps. The idea was not a new one; abortive attempts to carry it out had been made in France in 1653 and 1758, in Spain in 1716, in Sardinia in 1819–36. But in connection with the reduced postage and increased correspondence which followed it, stamps proved of indispensable service; and the example of England in introducing them was, within ten years, followed by nearly all prominent states. In the years 1869–74 came the still further reduction in price effected by the use of postal cards, originating in Austria. — The postal system of the United States dates from colonial times, being specially provided for in the postal act of Queen Anne's reign; and its character was not very distinctly changed by the separation, or by any causes other than the natural growth of the country. Before the passage of the act of 1845, inland rates varied from six to twenty-five cents a sheet. The act of 1845 provided for rates of five and ten cents, according to distance; and in 1847 stamps of these denominations were introduced. In 1851 postage for nearly all home letters was reduced to three cents. — The detailed history of postal development in different countries offers so few peculiarities that it is unnecessary to treat them separately. Everywhere we have, first, gradual improvement of service; then, simultaneously, lowering of rates, equalization for different distances, introduction of postage stamps; abandonment of the sheet as the unit of charge, and substitution of a unit of weight, at first almost always somewhat below the present half ounce (15 grm.) standard. By the year 1851 the postal legislation and policy of civilized nations, as far as concerns home correspondence, had approached near to its present shape. — Not so with foreign correspondence. For a long time nothing was done to encourage that, even by those administrations that were anxious to extend home facilities. It was not until 1833 that a daily mail was established between London and Paris; and even then there was communication but twice a week with other parts of the continent. There were discriminating rates against foreign correspondence, which were sometimes almost prohibitory. The rate for a letter from London to Dover was 8d.; but if it was to be forwarded to France, the charge for the same part of the route in 1834 was 1s. 2d.; if intended for Germany, 1s. 8d.; for Italy, 1s. 11d. The ship charge for carrying a letter to the United States was six cents, or 3d.; the rate charged by the British postoffice for delivering such a letter to the ship was 2s. 2d. For letters directed to Spain, it was the same; for those to Brazil the inland rate was actually 8s. 6d. The rates of other countries indicated a similar policy. As international correspondence increased, and with it the demand for more favorable terms, these high charges could not well be reduced without common action on the part of the two nations concerned. Hence resulted a number of postal treaties, among which may be mentioned, as leading ones, the system of treaties (1840–50) between Austria, Prussia, and the smaller German states—many of the latter still represented by the heir of the Taxis family; also the series between France and England. Not the least important and delicate matter in some of these treaties was the provision concerning charges for letters in transit, to be delivered in some third country beyond. By means of these treaties the rates between the different nations of Europe were gradually reduced. Not so successful was the attempt to reduce them between Europe and America. The foreign postage policy of the United States had been for a long time exceedingly liberal, and it was only the conservatism of England that had prevented cheap postage between the two countries. Then at the time when England was making her postal reforms at home, steamships were taking the place of sailing vessels; and the subsidies which England wished to pay the steamship lines made her statesmen unwilling to reduce a postage rate which seemed to furnish such a suitable means of defraying the expense. Then came the adoption of the same system on the part of France, and attempts in the same direction in America; and every effort to support a subsidized steamship line lessened the strength of the demand for cheap transmarine postage. The United States rate for a considerable time was twenty cents,

except where special arrangements provided otherwise; and these arrangements were apt to mean higher instead of lower rates. But with the abandonment of the Collins line of steamers, the United States again took strong ground in favor of lower rates; and, at its suggestion, a conference was held at Paris in 1863, relative to common action in the matter of international postage. This conference was only deliberative; it did not do away with the necessity of special treaties, though there was a continued lowering of rates in these. A similar conference, to be invested with greater powers, was invited to meet at Bern, in 1873; but as France, on the ground of financial embarrassments, declined to take part, it was postponed, and reconvened in September, 1874, when the leading nations were satisfactorily represented. In spite of some moderate opposition from France, which was hampered by its subsidy system of mail contracts, and in spite of great lukewarmness on the part of England, public feeling in favor of cheap postage was so strong that, on Oct. 9, a postal union was formed on a general basis of five cents per half ounce letter postage, to go into effect, with some few exceptions, July 1, 1875. Even France agreed that it would ultimately acquiesce in this rate. Other nations, not at first included, joined the postal union in rapid succession, and in 1878 a second congress was held at Bern, which carried out the ideas of the first into the shape of a postal union treaty, embracing the following points: 1, harmonious arrangement of lines for international connection, transit, etc.; 2, avoidance of international competition; 3, proper distribution of expenses, and, if necessary, pooling of receipts; 4, international equality of treatment; 5, equality of standards of weight, etc. These postal treaties have now been agreed to by all Europe, and most of the other countries of the world. The postal union has a permanent organization at Bern, with its regularly published series of reports. — For dealing with all this business a body of officials and of official regulations has become necessary, almost involving a special department of administrative law. Two points of this deserve mention in a history of the subject: first, the franking privilege, or right of public officers to send letters free of charge, a survival of the time when the object of the postoffice was to transact government business, but one which has maintained itself almost everywhere; and second, the wide application of the principle of sacredness of epistolary correspondence. — In this historical account, attention has been confined to the letter post as the most important part of the system. The postoffice has at different times and places attempted the conveyance of newspapers, unsealed packages, money, persons and telegrams; not to speak of matters like postal savings banks, being quite aside from its main function. In almost all cases it has done so in more or less direct competition with private enterprise: though the English government had, up to the year 1840, a virtual monopoly of newspaper carriage; while in many parts of the continent of Europe the actual competition in forwarding small parcels is not to-day noticeable. The conveyance of money has generally been effected under a form like a registered letter; but in England the habitual use of cheques led to the early development (1838) of the postoffice money order, which was slow in making its way into other countries. The rapid conveyance of persons from place to place by government posting arrangements, was at one time almost as important, at least in the eyes of the authorities, as the conveyance of letters; but it of course nearly fell away with the introduction of railways, except in the few countries, like Norway, which combine considerable demand for communication with the impracticability of railways. On the other hand, postal telegraphy seems destined to grow in importance. In many countries of Europe the telegraph was from the beginning developed in connection with the postoffice; while in England it was brought under its control in 1869. — *Principles of Administration.* The question whether the state should control the postoffice need not be seriously discussed as an open one. Our experience with railroads has shown what we may expect from private management in affairs of this kind —unsteadiness and discrimination of rates, and development of competing and favored points at the expense of all others. When it is impossible to avoid this in transportation, unless by combinations and monopolies no less dangerous than the evil itself, it can hardly be seriously proposed to introduce it into the system of postal communication. On the other hand, the question as to how far the postoffice should extend its activity to the conveyance of parcels, telegrams, etc., can not be adequately treated here; partly because the necessity changes so entirely with varying local conditions, partly because special technical reasons are involved, to which justice can be done only in separate articles. — Setting these points aside, we have two distinct series of questions to deal with: first, as to the financial or administrative aims with which the postoffice should be conducted; second, as to the means to be employed for securing those aims. Of the two, the first is more difficult, and at the same time of more general importance and interest. — We see in the history of the institution that the postoffice was taken up by governments far more with a view of strengthening their own position than for the convenience of their subjects. This was equally the case whether they used it exclusively for their own business, as in Rome, or for the sake of getting administrative control into their hands, as in France. This carelessness of public interest led to its management under systems of lease or investiture, whatever means would secure money or influence with the least trouble. That state of things was outgrown in the last century, and men attained to the conception (though not always to the reality) of the postal service as a public interest, to be managed directly by the state for the public advantage. But the

particular form of public advantage to be aimed at was not yet settled. The postoffice might be managed in any one of four ways: 1, as a tax; 2, to yield good business profit; 3, to pay expenses; 4, to best accommodate the public. On the whole, the third of these principles is tending to prevail, but there has been, and is still, much deviation from it. — 1. The use of the postoffice as a means of taxation was an idea belonging distinctly to the earlier period, now outgrown. Yet, in practice the lowering of rates was so slow that the government monopoly at the charges ruling previous to 1840 had all the characteristics of a tax, and of one placed at the highest limit the business would bear; making itself felt not so much by the amount of money collected as by the means adopted to evade payment, by keeping correspondence within narrow limits or forwarding it by illegal agencies. The discriminating rates against foreign postage were still more obviously of the nature of a tax, and were felt to be so when connected with the subsidy system; so that the abandonment of the principle of managing the postoffice as a tax can not be said to have been complete till the final lowering of rates by France and Italy subsequent to the postal congress of 1878. — 2. The idea of managing the postoffice to obtain business profits is much more plausible, and in those branches of the postal service which come into competition with private agencies, such as express companies, is probably sound. But in letter carrying, where there is a government monopoly, it is liable to misapplication in two ways. First, the absence of competition leaves the decision as to what constitutes a good business profit in the hands of the postoffice authorities, who, in the uncertain conditions and bases of calculation, have every motive to aim too high, and thus give the result the character of a tax; and, second, the absence of outside control of rates makes it natural for the authorities to secure the required excess of income over expenditure by doing a small business at high charges, instead of a large business at low charges. As a matter of fact, business profits under a government monopoly are not clearly distinguishable from taxes. Compare the arguments used (1885–50) against lowering postal rates with the results which actually followed such lowering. The most marked instance of reduction and its consequences may be taken from Rowland Hill's reform, by which postage was reduced to one-tenth its former figure. The financial showing did not quite realize Hill's anticipations, partly on account of a change in the legislation respecting newspapers; nevertheless, the department continued to do much more than pay expenses; its gross income reached its former figure in ten years, its net income in about thirty years; and in the last case the department was serving the public by carrying fourteen times as many letters as in 1839. The system of business profits is, however, in large measure maintained both in England and in France. (See figures below.) — 3. The idea of managing the postoffice simply to pay expenses gained hold in connection with the reforms of 1840. Even those writers who, from a financial standpoint, criticise the suddenness of Hill's change, and prefer the continental and American policy of gradual reduction, do so on account of the evils of suddenly shifting the burdens of taxation rather than from any objection to the principle itself. Yet, while their theorists hold this view, in practice most European states so far keep to the older policy as to secure a slight excess of income over expenditure in this department, perhaps, in general, not more than would meet interest on the cost of buildings. (See figures below.) The disadvantages of the profits principle have been already set forth; the corresponding advantages of the cost principle are, first, that it takes away the uncertainty as to the result to be striven for, and, second, that it furnishes a tangible basis on which the rates are likely to be computed, with due regard to the public interest. — 4. To carry letters without paying expenses (that is to say, below cost) is to tax the general public for the sake of a special service; usually a thing to be avoided. Yet, there are considerations which sometimes make it necessary to proceed on this principle. In countries like the United States or Russia, there are strong social and administrative reasons for establishing long routes over sparsely populated districts. These involve a large increase in expense, with no corresponding increase in revenue, whatever rate of postage is charged upon them. They have often caused a postal deficit in Russia, and almost always in the United States. If the expense of these routes causes a deficit in the whole department when the rates of postage are moderate, the additional income which could be obtained by higher postal rates would not be likely to cover it, because higher postal rates mean fewer letters. Thus the government must be prepared to meet the deficit. But—to take another consideration—suppose that the deficit could be met by higher rates. Suppose that in America by such rates a surplus could be obtained in the already self-sustaining east, sufficient to meet deficits in the south and west, or that such surplus could be obtained upon the main routes as to meet deficits upon the minor ones. What then? Such a proceeding would be a tax upon the correspondence of one section for the benefit of another. The interests subserved by such routes are not the postal interests. They are the general interests of the country; and to force the postage returns of other sections to pay for this service is to intensify the unfairness of taxation which it is intended to avoid. Thus the principle now generally favored is, that the postoffice should aim to pay expenses; but the traditional practice of European administrations is to make it do somewhat more; and the special circumstances of the United States have justified the practice of allowing it to do somewhat less. — How shall the rates be adjusted in accordance with the financial principle chosen? is the second question. Under the older

systems of taxation or profit, the rate was carried as high as the business would bear, and often higher, with the result of causing much smuggling. On those principles they of course charged much more for long routes than for short ones. Until 1845 the United States minimum charges were as follows: Under 30 miles, 6 cents; under 80 miles, 10 cents; under 150 miles, 12½ cents; under 400 miles, 18¾ cents; over 400 miles, 25 cents. Yet, even at this time, before the development of railways to any extent, it was computed that the cost of transmission of letters constituted less than two-sevenths of the whole, and the cost of collection and delivery more than five-sevenths. Compared with what it would cost the sender to evade payment, the differential rates were just; compared with what it cost to perform the service, they were absurd. And, as time went on, the absurdity increased. Improved means of communication rendered the whole cost of transmission a less important element; rapid increase of communication between distant places still further reduced differences in the cost of transmission. And with the rising feeling in favor of a system based on expense, not on profit—"freight, not tax," in the words of the day—a gradual equalization of rates for different distances was inevitable. On the continent of Europe, there was, for like reasons, a similar tendency, partially carried out, to do away with weight as an element in letter postage. This idea never took much hold in America, unless we regard the treatment of books and newspapers as an instance of it. There is no inherent reason why the postoffice should prefer to carry printed matter rather than written matter of the same weight. But printed matter, being habitually sent in large parcels, was, weight for weight, far easier to handle; especially so in the case of papers which went from day to day on the same routes in about equal quantities. Moreover, monopoly rates had never taken firm root here, owing to the competition of private agencies in the delivery of unsealed matter. All these reasons combined to produce the lower rates on these classes of goods. — These practical ideas are followed out in the inland postage of almost all civilized countries, whether the results are such as to more than cover or slightly less than cover the expense. In international postage it is sometimes difficult to carry them out with fairness. The five-cent rate was based on a rough average of transmission expenditures; and countries unfortunately situated or organized may be unable to meet their foreign postal expenses on this rate. The general advantages of belonging to the postal union are a sufficient compensation for such of these inequalities as can not be satisfactorily arranged. — We present herewith statistics of postoffices of the different countries named, for the year 1880:

COUNTRIES	Population.	Number of Post-offices.	Average Number of Inhabitants to each P.O.	Number of Letters and Postal Cards Forwarded.	Average per Inhabitant.	Revenue.	Expenditure.	Percentage of Net Income to Expenditure.
United States	50,153,000	42,989	1,167	1,177,620,000	23.4	$33,315,000	$36,543,000	-9
Great Britain and Ireland	35,004,000	14,212	2,463	1,299,308,000	37.2	31,153,000	19,288,000	+61½
France	36,906 000	5,913	6,242	245,661,000	11.1	23,830,000*	15,806,000*	+51*
Germany	45 23 000	9,553	4,839	718,241,000	15.9	36,502,000†	32,334,000†	+13†
Austria	22,131,000	4,025	5,498	282,441,000	12.8	6,706,000	5,965,000	+12½
Hungary	15,695,000	2,301	6,821	78,179,000	5.0	2,566,000	2,119,000	+21
Italy	28,437,000	3,348	8,494	196,013,000	7.3	5,354,000	4,628,000	+16

* 1881. † Including telegraphs.

— So much for the economic principles governing the postal service. Its economic effects it is impossible to discuss to advantage, for the very reason that it has become an essential part of our modern life. Our whole economic, social and political system has become so dependent upon free and secure postal communication, that the attempt to measure its specific effects can be little else than a waste of words. ARTHUR T. HADLEY.

POSTOFFICE DEPARTMENT. This is one of the executive departments of the United States government, established by act of May 8, 1794. (1 Stat. at Large, p. 357.) The head of the department is the postmaster general (salary $8,000), who is appointed by the presider ıd senate, and is a member of the cabinet, by a custom dating back to the administration of President Jackson. Prior to this the postmaster general, although his office existed since 1789, had not been regarded as one of the president's constitutional advisers. His duties embrace the direction of the postoffice department, and the management of the domestic and foreign mail service; the award and execution of contracts; the negotiation of postal treaties with foreign governments (under direction of the president); the appointment of all clerks in his department; and the commissioning and appointment of all postmasters receiving salaries of $1,000 or under per annum (all above that standard being presidential appointments). This vast patronage involves the appointment of more than 40,000 officers of the United States, while the patronage in the form of mail contracts by railway, steamboat and horse or stage conveyance (the latter known as "star routes"), extends to millions of dollars annually. He has, besides, the power to establish and discontinue postoffices (that of establishing new post routes being reserved by congress); to control the styles, etc., of all postage stamps, envelopes, postal cards, etc.; to prescribe the manner of keeping and rendering

accounts; to instruct all persons in the postal service as to their duties; and to control the expenditure of all moneys appropriated for the postoffice service, amounting to over $40,000,000 annually. The postmaster general is required to make an annual report to congress upon the mail contracts, land and water mails, receipts and expenditures, postal business, domestic and foreign, fines imposed upon contractors, etc. He has power to fix and adjust the salaries of postmasters under the general regulations of congress, to make special orders providing extra service or compensation at postoffices, to employ special agents, to establish money order offices, etc. — The subordinate officers employed in the postoffice department comprise three assistant postmasters general ($4,000 each), an assistant attorney general for the postoffice department ($4,000), a superintendent of money order system ($3,500), a superintendent of foreign mails ($3,000), a chief clerk ($2,200), a law clerk ($2,500), a topographer ($2,500) and 556 clerks, laborers, etc., at a total expenditure for salaries of the department, of $681,980 (fiscal year 1884); besides contingent expenses, amounting to $129,000. The salaries of postmasters for the same year amounted to $9,250,000; cost of mail transportation $21,000,000; foreign mail transportation, $350,000. — The three grand divisions of the postoffice department business place in charge of the first assistant postmaster general: 1, appointment of postmasters; 2, establishment or removal of postoffices; 3, adjustment of salaries; 4, the free delivery or letter-carrier system in cities; 5, commissions, bonds, etc., of postmasters; and 6, distribution of official blanks, letter balances, etc., to postoffices. The second assistant postmaster general is charged with 1, the supervision of all contracts for carrying the mails; 2, fixing frequency, conveyance and times on all mail routes; 3, advertisements; 4, the inspection of the carrying and delivery service, mail failures, etc., and 5, the issuing of mail locks and keys, mail bags, etc. The office of the third assistant postmaster general has charge of financial business, involving: 1, receiving and issuing drafts; 2, issuing of postage stamps, envelopes and postal cards; 3, the correspondence of the registered letter system; and 4, the examination and return to the writers of dead letters. — The money order system is in charge of a superintendent, who keeps the accounts, etc., of the issue of domestic and international money orders, and of the new postal notes. — The superintendent of foreign mails supervises the ocean mail steamship service, and all foreign postal arrangements. — The business of the general postoffice is conducted in a massive and ornate marble building, covering a square of ground in the heart of Washington. Its architecture is Corinthian, its dimensions 300 feet by 204 feet, and its cost $1,700,000. — The following is a list of postmasters general, with their terms of office, from the beginning of the government:

1.	Samuel Osgood	Sept. 26, 1789
2.	Timothy Pickering	Aug. 12, 1791
3.	Joseph Habersham	Feb. 25, 1795
4.	Gideon Granger	Nov. 28, 1801
5.	Return J. Meigs, Jr.	March 17, 1814
6.	John McLean	June 26, 1823
7.	William T. Barry	March 9, 1829
8.	Amos Kendall	May 1, 1835
9.	John M. Niles	May 25, 1840
10.	Francis Granger	March 6, 1841
11.	Charles A. Wickliffe	Sept. 13, 1841
12.	Cave Johnson	March 6, 1845
13.	Jacob Collamer	March 8, 1849
14.	Nathan K. Hall	July 23, 1850
15.	Samuel D. Hubbard	Aug. 31, 1852
16.	James Campbell	March 5, 1853
17.	Aaron V. Brown	March 6, 1857
18.	Joseph Holt	March 14, 1859
19.	Horatio King	Feb. 12, 1861
20.	Montgomery Blair	March 5, 1861
21.	William Dennison	Sept. 24, 1864
22.	Alexander W. Randall	July 25, 1866
23.	John A. J. Creswell	March 5, 1869
24.	Marshall Jewell	Aug. 24, 1874
25.	James N. Tyner	July 12, 1876
26.	David McK. Key	March 12, 1877
27.	Horace Maynard	June 2, 1880
28.	Thomas L. James	March 5, 1881
29.	Timothy O. Howe	Dec. 20, 1881

A. R. SPOFFORD.

POSTOFFICE SAVINGS BANKS. (See BANKS, HISTORY AND MANAGEMENT OF SAVINGS.)

POWERS OF CONGRESS. (See CONGRESS, POWERS OF.)

PRESIDENT. (See EXECUTIVE.)

PRESIDENT PRO TEM. (See PARLIAMENTARY LAW.)

PRESS, The Newspaper and Periodical. The discussion of this topic naturally divides itself into: 1, some account of the origin of the newspaper press in this and other countries, and the statistics of its development at the present time; 2, the relations of government to the press, from the censorship and licensing of printing to the complete liberty of the press which now exists in free countries, with particular reference to the history of the growth of this freedom in England and the United States; and 3, the relations of the press to individuals, and the present condition of the law of newspaper libel. — 1. Authorities differ as to the origin of the newspaper. Disraeli gives the Venetians credit for the invention. Doubtless their monthly *Gazetta*—a title derived from the name of a farthing coin peculiar to Venice—were in advance of the English in the periodical circulation of news in manuscript sheets. But if we date the origin of the newspaper from the issue of manuscript sheets for general information, we must go back to the time of the Cæsars, when the *Acta Diurna*, containing brief items of official news, were circulated under the auspices of the Roman government. Printed news sheets appeared in most of the European countries at various periods in the seventeenth century. In Germany periodical publications were preceded by irregular publications of news, summaries of events, etc., in the sixteenth century. The first regular newspaper in that country and in Europe,

was a weekly paper established at Frankfort in 1615, by Egenolph Emmel, a bookseller. In 1616 Johann von der Birghden, the postmaster at Frankfort, established the *Frankfurter Oberpostamts-Zeitung*, the oldest successful German newspaper. The *Allgemeine Zeitung*, established at Tübingen in 1798, by Cotta, the publisher, and still continued at Augsburg, has been the most successful and the most influential of the German newspapers. The German periodical press, both in its political and literary publications, is now the most firmly established, the most widely diffused and the most ably conducted press of the continent, notwithstanding the repressive restrictions of the government. The precursor of the French periodical press was the *Gazette*, issued by Théophraste Renaudot in 1631, and continuing, under modifications of title, until 1789, first as a weekly, then as a semi-weekly, and finally as a daily publication. The *Moniteur*, the official organ of the government, was founded in 1789. The first daily newspaper was the *Journal de Paris ou Poste du Soir*, established in 1777. An enormous number of political journals have flourished for a greater or less period in the French capital during the last 100 years, several of the cheaper newspapers now published there reaching circulations not paralleled in other countries. In Spain a court journal was founded in the middle of the eighteenth century. The alternating rigor of government supervision in Spain has prevented any such development of the periodical press of that country as is seen elsewhere. The first Russian newspaper was established in 1703, and newspapers are now published in the principal cities of the empire, under very rigid censorship. The Italian and Austrian newspapers are inferior to those of Germany and France, although several reach wide circulations and wield a powerful popular influence. — Nathaniel Butter, who founded the "London Weekly Newes" in 1622, is regarded as the father of English journalism. Printing presses had been at work in England for 150 years previously, but news had been published only in stray sheets and pamphlets, issued at irregular intervals, and without relation to each other. Crude newspapers became comparatively numerous during the commonwealth, and were freely used to disseminate political opinions by both royalists and puritans. They had quaint titles, such as "The Scot's Dove," "The Parliament Kite," "The Secret Owl," etc. With the restoration a strict censorship of the press was resumed. The first commercial newspaper, "The City Mercury," appeared in London in 1675; the first literary journal "The Mercurius Librarius," in 1680; and the first daily newspaper, the "Daily Courant," in 1709. "The London Times" first appeared in 1785, under the name of "The Daily Universal Register," printed and published by John Walter, of Printing House Square. Its circulation at the commencement of the present century was 1,000 copies daily, and the aggregate circulation of all the other London daily newspapers published at that time was 4,000 copies a day. In 1815 the number of newspapers published in the United Kingdom was 252, of which fifty-five were in London, and fifteen of these daily, 122 in the English provinces and Wales, twenty-six in Scotland, and forty-nine in Ireland. From the close of the Napoleonic wars the growth of English journalism was remarkably rapid. The reform excitement greatly increased the circulation and influence of newspapers of every shade and kind. In 1833 there were 400 newspapers published in the United Kingdom, and 42,000,000 copies annually passed through the postoffices. In 1836 the reduction of the stamp duty still further stimulated the growth of the press; and noteworthy development continued after the repeal of the advertisement duty in 1853, and of the compulsory stamp in 1855. The prices were correspondingly reduced, and new newspaper enterprises were abundant in all parts of the kingdom. In 1880 there were 2,076 newspapers and 921 periodicals published in the United Kingdom. Of newspapers, there were fourteen morning and fourteen evening dailies published in London, ninety-three dailies published in the remainder of England, four in Wales, twenty-two in Scotland and eighteen in Ireland. The daily circulation of the London journals was placed in the same year at 710,000, and that of all the daily newspapers in Great Britain at 3,938,938. The aggregate circulation per issue of all the periodical publications of the kingdom was 29,279,204, and the total number of copies annually issued was 2,219,329,322. — Since the removal of all fiscal restrictions the increase in both the number and the circulation of British newspapers has been much more rapid than the increase in the population. The ratio of increase in Great Britain still remains behind the same ratio in the United States, and the development of the British newspaper press differs from that of the press in the latter country in several particulars. — The first newspaper in America was Benjamin Harris' "Publick Occurrances Foreign and Domestick," at Boston, Mass. The first and only number was issued Sept. 25, 1690, and it was immediately suppressed by the colonial authorities, as "a pamphlet published contrary to law and containing reflections of a very high nature." April 24, 1704, John Campbell, postmaster at Boston, issued "The Boston News Letter," which was continued weekly, under various auspices, until 1776. The third newspaper, "The Boston Gazette," appeared Dec. 21, 1719. Andrew Bradford issued the "American Weekly Mercury" at Philadelphia, Dec. 22, 1719. James Franklin established the "New England Courant" at Boston, Aug. 17, 1721. His attacks upon the government, the clergy and private individuals, attracted the attention of the general council, which in 1722 forbade Franklin to continue to publish the "Courant," "or any other pamphlet or paper of the like nature, unless it be first supervised by the secretary of this province." The next issue appeared with the name of Benjamin Franklin at-

tached as publisher, the latter being then but sixteen years of age, and an apprentice in the office. For three years the "Courant" eluded supervision by this device. The "Philadelphia Mercury," then the only newspaper in the colonies outside of Boston, commented with severity upon the re-establishment of the censorship in Massachusetts. But only a few years before, the editor of that paper had been summoned before the Pennsylvania governor and council, on account of an article criticising the general assembly, and compelled to make humble apology, receiving at the same time intimation "that he must not presume to publish anything relating to the affairs of this or any other of his majesty's colonies, without the permission of the governor or secretary." The first newspaper published in the colony of New York was the "Gazette," established by William Bradford in 1725. The "New York Weekly Journal," the second periodical in this colony, was established by John Peter Zenger in 1733, avowedly for the purpose of opposing the government in the interests of the popular party led by Rip Van Dam. Zenger's paper may be called the prototype of the American political journal of to-day. Newspapers were established in the remaining American colonies as follows: in Maryland, at Annapolis, 1727; in South Carolina, at Charleston, 1731; in Rhode Island, at Newport, 1731; in Virginia, at Williamsburgh, 1736; in North Carolina, at New Berne, 1755; in Nova Scotia, at Halifax, 1752; in Connecticut, at New Haven, 1755; in New Hampshire, at Portsmouth, 1756; in Georgia, at Savannah, 1763; in Quebec, 1765. By the latter year there had been established in those American colonies which afterward comprised the United States, forty-three newspapers, of which eleven were located in Massachusetts, eight in New York, five in Pennsylvania, four in Connecticut, three in Rhode Island, four in South Carolina, two in Maryland, two in New Hampshire, two in North Carolina, one in Georgia and one in Virginia. At the outbreak of the revolution there were thirty-seven newspapers in existence in the colonies, eight of which were devoted to the cause of the crown. During the seventy-one years since the establishment of Campbell's "News Letter," seventy-eight papers had been started. This excessive mortality, and the limited circulation of the journals which survived, are among the evidences that the influence of the colonial newspaper press was not as important as is generally supposed, in moulding the public sentiment which culminated in the revolution. Much of the political controversy of the period resorted to the tract or pamphlet. The temper of the colonial press during this period was, as a rule, more conservative than that of the people. The journals that were most outspoken in the revolutionary cause, and most influential in advancing it, were the "Boston Gazette," which published the celebrated letters of John Adams, Josiah Quincy, Jr., and others, and the "Massachusetts Spy," published by Isaiah Thomas, who has preserved, in his "History of Printing," the only complete record of journalism in the United States up to the year 1810. During the revolution the number of newspapers did not increase. The precariousness of the business was increased by the scarcity of paper and of printing materials, which the colonists had not learned to manufacture. The British occupation of the cities of Boston, New York and Philadelphia, which were the chief newspaper centres, successively suspended the whig papers in those places, or compelled their publishers to move to interior towns. It has been estimated that the thirty-seven papers of 1775 circulated 1,200,000 copies annually, a weekly average of 23,000 for a population of 2,800,000. Immediately upon the adoption of the federal constitution the newspaper press received an extraordinary stimulus from the organization of political parties and the exciting controversies that followed. The press was engrossed in these controversies, all but a dozen of the 362 journals in existence in 1810 being warmly enlisted in the cause of the federalist or the republican party. Many men of versatility and talent were attached to this partisan press. The personal bitterness and vindictiveness which characterized much of the newspaper controversy of this formative period surpassed anything of the kind now common in the respectable political press of the United States. Among the journals of the period which exerted a wide influence, were the "Columbian Centinel," established in Boston by Benjamin Russell, in 1784, and conducted by him with great ability for forty years; the "New York Minerva," established in 1793, and long ably edited by Noah Webster, the lexicographer; the "New York Evening Post," established in 1801, as a central organ of the federalists; the "Philadelphia Aurora," established in 1790, by Benjamin Franklin Bache, and edited after his death by William Duane; the "Philadelphia National Gazette," established in 1791, by Philip Freneau; and the "Washington National Intelligencer," established in 1800, by Samuel Harrison Smith. — The newspaper press in the United States has kept even pace with the development of the country. A newspaper was started in Cincinnati in 1793; in Vincennes, Indiana, in 1808; in St. Louis, in the same year; and in Detroit, Michigan, in 1810. The first daily newspaper appeared in Philadelphia in 1784, called the "American Daily Advertiser." This was eighty-two years later than the first daily in London, and seven years later than the first daily regularly established in Paris. The first New York daily paper was established in 1785. All of the twenty-seven daily papers in existence in 1810 were published in the seven cities of New York, Philadelphia, Boston, Baltimore, New Orleans, Charleston, Alexandria, Va., and Georgetown, S. C. The number of daily newspapers published, increased to 138 in 1840; 254 in 1850; 387 in 1860; 574 in 1870; and 968 in 1880. In 1860 the aggregate circulation of the daily newspapers was 1,478,435; in 1870, 2,601,447; and

in 1880, 3,637,424, with an aggregate annual issue of 1,185,532,466 in the latter year. The increase in the number of daily newspapers between 1870 and 1880 was 69 per cent., and the increase in their circulation 39 per cent. Several well-defined causes have contributed to this remarkable growth of the daily press in the United States. They are, railroad development, with the corresponding facilities for early distribution to distant points; the telegraph, and the telegraphic collection of news by associated press enterprise, enabling newspapers published at distant points to print the news of commercial and political centres simultaneously with its publication at these points; and the improvement of the printing press, permitting the printing of very large editions of a newspaper in time for immediate distribution. Contemporaneous with the operation of these causes came the successful establishment of the cheap or penny daily press in the large cities of the United States. The first of these papers was the "New York Sun," established in 1833. The capacity of the presses of this paper, at its origin, was 3,000 copies for morning distribution. It now prints and distributes, before daylight, 147,000 copies six days in the week.—The growth of the American weekly press has been equally noteworthy. By the census of 1880, prepared under the supervision of the writer, it appeared that newspapers were published in 2,072 of the 2,604 counties then existing. Every state east of Missouri and north of the Mason and Dixon line, supported a newspaper in every county. There were 2,380 towns or villages where one newspaper was published; 1,018 in which two were published; 395 with three newspapers; 197 with four; and 324 in which five or more newspapers or periodicals were published, making a total of 4,314 cities, towns and villages in which the 11,403 periodicals of the census year were published. These figures indicate that tendency to localization which is a distinguishing and healthy characteristic of American journalism. Each paper is champion and representative of its particular locality, and this fact makes the American newspaper more and more a necessity, recognized and welcomed as such in every community, and in a constantly increasing number of families. The number of periodical publications of all classes in the United States, and their circulation, at four censuses, is shown in the following table:

YEARS.	All Classes.		Dailies.	
	Number.	Circulation.	Number.	Circulation.
1850.....	2,526	5,142,177	254	758,454
1860.....	4,051	13,663,409	387	1,478,435
1870.....	5,871	20,842 475	574	2,601,547
1880.....	11,403	31,177,924	980	3,637,424

YEARS.	Weeklies.		All others.	
	Number.	Circulation.	Number.	Circulation.
1850.....	1,902	2,944,629	370	1,439,094
1860.....	3,173	7,581,980	491	4,603,044
1870.....	4,295	10,594,643	1,002	7,646,285
1880.....	8,718	19,459,107	1,705	8,081,393

In 1880 there were 2,077,659,675 copies of periodicals and newspapers printed in the United States. Their net earnings were $87,441,132.22, of which 46.21 per cent. was from subscriptions and sales, and 53.79 per cent. from advertisements. There were 54,654 persons employed in manufacture, and 16,489 in the editorial capacity.—2. We have thus hastily outlined the history of an element in civilization which was unknown and undreamed of two and a half centuries ago, and the influence of which, upon politics, upon society, and upon governments, it is difficult to accurately measure, while well-nigh impossible to overestimate. The truism was discovered at the very dawn of printing, that a free press and an absolute government are incompatible with each other. The history of the newspaper press for two centuries was the iterated demonstration of this fact; and the degree of freedom accorded to the press is everywhere to-day the index of the freedom of the institutions of every nation where the art of printing is practiced. In the infancy of the art it was easy to keep it under complete governmental control and surveillance, and such was the universal practice. The church of Rome naturally originated the press censorship, as a function essential to the integrity of religion and the proper teaching of the people. Pope Alexander VI. (Borgia) first placed the authority of the church over printed books in definite form in 1501, and in 1515 it was formally decreed by the council of the Lateran that no publications whatever should be issued from any place where the church had jurisdiction, unless such printed work had first obtained the written sanction of the bishop, or of the inquisitor of the diocese. All Catholic countries accepted this censorship, and in all of them it extended gradually, with the growth of political printing, from the ecclesiastical to the civil power. The gradual and varying modifications that have been forced in the degree and character of this governmental regulation of the press, constitute an interesting chapter in the history of every European state. Whatever of freedom the press has gained anywhere, except as the result of revolutions, has been forced piecemeal from unwilling governments; so that the relations of the government to the press differ as widely to-day as the governments themselves differ, and very much in accordance with the differing characteristics of these governments. The history of the press of France has been one of frequent variation between rigid censorship and a complete liberty, leading constantly to license. Soon after the invention of printing, the university of Paris established a tariff for the sale of books, and exercised a general supervision over them, in the interests of both church and state. The censorship passed to the chancellor of the kingdom in 1653. He appointed four royal censors, and without the approval of one of them no writing could be printed or sold, and no dramatic piece produced. With the nominal press freedom which existed in France under the second Napoleon, it is

shown in a recent legislative report to the national assembly, that there were 6,000 prosecutions of publishers during his reign. This was equivalent, in its effects upon newspaper utterances in political matters, to the control which the censorship is able to exert. The French press laws under the third republic reserved in the government the right of summary suppression of journals whose utterances are adjudged obnoxious to the public peace and security. In Switzerland the censorship was abolished in 1880, but the laws regulating political expressions in the press are extremely rigid. In Sweden, Norway, The Netherlands, Belgium and Denmark, no censorship now exists; but the civil penalties for the violation of the press laws are very severe, particularly in Denmark. In Spain the constitution of 1837 abolished the press censorship, and offenses against the laws committed in the press were made triable by jury. After the political reaction of 1866 the journals of that country again suffered from constant official prosecution and arbitrary suspension, and they continue still to do so. In Germany the government censorship in the seventeenth century restricted newspapers to official publications in news matters. In 1819 a decree of the bundestag placed the German press under a severe censorship, which greatly checked a growth previously rapid. Many radical journals were suppressed in 1833, and these suppressions continue in the empire at frequent intervals. After the accession of Pope Pius the Ninth in 1846, Italy produced a large number of new journals, chiefly revolutionary, which were discontinued in 1849, when, with the exception of Sardinia, the Italian press was again placed under restraint until 1859–60. The changes of these years conferred an almost complete freedom upon the Italian press, and brought into existence a large number of new political journals. Russia retains to-day as arbitrary a form of the censorship as has ever existed. The newspaper publisher in that country must first obtain permission to print, then lodge 1,500 roubles as caution money, after which he becomes subject to a régime of "admonitions," two of which entail a suspension for the period of two months. Those who can not afford to lodge caution money (which is forfeited in case of a suppression) are compelled to submit to a preventive censorship, by sending their articles to the censors three days in advance of publication. In provincial towns, where there are no censors, journalism is non-existent. — In England the gradual advance of journalism from legal outlawry to a position of substantial freedom, presents an interesting evolution, identified in all its stages with the development of constitutional government in that country. At the reformation the crown assumed the functions of press censorship previously exercised in England by the church of Rome. In 1637 periodical publications had become so frequent that a general system of censorship was established by decree of the star chamber, which an act of parliament confirmed in 1643. This continued until the civil war and the commonwealth, during which the press was nearly free and unmolested. Cromwell's opinion was well expressed in the remark with which he is said to have ordered the release of Harrington's "Oceana," which had been seized as libelous. "Let him take his book," he said: "if my government is made to stand, it has nothing to fear from *paper* shot." He conceded liberty of printing, not as a right of the citizen, but in contempt of its influence and effect. One of the first measures under Charles II. was the suppression of the newspapers. In 1660 an order from the council of state stopped the "Mercurius Politicus," and granted to two persons, Muddiman and Giles, authority to publish the news on Mondays and Thursdays. Another act forbade the publication of the proceedings of parliament, which had been a common occurrence in the commonwealth. Subsequently Roger L'Estrange was appointed surveyor of the imprimary and printing presses, and a royal patent granted him "the sole privilege of writing, printing and publishing all narratives, advertisements, mercuries, intelligencers, diurnals, and other books of public intelligence." The "Intelligencer," which appeared under this patent Aug. 31, 1663, set forth in its title that it was published by royal permission, for the satisfaction and information of the public. It was succeeded by the "London Gazette" in 1665, and later by the "Observator." Neither the "Gazette" nor any supplementary broadside published by authority ever contained intelligence that did not accord with the sentiment and plans of the court. On the other hand, the unlicensed press, afraid of political discussion, indulged in immoral and corrupting publications in an unprecedented degree — a consequence which has followed the attempt at government control in many countries. At the revolution of 1688 L'Estrange was dismissed, but the office of licensed printer was not abolished. It is extremely significant of the small importance still popularly attached to the public press as a method of political agitation and reform, that no allusion to the liberty of the press was made in the bill of rights or the act of settlement. The whig government was involved in numerous controversies by the character of political publications which received the license of L'Estrange's successors, and the system of licensing was formally abolished in 1694 by the refusal of parliament to renew the act establishing it. Macaulay declares that this refusal, although scarcely noticed at the time "did more for liberty and for civilization than the great charter or the bill of rights." Regular newspapers began at once to appear, and the healthy growth of the British press dates from this event. The publication of political news was still, however, regarded as illegal. In the reign of Charles II. the judges had pronounced it a misdemeanor at common law to publish political intelligence without the king's license. It was the policy of the whigs to connive at the discreet violation of this rule, and many political journals continued

to appear, particularly during the struggle upon the exclusion bill. But the rule remained, and, in addition to it, parliament began to assume and exercise that control over the press which had formally belonged to the censor and the licenser. During the reigu of Queen Anne there were numerous acts of great severity against printers and political writers, in most instances acts of purely political persecution. Thus, Steele was expelled for political libels; DeFoe was punished in the pillory for publishing his "Shortest Way with Dissenters"; Tutchin, editor of a paper, by order of the house was whipped by the hangman; Wellman, editor of the "Mercurius Rusticus," Dyer, editor of the "News Letter," and Fogg, proprietor of "Mist's Journal," were compelled on their knees to express contrition to the commons. Tracts, books, and newspapers were frequently ordered publicly burned by the hangman. The house of commons claimed for itself collectively, and for each of its members in his parliamentary capacity, complete exemption from criticism in the press. It resolved, "that to print or publish any books or libels reflecting upon the proceedings of the house of commons, or any member thereof, for or relating to his service therein, is a high violation of the rights and privileges of the house." In the meanwhile the first daily newspaper had appeared; every large provincial town had its weekly; newspaper reading was increasing; and the power of the press as a new political factor was necessarily recognized in official quarters. This rapid development continued, though greatly checked, notwithstanding the fact that in 1812 the tory ministers of Queen Anne, finding that the whig press, by its ability and force of invective, was undermining their influence in the nation, had, with a view to its repression, imposed a stamp duty of one half-penny on every newspaper or pamphlet containing half a sheet or less, the tax rising to one penny on a whole sheet. At the same time a tax of one shilling on every advertisement, and also a duty on paper and foreign books, were imposed. These taxes were the first affirmative action of parliament negativing the common law doctrine that a political newspaper had no right to exist. It is notorious that this recognition was accorded only as a method of more effective restraint. It is remarkable, in view of their origin, that these taxes upon knowledge should have continued to exist in England, with various modifications, for nearly a century and a half. By gradual steps the stamp duty on newspapers rose until it had increased to four pence in the reign of George III. After the passage of the reform act the demand for cheap newspapers became so great that unstamped and illegal publications abounded. The government of Lord Melbourne, finding it impossible to suppress them by fines and imprisonment, reduced the duty to one penny in 1836; the paper tax was reduced; and the duty on advertisements, which had risen to the enormous sum of three shillings and six pence for each advertisement in Great Britain, and two shillings and six pence in Ireland, was reduced to one shilling and six pence in England, and to one shilling in Ireland. Several government prosecutions against the publishers of unstamped newspapers had previously failed with juries. The effect of these taxes upon the circulation of English newspapers can be judged from the fact that at the time of this reduction the periodical press of the United States had already passed that of Great Britain in number, while its aggregate annual circulation was nearly double that of the British press, although the population of the United States, by the census of 1830, was only half that of Great Britain in the same year. About 1850 there occurred in Great Britain a widely organized movement for the release of the press from these fiscal restrictions, which resulted, in 1853, in the repeal of the duty on advertisements, and, two years later, in the abolition of the penny stamp on newspapers. The duty on paper remained unrepealed until 1861. The circulation of newspapers increased, as a result of the repeal, according to Edward Baines, from 38,648,314 copies annually in 1831, to 546,059,400 annually in 1861, with an accompanying increase in population of but 30 per cent. — One of the longest and most exciting contests for the enlargement of the privileges of the press, had relation to the publication of parliamentary debates. From the restoration to 1729, newspaper reports of the parliamentary proceedings were unknown. In that year fragmentary reports of opposition speeches gave rise to a ministerial protest against this violation of the privileges of the house and of the lords. Sir Robert Walpole urged that if parliamentary proceedings were to be reported at all, they ought to be reported fully and openly. The custom of the press was to print fragments of parliamentary speeches as though they were imaginary, designating their authors by initials or nicknames. The commons resolved that all reporting was a breach of privilege, on the singular ground that it tended to make members of parliament answerable to their constituencies instead of to their own consciences; and this remains the parliamentary theory to this day. One of the standing orders still forbids any newspaper to publish a report of anything said or done within the halls of parliament. For breaches of this privilege numbers of printers, some of them at every session for years, were fined £100. Reports continued to be printed, however, at great personal risks, and with numerous punishments. In 1764 Mores, editor of the "Evening Post," paid a fine of £100 for mentioning the name of Lord Hereford in his paper. In 1771 the contest was finally abandoned, after a memorable struggle, which began over the arrest of two printers for publishing the debates, involved the arrest and imprisonment of the Lord Mayor of London and another city magistrate, and aroused popular excitement almost to the verge of revolution. The agitations which had preceded this triumph of the press, in which the celebrated John Wilkes, editor of the

"North Briton," was the central figure, had done more than aught else to identify the liberty of the press with the liberty of the people in the popular mind, and to restrain the governmental control of printing. In the famous No. 45 of the "North Briton," dated April 23, 1763, Wilkes attacked with great bitterness the king's speech closing parliament, pronouncing it "the most abandoned instance of ministerial effrontery ever attempted to be imposed upon mankind." The ministry preferred to regard this and similar expressions as direct attacks upon the personal veracity of the sovereign. Although Wilkes was then the member from Aylesbury, and therefore protected by the vague and formidable panoply of parliamentary privilege, he was proceeded against by the direct orders of the king. The secretary of state, Lord Halifax, issued a general warrant directing the arrest of "the authors, printers and publishers" of the "North Briton," and the seizure of the incriminated numbers. Wilkes resisted arrest, but was seized, and confined in the tower. He was released upon a writ of *habeas corpus*, Chief Justice Pratt declaring that "warrants to search for, seize and carry away" papers on a charge of libel were contrary to law. The arrest was also declared illegal on the ground that parliamentary privilege protected the person of a member in all cases save treason, felony and actual breach of the peace, and that a libel, though it might tend to produce the latter offense, could not be regarded as itself a breach of the peace. From this signal triumph in the courts, Wilkes passed to the more arbitrary tribunal of parliament, where his privileges were in vain interposed to prevent summary expulsion. The case of Wilkes was one of many which made the reign of George III. a continued crusade against the newspapers, carried on with such vindictive determination that the English press may trace the larger part of its present privileges to the reaction which resulted. In the year 1764 no less than 200 informations were filed against printers in behalf of the crown. In the whole thirty-three years of the preceding reign, there had not been so many press prosecutions. Hitherto, when the author of a libel was known, he alone was prosecuted for it. The custom was now introduced of involving the printers also in the prosecution. Quite naturally the political discussions in the press grew more virulent then ever, while the popular conviction that the judges were illegally endeavoring in press cases to restrain the freedom of discussion, tended to make London juries exceedingly tender of incriminated printers. In 1769 the letters of "Junius" began to appear. No previous writer in the English press had assailed the government and its members, the parliament, and even the king himself, with the freedom, the force, the daring vindictiveness, that marked the series of letters in Woodfall's "Public Advertiser," written by this unknown, unscrupulous and unprecedented critic. For nearly a year the letters and libels of "Junius" continued without notice from the authorities. When the letter to the king appeared, in which the latter was accused of cowardice, the attorney general prosecuted Woodfall, who had published it, and Almon and Miller, who had reprinted it. In the case of Woodfall, the chief offender, Lord Mansfield clearly laid down the doctrine that the libelous character of the article complained of was a question for the judge, and not for the jury. The jury responded with a special and irregular verdict of "guilty of printing and publishing only." This verdict was set aside, and a new trial ordered. In the meanwhile, Miller had been tried and acquitted by the jury, amid unmistakable demonstrations of popular approval. In the existing temper of London juries, the retrial of Woodfall promised only discomfiture to the government, and the case was abandoned. Thereafter, in the words of Lecky, the historian, "the torrent of libel flowed on unchecked and unrestrained."—But the legal rights and position of English newspapers continued a danger to publishers and a perplexity to judges and juries. The doctrine of libel laid down by Mansfield in the Woodfall case, was that of a long succession of eminent judges. The first traces of it are found in the decisions of Coke, and it may be called the natural outgrowth of the censorship and licensing systems, with which it is contemporaneous. It had its origin in times when the very act of printing was regarded as illegitimate, and an encroachment upon the prerogatives of the sovereign. The parliament fortified the judges in this view of the case. The action of the commons in excepting libels from the list of offenses that were covered by parliamentary privilege, shows the prevailing judgment at a period when the periodical press was becoming a recognized and important element in the current civilization. The desire to withdraw press cases from the cognizance and control of juries was as strong with parliament as with the crown and its agents. By the old method of *ex-officio* informations, the attorney general was able to send offending publishers to trial without the previous assent of grand juries; and when the trials took place, the judges enforced a doctrine of libel that almost transferred the decision from the juries to themselves. This law of libel was accepted by Holt, one of the greatest and most constitutional of English judges. Under George II. the question of its soundness had been raised, in the prosecutions of "The Craftsman." Lord Mansfield himself declared that for fourteen years he had uniformly laid down this doctrine without encountering question, and with the unanimous concurrence of associate judges. To amend or determine this law of libel, so as to bring the question of motive and of intention within the jurisdiction of juries, became, during the reign of George III., one of the great objects of the whig party, which was stimulated to agitate the question by the popular interest in it growing out of repeated prosecutions regarded as arbitrary. The enacting bill of Dowdeswell appears to have been chiefly the work

of Burke; it was introduced and defeated in 1770. But the great authority in support of the popular view of the libel law, was Lord Camden, chief justice of the common pleas, who strenuously maintained throughout his public career that the decision of the whole case, in libel suits, belonged to the jury. He lived to see his view vindicated in 1792, and that, not by an enacting law, but by the declaratory act of Mr. Fox, entitled "An act to remove doubts respecting the functions of juries in cases of libel." This act asserted that Lord Camden's view of the libel law had always been the correct one. The real freedom of the English newspaper press dates from its passage, 100 years after the abolition of the censorship. Previous to this declaratory act the theory of the English law, and, so far as juries would permit, its practice, was as laid down by Holt in the case of Tutchin, that to possess the people with an evil opinion of the government, that is, of the ministry, is a libel. A practical illustration of the meaning of the law was given as late as 1792, in the case of Sampson Perry, editor of the "Argus," who was tried and convicted of libel for saying in his paper that "the house of commons are not the real representatives of the people." This law rested upon the logic that there can be no reflection upon those who are in office under the king, without casting the like reflection upon the king, who employs them. Hence the deduction, that such a reflection was none the less a libel because it was true; and hence the final deduction, that the greater the truth the greater the libel. In the system of government which had been growing up in England this theory resulted in a legal bar to freedom of political discussion, because it was in effect a bar to the discussion of the acts, motives and general conduct of the parliamentary majority sustaining a king's ministry, and thus it practically barred any political discussion whatsoever by the newspaper press. The law of libel, up to the passage of this declaratory act, was merely a protection of the kingly prerogative, defended on that ground alone, and maintained by English jurists of high repute, long years after these prerogatives of the king which the libel law was framed to guard, had ceased to be regarded as a part of the English constitution. Lord Campbell's commentary upon the act of 1792 wholly sustains this view of the libel law made obsolête by that act. "Now that the mist of prejudice has cleared away," he says in his "Lives of the Chancellors" (vol. vii., p. 47), "I believe that English lawyers almost unanimously think that Lord Camden's view of the question was correct on strict legal principles; and that the act was properly made to *declare* the right of the jury to determine upon the character of the alleged libel, instead of *enacting* it as an innovation."—At the common law it remains an indictable offense to publish anything against the constitution of the country, or the established system of government. It was after the act of 1792 that Thomas Paine was indicted and found guilty of the publication of "The Rights of Man," notwithstanding the unsurpassed plea of Erskine for the liberty of the press, in his defense. Numerous similar prosecutions occurred during the French revolution and at later periods. If such governmental prosecutions of the press have practically ceased in Great Britain, it is not because the power to enforce them is not dormant in the common law. Desuetude, however, may be held to have abrogated the law. It remains an offense punishable by fine and imprisonment at common law to publish any attack upon the Christian religion. However inoffensive in language and purpose such an attack may be, it still remains, according to Mr. Justice Stephen, a blasphemous libel, notwithstanding the fact that the government of Great Britain long since ceased to hold that the dissentient from the creed of the established church is an enemy of the state and of religion. The modification of public opinion on this subject, running in parallel grooves with the changes that have taken place in the law of newspaper libel, is indicated by the proposition introduced by the government in 1881, as a part of the criminal code, which, when adopted, will remove this anomaly from British law. "No one is guilty of blasphemous libel," says this proposition, "for expressing in good faith and decent language, or attempting to establish by arguments used in good faith and conveyed in decent language, any opinion whatever upon any religious subject." This clause, when adopted, will convey no protection to men like the publisher of the "Free Thinker," who was convicted in 1883 of blasphemous libel, and sentenced to one year's imprisonment, for the publication of a paper outrageously caricaturing the Saviour. Similar prosecutions are now unknown in the United States.—Turning now to the relations of the government to the press in the United States, we find a different history, a fact largely due to the circumstance that the emancipation of the newspaper from government surveillance was practically effected in England before the American press had become a powerful element in the social and political life of this country. We have seen, however, that, in all the British-American colonies where the press appeared in the seventeenth century, the attempt was uniformly made to introduce the British system of rigid censorship. The general court of Massachusetts colony appointed two persons, in 1662, licensers of the press, and prohibited the publication of any books which should not be supervised by them. There was never under the jurisdiction of the star chamber, a more inquisitorial and intolerant censorship of the printing press than existed in this colony down to about 1725. This censorship put sudden end to the first journalistic enterprise in America; it imprisoned the printer, Fowle, on suspicion, reprimanded and imprisoned the plucky Franklin, and sought without success to supervise his newspaper. Even the laws were not at first published for general circulation. The magistrates

of Massachusetts, when compelled by popular demand to permit the publication of the general laws in 1649, did so under protest, alleging it "a hazardous experiment." There were numerous instances of the public burning of books, as offenders against public order. This was the fate of Eliot's volume in defense of unmixed principles of popular freedom, and Calef's book against Cotton Mather. The first printer in Virginia was summoned before Lord Culpepper in 1681, and compelled to enter into bonds "not to print anything hereafter until the king's pleasure shall be known." His offense had been the publication of the laws of a session of the assembly. In 1688, when Lord Effingham followed as governor of Virginia, he brought with him instructions from the ministry "to allow no person to use a printing press on any occasion whatever." From that date until 1729 no printing was allowed in Virginia; and from 1729 until ten years before the revolution, Virginia had but one printing press, and even that was known to be "too much under the control of the governor." But Virginia was not an exception as an illustration of the policy of the British government toward the colonial press. Down to the advent of revolutionary times the royal instructions to the governors of all the colonies continued to contain the clause invented in the time of the Stuarts and reading thus: "And forasmuch as great inconvenience may arise by the liberty of printing within our province, you are to provide by all necessary orders that no person keep any press for printing, nor that any pamphlet, book, or other matters whatsoever be printed without your special leave and license first obtained."—In the colony of Pennsylvania the predominating Quaker element showed the same intolerance of the printing press that distinguished the Puritans in New England. William Bradford, the first printer in the colony, was also the first man anywhere on the continent to maintain its freedom against arbitrary power. In 1689 a schism occurred between the governor and the people, in the course of which Bradford was induced to print the charter. Anticipating trouble, he did not put his name as printer upon the title page. He was immediately summoned before the governor and council, with a view to fixing upon him, by his own admission, the responsibility for the illegal act. Refusing to accuse himself, and denying the existence of an *imprimatur*, the governor informed him that he was *imprimatur*, that Penn had given "particular order for the suppressing of printing in his province;" and he was put under a bond of £500 to print nothing "save what the governor did allow of." Again, in 1792, during a quarrel between factions of the quakers, Bradford printed a tract, without his name attached, presenting the arguments of the faction out of power. He was arrested, and the sheriff, searching his office, took possession of his tools, types, and the form from which the obnoxious pamphlet had been printed. After a long confinement, Bradford's trial took place before two Quaker judges. Bradford conducted the defense in person, and managed it, says the contemporary account of David Paul Brown, "with a fearlessness, force, acuteness and skill which speak very highly for his intelligence and accurate conception of legal principles." Bradford insisted, in defense, that the jury should be permitted to be judges both as to the fact that he was the printer, and of the character of the publication, whether or not it was *seditious*, as alleged. Although the judges overruled this claim, it is worthy of attention, in the words of Bradford's biographer, John William Wallace, that "the father of the press in the middle colonies asserted in 1692, with a precision not since surpassed, a principle in the law of libel hardly then conceived anywhere, but which now protects every publication in much of our Union; a principle which English judges, after the struggles of the great whig chief justice and chancellor, Lord Camden, through his whole career, and of the brilliant declaimer, Mr. Erskine, were unable to reach; and which at a later day became finally established in England only by the enactment of Mr. Fox's libel bill in parliament itself." Gulian C. Verplanck has traced the origin of Mr. Fox's bill of 1792 directly to Bradford's position and efforts in this trial. The jury in the case failed to agree, and Bradford was returned to jail for trial at the next session of the court. In the meanwhile, Gov. Fletcher, of the colony of New York, being also governor of Pennsylvania, secured his release, and induced him to migrate to New York, where there was as yet no printing press. The assembly of the latter colony had voted in 1693 to allow the sum of £40 per annum to any printer who "will come and settle in the city of New York for the printing of our acts of assembly and publick papers," and "to have the benefit of his printing besides what serves the publick."—Arriving in New York, Bradford was at once appointed royal printer. This office of printer to the crown, which Bradford held under William and Mary, Queen Anne, George I. and George II., first appears in his case. The next successful assertion of the liberty of the press in America occurred in the colony of New York in 1735, in the famous trial of John Peter Zenger, editor and publisher of the "New York Journal," the organ of the popular party, and opposed to the administration of Gov. Cosby, which found a warm newspaper supporter in Bradford's paper. The columns of Zenger's "Journal" were filled with sharp gibes, satires and criticisms upon the government, in both prose and verse, undoubtedly libelous, and ultimately so annoying that he was arrested upon an information laid by the attorney general. The papers containing the "false, scandalous and seditious libels" complained of were ordered burned by the common hangman in the presence of the mayor and magistrates of the city, and Zenger lay nine months in prison before he could secure a trial. At the trial the judges refused to admit evidence intended to show the

truth of the libels, following the principle of law which had then recently been reaffirmed in England, in the case of Franklin for the publication of a libel in the "Craftsman." The defense was made by Andrew Hamilton, of Philadelphia, in a speech which is now classic as a vindication of the liberty of the press. Hamilton asserted the right of the jury to judge of the law and the facts, and in defiance of the peremptory charge of the court, a verdict of "not guilty" was returned. Remarkable demonstrations of popular approval greeted the verdict. Great importance is attached by historians to the influence of this trial upon the political destinies of America. Gouverneur Morris hailed it as "the dawn of that liberty which afterward revolutionized America." It was the last serious attempt made by the royal authorities to control the press of the colonies. Bancroft declares, that, in spite of the censorship which had existed and continued to be claimed, "the press in America was generally as free as in any part of the world." — In every colony, the breaking loose from England appears to have been accepted as abrogating inherited laws and customs which involved either censorship or the governmental scrutiny of the political utterances of the book or periodical press. As colony after colony organized state governments, the freedom of the press, under the restrictions which still obtain for the regulation and restraint of its utterances with respect to individuals, was recognized in the constitutions as a cardinal feature of free institutions. The bill of rights accompanying the constitution of Virginia (1776) declared "that the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments." The first constitution of Vermont (1777) declared that "The people have a right to freedom of speech and of printing and publishing their sentiments concerning the transactions of government, and therefore the freedom of the press ought not to be restrained." Similar declarations were made either in the constitutions or the bills of rights of New Hampshire, Massachusetts, Pennsylvania, North and South Carolina, Georgia and Maryland. In the subsequent modifications of the state constitutions, not one of the thirty-eight states has omitted a clause guaranteeing freedom of speech and of the press. These provisions vary in their explicitness, some of them including definitions and restrictions which in other states have been embodied in the statutory or common law. The most common form is that incorporated in the constitution of New York by the convention of 1821, as follows: "Every citizen may freely write, speak and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain the liberty of speech or of the press. In all prosecutions or indictments for libels, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted, and the jury shall have the right to determine the law and the fact." Several of the states, as Pennsylvania, Delaware and South Carolina, especially protect newspaper criticism upon public officers, the constitution of Pennsylvania reading as follows: "That the printing press shall be free to every one who undertakes to examine the proceedings of the legislature, or any branch of the government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the inviolable rights of man, and every citizen may freely write and print on any subject, being responsible for the abuse of that liberty. In the prosecutions for publication of papers investigating the official conduct of officers or men of public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels the jury shall have a right to determine the law and the facts, under the direction of the courts, as in other cases;" and to this was added, in the amended constitution of 1873, an important modification of phraseology, as follows: "No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury." It is clear that these provisions were inserted in the organic law of the states for the purpose of uprooting that doctrine of the English common law with which they are at variance, and which was not reversed in the mother country by Mr. Fox's libel bill until 1792. But in most of the states there ensued a protracted struggle, before the courts were driven to surrender the privilege, borrowed from the common law of England, of passing upon the question of the libelous character of a publication, leaving to the jury only the determination of the fact of publication. The press, as an agency in the determination of political questions, was still deprecated by public men. The constitutional convention of 1787 sat with closed doors, and the injunction of secrecy upon its members was never formally removed. The federal senate for a time followed this example, and the first open debate was had in 1798 on the occasion of the controversy over the right of Mr. Gallatin to a seat in that body. This broke the spell of deliberations in secret conclave, and it is noteworthy that the secret executive session which is still retained is a remnant of the custom thereafter abandoned with respect to legislative business. The federal constitution, as originally framed, contained no provision touching the freedom of the press, the proposition of Charles Pinckney, of South Carolina, that "the legislature of the United States shall pass no law touching or abridging the liberty of the press," having been ignored by the body which framed

the instrument. The omission was remedied by the first congress, which by way of amendment resolved that "congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances." The law of political libel in the United States may be said to have originated with the enactment of the sedition law, July 14, 1798. It was enacted while the federal government was yet new and untried, and many men feared that the breath of the heated party discussions which then absorbed the periodical press, might tumble the fabric about their heads. It is an historical fact that the men chiefly instrumental in giving its turn and tone to the American journalism of the period were of alien birth and without republican training. Among them were William Cobbett, James Thompson Callender, William Duane, Joseph Gales, and some twenty others, all of whom were attached to newspapers opposed to the administration of Adams and the federal party, and were conspicuous for the violence of their journalistic warfare. The sedition law had a direct tendency to produce the state of things it was passed to suppress. Its constitutionality was denied by the party opposed to the administration, and may well be questioned to-day, notwithstanding the fact, that, in several of the numerous trials which took place under it, this objection was decided in favor of the law; and inasmuch as it expired by its own limitation and was never repealed, the decisions in favor of its constitutionality may be said to have raised the presumption of such a right in congress with respect to the press of the several states. The unpopularity of the sedition act made it largely influential among the causes of the final overthrow of the federalists; and, in the words of Judge Cooley, "it is impossible to conceive at the present time of any such state of things as would be likely to bring about its re-enactment, or the passage of any similar repressive statute." Out of the bitter feelings excited by this act grew many retaliatory political libel suits in the state courts, the most important of which was that of the People *vs.* Croswell, in the supreme court of New York, Feb. 13, 1804. It was an indictment against Croswell for an alleged libel upon Jefferson, then president; and Chief Justice Morgan Lewis, who tried the case, rejected Croswell's offer to prove the truth of the charges in the libel, charging the jury that the question of libel or no libel was a question of law, a legal inference from the facts; that if the jury were satisfied that the defendant published the matter complained of, they ought to find him guilty; that the intent of the publisher, and whether the publication in question was libelous or not were to be decided exclusively by the court. Therefore it was not his duty to give any opinion to the jury upon those points. He cited the opinion of Lord Mansfield in the case of the Dean of St. Asaph, and declared that to be the law in the State of New York. The case was made famous, on appeal, by the strenuous effort to lift this judge-made common law of England from the jurisprudence of New York. Alexander Hamilton made the last, and in some respects the most brilliant, oratorical effort of his life, in denunciation of the assumption of the court, as grossly inconsistent with the genius of American institutions in relation to political publications. The court was evenly divided, and the opinion of the chief justice still stood as the law. It was on this occasion that Judge Kent, adopting the language of Alexander Hamilton, crystallized in a single sentence the doctrine of libel which is now accepted in all the states, so far as relates to political publications: "Nothing is a libel which is written and published from good motives and for justifiable ends; and to show this, the truth of the facts charged as libelous may be given in evidence, and this, whether against public measures, public officers or private citizens." The decision in the Croswell case led to the passage of a declaratory act, by the legislature of New York, requiring the judges to permit the truth to be given in evidence in all libel cases. Political press prosecutions, instituted by the government authorities, have since ceased altogether in the United States. That the federal government retains a latent control over the press is, however, the conclusion to be drawn from the action of that government during the late civil war, first, in excluding from the mails newspapers charged with treasonable utterances, and again, in the temporary suppression of various New York journals, and particularly the "World," for the publication of a forged proclamation of President Lincoln. The right of the government to tax newspapers was also asserted during the same war, by the internal revenue tax upon advertisements, which yielded in the years 1863–7, a total income of $980,089. — Thus, in England and the United States, which countries exhibit the most complete development of the liberty of the press, as well as the most astonishing growth of the press, the relations of the government and the newspaper have undergone a gradual reversal. "No sooner had the press been emancipated from government censorship," says Macaulay, "than the government itself fell under the censorship of the press." "The people of Great Britain," said Mr. Danvers, as early as 1737, "are governed by a power that never was heard of as a supreme authority in any age or country before. It is the government of the press." It is true, as declared by Lecky, in consequence of the liberty of political discussion legalized by the act of 1792, that "Nowhere else in free governments [the United States excepted] do we find so large an amount of power divorced from responsibility." But it is not true, as was predicted by Lord Thurlow and five peers who joined in his protest against the Fox bill, that the emancipation of the British press has resulted in "the confusion and destruction of the law of

England." On the contrary, the century of a free press in England has been conspicuous as her most law-abiding and intelligently progressive and reformatory century. It is not strictly true that the power of the press, resulting from its facilities for appealing directly to the popular passion or impulse, is an irresponsible power. The English common law still retains a hold upon the periodical press sufficient to restrain its freedom from developing into license. Hallam declares that the liberty of the English press consists merely in exemption from the licenser. De Lolme expresses the same view, as does also Blackstone, and it has been followed by American commentators of standard authority as embodying correctly the idea incorporated in the constitutional law of the United States by the provisions of the American bills of rights. (See Story on the Constitution, p. 1889; 2 Kent, 17 et seq.; Rawle on the Constitution, chap. 10.) This view of the law largely reduces the element of irresponsibility. The accountability of every newspaper is not only to the law but to its constituency. The value of its property depends wholly upon the favor of that constituency, and this favor must be retained by the steadfast pursuit of a general policy which commands some measure of popular approval. The multiplicity of newspapers still further reduces the dangers dreaded by Lord Thurlow. No one journal, nor any junta of journals, can control or regulate public opinion in given directions. There are journals enough, in both England and the United States, to advocate all sides of each recurring public question; and the sum of the controversial discussion of it is the enlightenment of public opinion to the true policy. Thus one newspaper neutralizes another, so far as to check an undue and irresponsible influencing of popular sentiment. It is a demonstrated fact in the history of the journalism of both countries, that the establishment of a newspaper devoted to the fortunes of one political party, in a particular town, is followed almost immediately by the establishment of a paper of the opposite political faith; and, as a rule, the town that can support one such party paper can supply nutriment enough for the other. It is thus the fact, due wholly to the development of journalism, that every public question is presented to the people from both points of view. The consequence is, that so far as the government is controlled by the people, the only effect of the press upon that people is to facilitate an enlightened judgment, by which the element of irresponsibility is reduced to the minimum. This remains the case, even though the temper of the press, in its discussions, may be, as it so frequently is, a bitterly partisan and prejudiced temper. — An even more important consideration, in estimating the effects of a free and untrammeled press upon the government of a nation, is the immeasurable increase of personal responsibility which its existence introduces and compels in the government itself. In the universal publicity which the existence of a free press necessitates, in all the acts and motives of the men intrusted with the power of the government, lies the surest attainable guarantee against the abuse of that power. It is this fact which Macaulay had in mind, when he insisted that the history of the English constitution from the seventeenth century may be compressed into the record of the struggles of the English press for its liberty. That history is identified at every stage with some phase of the popular demand for the enlargement of the rights of the individual citizen. The original denial of free and unlicensed printing was based upon the necessity, in a government by prerogative, of shutting out all inquiry as to the character and conduct of men in office, all investigation of errors or abuses in the laws or government of a nation. The whole tendency and effect of the old law of political libel—the common law which made it indictable to publish anything against the constitution of the country or its established system of government—was to deprive the people of the means of information as to the extent of their own rights and privileges, and the infringements made upon them by the mistakes or the misconduct of their rulers. All modern arbitrary governments have recognized the necessity of some method of intercommunication between the government and the people, by the publication of royal gazettes or official organs, in which is inserted no information save such as they deem it desirable, in their own interests, that the people should possess. The free press, wherever it has forced its way, has substituted for an irresponsible government by the prerogative, a government which must do its deeds in the light of day, and in the face of unintimidated criticism, and stand or fall by the verdict intelligently rendered. Except on rare occasions of great popular excitement, where the press does mischief by inflaming the passions of the hour, it is difficult to discover consequences of its freedom in political discussion which are not to the general advantage of the state. Reflecting and organizing public opinion, adding immensely to the facilities for co-operation, diffusing popular arguments with unparalleled rapidity over immense areas, repeating them day after day until they become familiar to all classes, watching with a sleepless vigilance for the slightest encroachments of power, and for the evidences of official dereliction, the periodical press has strengthened immeasurably the spirit and resources of liberty, and has made chimerical dangers which once seemed imminent. This is the general verdict of historians, one of the latest of whom, Mr. Lecky, declares: "The growth of the press as a great power in English politics is perhaps the most momentous of all the events of the eighteenth century. It is not too much to say that it has modified the political life as profoundly as steam in the present century has altered the economical condition of England. Of all the instruments human wisdom has devised, a free press is the most efficacious in putting an end

to jobs, abuses, political malversation and corruption. It is difficult to over-estimate its services as a means for the political education of the masses. Few persons will deny, that, in England at least, they outweigh the evils which the abuses of the press have produced. Whether they do so everywhere is less certain, and the magnitude of those evils is usually underrated by those who judge exclusively from English experience." The United States is certainly not the country to which this exception applies. Here, more than in England or elsewhere, where the whole fabric of the government is committed to the frequent arbitrament of universal suffrage, the importance of means for the wide and unrestricted diffusion of political intelligence, is beyond calculation, as has been many times demonstrated. At the same time it is proper to admit that the evils attending the political liberty of the press are greater here than elsewhere, and are serious enough to justify the profound apprehension they have excited in many quarters. But they are evils which are becoming less alarming as the press of the country grows in resources, in independence, in character and in influence. With this growth it becomes less dependent upon political connections, and therefore less virulent in its partisanship, less under the control of designing and ambitious men, less addicted to sensationalism, less liable to pander to the passions of the hour and the depraved tastes of the ignorant. In a country where the establishment of a newspaper is such a common and easy affair, it is to be expected that some newspapers will always exist whose conduct is not regulated by that scrupulous regard for private rights and the public well-being which has long distinguished the better class of American journals, and is developed to an admirable degree in the press of England. The nature of our political institutions and the fierceness of our party politics have always developed a greater freedom of personal reference, accompanied by a bitterness and vindictiveness of criticism, than is seen elsewhere. Of this, however, it is safe to say, that there is much less than existed in the early history of American newspapers, while the vulgar intrusion into private affairs, merely for the gratification of a prurient public taste for scandal, has long been confined to publications of no recognized standing in the community.—3. It remains to consider the relations of the newspaper press to individuals. The law of newspaper libel, as it exists in England and the United States today, is an outgrowth of the governmental censorship of the press, and it retains many features which had their origin in the principle that the press was an interloper, without any well-defined rights, such as inhere in other lines of business or professional occupation. It may be doubted if the newspaper, as such, has ever influenced the current of the common law in any particular important to the protection of newspaper publishers. In pointing out this fact, Judge Cooley says: "The railway has become the successor of the king's highway, and the plastic rules of the common law have accommodated themselves to the new condition of things; but the changes accomplished by the public press seem to have passed unnoticed in the law, and, save only where modifications have been made by statute or constitution, the publisher of the daily paper occupies to-day the same position in the courts that the village gossip and retailer of scandal occupied 200 years ago, with no more privilege, and no more protection." In the meanwhile, the newspaper press has become one of the chief necessities of our alert and commercial civilization. It bears its official relations to the government, national, state and local, and it comes nearer to the popular eye and heart than any other agency for influencing public opinion. In the main it recognizes the importance of these relations which have grown up between it and the communities it serves, and discharges the functions assigned it, with a dignity, sagacity, intelligence and enterprise not surpassed by laborers in any other field. But as the law of libel now stands, it is impossible to publish an allusion to an individual, in a record of events to which privilege is not extended, the inference from which is derogatory to that individual, which will not be construed as a technical libel in the courts of all the states, thus giving the complainant a standing in court, and placing upon the publisher the onus of proving the truth of his publication not only, but the absence of malicious or unworthy motive in making the publication. In criminal prosecutions for libel, under the old law, the truth was not in itself a sufficient excuse, the basis of the prosecution being that the libel was calculated to disturb the public peace, a liability assumed to be all the greater if the injurious charge was true. In civil suits to recover damages for libel, the truth, when pleaded and established, is now generally regarded as a complete defense, where it can also be shown that the publication was made from good motives and for justifiable ends. On the other hand, the burden of the decisions is, that malice is presumptive in publications the truth of which can not be established. The libel being false, the malice imputable from the act of publication is a part of the *res gestæ* from which the action arises. And this holds, whether the falsehood was the result of an inadvertence, error or mistake, or whether it originated with a reporter, a distant correspondent, or even when copied from another newspaper, with due acknowledgment of the source. These are some of the rulings which have made the law of libel particularly severe upon newspaper publishers. But it is the fact that the general disposition of juries is, in such cases, where the malice is a legal fiction, and not an actual fact, to deal leniently with the defendants. Verdicts of six cents damages are of common occurrence. The significance of these verdicts is, that while the publisher has been guilty of a technical libel, his guilt was done in innocence, and the plaintiff is therefore not entitled to smart money.

The present condition of the libel law undoubtedly encourages suits which are in the nature of blackmail or persecution; but the reputable press rarely suffers from these suits beyond the annoyance and expense of preparing for trial. Enough has been said to show that it is strictly true that no issue of the daily newspaper of the day can be free from a greater or less number of libels *per se*, that is to say, actionable publications, and still publish the current news of the day. The impossibility of avoiding that class of publications has had a tendency to make the press more careless than it ought to be, in the use of language and the form of assertion, and has made the public more lenient in its judgment of these daily violations of propriety. Some of the more noteworthy instances of the character of publications that have been held libelous, and of the circumstances under which the responsibility rests upon the publisher, may be given. It is no justification or excuse for a libel that the publisher of a newspaper does not personally know the person libeled; or that he did not personally know of the libel inserted in his paper previous to its publication. In a civil suit for libel the truth can not be given in evidence as a defense, unless under a special plea or notice of justification, "framed with the same degree of certainty and precision as is necessary in an indictment for the crime imputed." The justification must be as broad as the charge. It is not a justification of publishing rumors against a plaintiff, to prove that such rumors existed. Proving the truth of one out of several charges is not a justification. Each charge must be substantiated precisely as made. The publisher of an article is equally liable with the author, and an action may lie against either or both. It is no justification for libel, to give the authority for the statement. Where there is an ambiguity in an alleged libel, it is for the jury to determine whether the words were used of plaintiff, and in what sense they were used. A publication is not a libel, unless it reflects upon some particular person, who need not be named, but must be plainly pointed at. Business corporations may maintain actions for libel, the same as individuals, for words affecting their business or property, by alleging special damages. An imputation contained in the form of a question, *e. g.*, "Is H. the man who broke jail?" may be libelous. Criticisms upon works of art or literary productions are allowable, but they must be fair and temperate, and the author himself must not be criticised under cover of a criticism of his works, nor must it be assumed that because he seeks the favor of the public for his productions, he thereby makes his private character and conduct public property. This rule was established in the celebrated suits of Cooper the novelist. Publications which reflect upon the skill of professional men, whose business depends upon their reputation, entitle plaintiff to recover without proof of special damages. Vague charges against the character of public officers are libelous. Where a charge of corruption is made against any officer, it can only be sustained by proof of a specific act of corruption on the part of plaintiff. It is no justification to set up that certain honest men believe the allegation to be true. Such language regarding a member of congress, as "he is a fawning sycophant, a misrepresentative in congress, and a groveling office-seeker," has been held libelous. To charge a candidate for office with seeking that office from motives of private gain, is a libel. In a word, while the law justifies free criticism upon public officers and candidates for public office, the newspaper indulging them must be as careful in the use of words, and as specific in its proofs, in an attempt to justify, as though the individual libeled were a private citizen, Chief Justice Parsons, of Massachusetts, stated the case in this wise: "When a man shall consent to be a candidate for a public office conferred by the election of the people, he must be considered as putting his character in issue, so far as it may respect his fitness and qualifications for the office. Publications of the truth on this subject, with the honest intention of informing the people, are not a libel. For it would be unreasonable to conclude that the publication of truths, which it is for the interest of the public to know, should be an offense against their laws. * * For the same reason the publication of falsehood and calumny against public officers is an offense most dangerous to the people, and deserves punishment; because the people may be deceived, and reject the best citizens to their great injury, and, it may be, to the loss of their liberties." A subsequent publication of the newspaper, containing a recantation, if fair and explicit, is admissible in mitigation of damages. Such a publication, not retracting the libelous charge, but merely attempting to construe it in a different sense from that fairly imputable, has been held not admissible. The defendant can not give in evidence, in mitigation of damages, a former recovery of damages against him in favor of the same plaintiff, in another action for a libel which formed one of a series of numbers published in the same paper, and containing the libelous words charged in the declaration in the second suit. In disproving malice, though the plaintiff may give evidence of actual malice and vindictive motives on the part of defendant, the latter may rebut all presumption of actual malice by showing facts and circumstances which induced him to suppose the charge true when he made it. No facts of this kind can be shown, however, except such as were actually known to the defendant when he made the charge. Although the facts and circumstances which tend to disprove malice, by showing that the defendant, though mistaken, believed the charge true when made, may be given in evidence in mitigation of damages, nevertheless, if the facts and circumstances offered tend to establish the truth of the charge, or go toward making out a justification, they are inadmissible. The defense, failing in a pleading of justification, may rely upon the same evidence in mitigation.

All matters occurring after the publication of a libel, though they prove its truth, are inadmissible, These rulings do not apply to the class of publications which are described as privileged. It is settled that a fair and impartial account of judicial proceedings, which have not been *ex parte*, is a privileged publication. But any conclusion a newspaper may draw from the evidence in such a proceeding is not privileged. The report must also strictly conform to the actual proceedings in court, and must contain no defamatory comments, to be privileged. It is a well-settled rule that the publication of *ex parte* proceedings or preliminary examinations, although they may be of a judicial character, is not privileged. When they reflect injuriously upon individuals, the publisher derives no benefit from the fact of their having been already delivered in court, and must found his defense, not in the truth of the report, but in the truth of the charge conveyed in the report. The rule of privilege does not extend to any additions, editorial comments, or headlines, published in connection with judicial proceedings. The publication of a speech made by a convict at the time and place of execution, is not privileged, and if scandalous imputations are used, he who publishes them afterward must be responsible for the injury occasioned to the person attacked. Fair reports of the proceedings of a legislative body are absolutely privileged; but a privileged publication of this character, as well as of others, may be libelous, and the difference consists in the proof necessary to sustain the action. In privileged publications, good faith is presumed, and the plaintiff must not only show the publication, but also that the defendant, in making it, was governed by bad motives. Where actual malice is shown to exist, one who has published that which is *prima facie* privileged, has no privilege, although without this the publication would have been privileged and even justifiable. The definition of privileged publications is a more modern phase of the law of libel, and has been established by statute in most of the states. It is evident that the tendency of the courts is to somewhat extend the protection of privilege to newspapers; and that the relief which publishers seek from the onerous character of this law, as now interpreted, is to largely come from the enlargement of this privilege, in its bearing upon the ordinary business of newspaper publication. In a broader sense than the law implies, the general privilege of a newspaper has come to cover, in public opinion at least, the right to discuss public matters, and public men, as they are inseparably connected with these matters. News can not be printed with impunity, even when there is absence of malice; but the privilege of discussion extends to matters of government in all its grades; to the performance of official duty by all classes of public officers and agents; to courts, prisons, charities, public schools, to all means of transportation, even when in private hands; to all schemes and enterprises of a semi-public nature, which invite public favor and depend for success upon public confidence. But these discussions must be carried on in good faith, and within the limits of truth and fairness. The border line between that which is libelous and that which is not libelous is thus a vague and uncertain one, and the newspaper editor who would escape the constant liability to be brought into court in civil actions for damages, must exercise constant vigilance, caution and discretion. In the words of Chancellor Walworth, of New York, "the law recognizes no peculiar rights, privileges or claims to indulgence on the part of the conductors of the public press. They have no rights but such as are common to all. They have the right to publish the truth, but no right to publish falsehood to the injury of others, with impunity." —The actual effects of the law of libel, notwithstanding the severity of interpretation common on the bench, are not such as to tempt to frequent resort to it, in the vindication of private character. The pecuniary damage to the plaintiff's character is the matter in issue in all civil suits, and the latitude of cross-examination allowed on this account involves an ordeal which few men care to encounter. It is thus a fact, that, while the number and circulation of newspapers are inordinately increasing, libel suits are less frequent than formerly; and the number of criminal prosecutions for libel is likewise decreasing, for much the same reasons. — BIBLIOGRAPHY. The bibliography of typography is voluminous: it may be found in John F. Marthens' *Typographical Bibliography*, Pittsburgh, Pa., 1875. The bibliography of journalism is still limited, and the most important contributions to it are, in England, Alexander Andrews' *History of British Journalism, from the Foundation of the Newspaper Press to the Repeal of the Stamp Act in* 1855; F. Knight Hunt's *Fourth Estate: Contributions toward a History of Newspapers and the Liberty of the Press*, 1850; *The Newspaper Press: Its Origin, Progress and Present Position*, by James Grant, London, 1871; *A History of Advertising*, by Henry Sampson, London, 1874; C. Mitchell & Co.'s *Newspaper Press Directory*, published annually since 1846; May's *British and Irish Press Guide*, published annually since 1873; and in the United States, *A History of Printing in America to the Year* 1810, by Isaiah Thomas, Worcester, 1810, of which a second edition, with many notes and additions, under the direction of Samuel F. Haven, Nathaniel Paine and Joel Munsell, was published in 1874 by the American Antiquarian Society, of Worcester, Mass., in two volumes; *Journalism in the United States from* 1690 *to* 1872, by Frederic Hudson, New York, 1873; *Specimens of Newspaper Literature, with Memoirs and Reminiscences*, by Joseph T. Buckingham, two vols., Boston, 1852; *Personal Memoirs and Recollections of Editorial Life*, by the same, two vols., Boston, 1852; *Commemorative Address upon William Bradford*, by John William Wallace, Albany, 1863; *Andrew Bradford*, by Horatio Gates Jones, Philadelphia, 1869; *Newspapers and Newspaper Writers in New England*,

1787–1815, by Delano A. Goddard, Boston, 1808; *American Encyclopædia of Printing*, by J. Luther Ringwalt, Philadelphia, 1871; *Autobiography of Benjamin Franklin*, various editions; *Life of Horace Greeley*, by James Parton, Boston, 1869; *Henry J. Raymond and New York Journalism*, by Augustus J. Maverick, Hartford, 1870; *Schools of Journalism*, by Whitelaw Reid, New York, 1872; *Some Newspaper Tendencies*, by the same, New York, 1879; *Typographical Miscellany*, by Joel Munsell, Albany, 1856; *The Newspaper Record: A Complete List of Newspapers in the United States and Great Britain, with a Sketch of the Progress of American Journalism*, by W. T. Coggswell, Philadelphia, 1856; *The American Newspaper Directory*, by George P. Rowell & Co., annual since 1868; *The Newspaper Directory of the World*, by H. P. Hubbard, New Haven, 1882; also the *Special Report on the Newspaper Press* in the Tenth Census of the United States. Upon the relations of the press to government and the law, see John Milton's *Areopagitica, a Speech for the Liberty of Unlicensed Printing*, London, 1644; Macaulay's *History of England;* May's *Constitutional History of England*, chaps. 7, 9 and 10; Hallam's *Constitutional History of England;* De Lolme's *Constitution of England;* Cooley's *Constitutional Limitations in the United States*, in which will be found citations of libel cases in American courts. Upon the law of newspaper libel, see *Townshend on Libel; Shortt on Libel; Heard on Libel and Slander; Cooper on the Law of Libel and the Liberty of the Press; Holt on Libel; Starkie on Libel.*

S. N. D. NORTH.

PREVIOUS QUESTION. (See PARLIAMENTARY LAW.)

PRICES. The price of a commodity is its value in exchange, expressed in money. Courcelle-Seneuil rightly speaks of price as being one kind of value, as it is merely the value of any commodity compared with a certain quantity of a definite commodity. In a system of barter an article may have as many different prices as there are commodities with which it may be compared, as commodity is exchanged against commodity. But when the machinery of a monetary standard is employed, all values are measured and expressed in terms of that standard. Instead of exchanging a coat for a certain number of loaves of bread, of pounds of meat, or of days' labor, and thus roughly arriving at the value of the coat, its value is estimated in terms of the commodity which is at the time and place most current (money), and this is considered to be its value in exchange, its price. — Adam Smith believed that every article had two prices, a real and a nominal price. "The real price of everything, what everything really costs to the man who wants to acquire it, is the toil and trouble of acquiring it. * * Labor was the first price, the original purchase money that was paid for all things. * * Labor alone, therefore, never varying its own value, is alone the ultimate and real standard by which the real value of all commodities can at all times be estimated and compared: it is their real price; money is their nominal price." (Book i., chap. v.) He further discriminates between the natural and the market price of commodities. "When the price of any commodity is neither more nor less than what is sufficient to pay the rent of the land, the wages of the labor, and the profits of the stock employed in the raising, preparing and bringing to market, according to their natural [*i. e.*, the ordinary or average] rates, the commodity is then sold for what may be called its natural price. * * The actual price at which any commodity is commonly sold is called its market price. It may be either above, or below, or exactly the same with, its natural price. The market price of every particular commodity is regulated by the proportion between the quantity which is actually brought to the market and the demand of those who are willing to pay the natural price of the commodity. * * The natural price is, as it were, the central price, to which the prices of all commodities are continually gravitating. * * Whatever may be the obstacles which hinder them from settling in this centre of repose and continuance, they are constantly tending toward it." (Ibid., chap. vii.) — These few extracts from the "Wealth of Nations" embody the principal doctrines regarding prices; and the labors of economists who have come after Smith, have only elaborated these heads. What Smith terms the real price is nothing but the *value* of a commodity; the nominal price is what is now called the price, and the distinction he draws between natural and actual, is to-day expressed by the cost of producing the article and its market price. What he terms the nominal price, alone concerns us in this article, but this involves a discussion of natural and market prices. — In an article of this kind it would be impossible to give even a superficial history of prices, as they have from century to century been altered almost with every advance in civilization. Such a history would have to include a complete examination of the growth and movements of population, the various improvements in agricultural and manufacturing processes, the gradual increase in the wealth of the people, its division among them, the opportunities for transporting and marketing commodities, the laws which favor or restrict the power of capital to combine and to create monopolies, the regulations of trades unions which restrict the markets, the systems of taxation employed, the state of the currency, and a thousand other conditions, all of which may influence the prices not only of a single commodity, but even of all commodities. Out of this complexity it would be almost impossible to frame general laws regulating the fluctuations of prices, which may apply under all circumstances. But in a theoretical discussion of prices, certain principles, definite and in the main general in their application, may be laid down. It should, however, be understood, that, whatever

interferes with the free movement of labor or of capital, the free exchange of money or of commodities exerts an influence upon prices, preventing them from reaching their normal level. — The price of a commodity is determined by the relation between demand and supply. It must be obvious that the price of a commodity may vary widely, not only in different markets, but even in the same market. In order to simplify matters, we will suppose that there is but one market, and in that market the competition among buyers, and also among sellers, is so free that there can be but one price for the same commodity at a given time. The price is determined by the struggle of interests between buyers and sellers, and is subject to constant variation, but always tending to such a rate as will equalize the supply to the demand. For example, a certain quantity of a given commodity is in the market, and at a given price a number of buyers sufficient to consume all of this quantity will be found. Should the quantity offered, or the supply, be increased, without any increase in the number of buyers, there will be a certain quantity remaining unsold, and, in their eagerness to dispose of their stocks, the holders will lower their prices, bidding for custom against one another. This reduction in price is usually (some exceptions will be noted hereafter) followed by an increase in the number of buyers, as the commodity is now placed within the reach of a larger circle of customers; so that at the reduced price the demand may be equal to the supply, and as in the former case the whole of the stock may be disposed of. Or another contingency may arise. There may be a greater demand for a given commodity than the market is able to meet. In their eagerness to satisfy their wants, the buyers will bid against one another, and prices will rise. But with every rise in price, there will be some among the buyers who will be unwilling to pay the increased price, so that prices will rise until there is only such a number of buyers as will take the quantity of the commodity offered. Again are the supply and demand equalized, and this is the general law of prices. —But this supposes a market which has no existence in fact, an ideal market; and a somewhat cursory examination will show that there are an almost infinite number of circumstances acting and reacting among themselves to influence prices; that the commodities in a market do not possess an equal utility to man, some being necessary to his existence, others being consumed at pleasure, and therefore readily dispensed with; that a commodity may possess at one time a very different value from that which it has at another, and yet the conditions attending its production may have remained unchanged. For the present we will suppose that the value of money remains the same (which is by no means the case), and that any alteration in prices arises from some change in the commodity itself. Again, some variations in prices may be of a permanent and others of a temporary character. — Instead of saying that price depends upon the equalization of demand and supply, we may say that it is governed by the conditions of the market. "Originally," says Mr. Jevons, "a market was a public place in a town where provisions and other objects were exposed for sale; but the word has been generalized, so as to mean any body of persons who are in intimate business relations and carry on extensive transactions in any commodity. A great city may contain as many markets as there are important branches of trade, and these markets may or may not be localized. The central point of a market is the public exchange, mart or auction rooms, where the traders agree to meet and transact business. In London the stock market, the corn market, the coal market, the sugar market, and many others, are distinctly localized; in Manchester the cotton market, the cotton waste market, and others. But this distinction of locality is not necessary. The traders may be spread over a whole town, or region of country, and yet make a market, if they are, by means of fairs, meetings, published price lists, the postoffice, or otherwise, in close communication with each other." In the United States these markets are known as exchanges. (See EXCHANGES.) — These markets, standing between the producer and the consumer, and composed almost wholly of those whose sole occupation is to trade, tend to equalize prices. "The market price of many things is settled from day to day by the action of dealers rather than by that of producers. Many kinds of raw produce can only be produced at certain times of the year; and the immediate effect of a rise in the price of such things is not to increase the production of them, but simply to induce dealers to bring forward larger quantities for sale, and perhaps to import fresh supplies from distant places. If we go into any corn or wool or cotton market, we shall see dealers selling readily on one day, and holding back on another. The amount which each of them offers for sale at any price is governed by his calculations of the present and future conditions of the markets with which he is connected. There are some offers which no dealer would accept; some which no one would refuse. There is some price which will be accepted by those whose expectations of the future conditions of the market are least sanguine; but not by others. The higher the price that is bid, the larger will be the sales." The main purpose attained by these markets is to afford, as nearly as possible, a complete understanding of the relation between demand and supply at any given time; and prices are governed accordingly. In attempting, however, to anticipate a large demand or an increased supply, these traders are liable to error, and must suffer. They also may combine to buy up all the supply of a commodity, and then force prices up far above their normal level; but these attempts have no lasting effects, and although an abuse, are not sufficient to condemn these exchanges. — These traders, however, are merely middlemen, and act upon prices only; they can not increase directly the supply, nor govern the demand. They

are like a paper machine, which takes in at one end the pulp, and turns out at the other the paper. The machine can not increase the supply of pulp, nor can it make a greater amount of paper from the pulp; it can only work upon what is given to it. So that while exchanges exert an important influence upon prices, their action is rather determined by a set of outside conditions, which might exist were there no such localized markets. — As extreme examples may be mentioned the sudden fluctuations in prices caused by a demand that could not be foreseen. The price of all black cloths may in a public mourning reach a sum far above what they usually bring, and yet it would not increase production, as the demand would be merely of a temporary character, and not likely to happen soon again. During an eclipse bits of colored glass may be in demand and command high prices. But that is an accidental circumstance. On the other hand, by a change in fashion the demand for a certain class of goods may almost entirely cease, and prices fall to a ruinous rate. Such an event has recently happened to Irish poplin. — While ordinary variations in prices may be explained by the altered relations of supply and demand, yet in the long run the price of a commodity is determined by its cost of production. Below this cost the price may fall, but it at once sets in motion a series of events which tend to raise it. As there would be an excess of supply in such a case, when the price fell the producers would take steps to curtail their production, as they could not afford to produce at a loss for any length of time, until this excess had been disposed of, and the competition of buyers had again sent the price up sufficiently high to cover the cost of production. An artificial scarcity is, as it were, made to clear the market. Nor is the result any different when there is a deficiency in the supply. The increased prices offer high profits to producers, who increase as far as possible their own output, and capitalists are tempted to invest their funds in the manufacturer by the hope of reaping the high profit, so that in time the supply is again equal to the demand, and the price has fallen to its former rate. — In this discussion it has thus far been supposed that the supply is capable of varying indefinitely with the demand, which is not the case in fact. A new limitation must now be made. Commodities may roughly be classed, according to the manner of production, into three groups. The first will include all such as are strictly limited in quantity. In the second will be found those that are capable of being increased in number or in quantity, but at a continually increasing cost. The third group will include those that may be indefinitely produced at the same cost. Each of these classes or groups will require some notice. — 1. Where the supply of a commodity is strictly limited, and is not capable of being increased under any circumstances, it may be said that its value and price are determined by the demand. For example, the prices obtained for rare coins and curiosities, or the works of a deceased artist, may be enormous, but they are determined by what Adam Smith calls the higgling of the market, and are as legitimate as is the price paid for a bushel of wheat. That is to say, by the competition of the buyers they have been raised to such a point that the demand is limited to the supply. Mr. Fawcett, in such cases, divides the value of the article into two elements, absolute utility and difficulty of attainment, and both of these elements must be present whenever an article has an exchange value. "For an article, however difficult to obtain, can have no value unless it is capable either of supplying some want, or gratifying some desire; on the other hand, no article can possess exchange value, if it can be obtained without difficulty, although the article may be of prime necessity. * * Utility is, in fact, almost invariably only partially operative; this is the general rule, for the case may be regarded as a very rare exception when utility, as well as difficulty of attainment, both exert their full influence upon the price of an article. When such a case does occur, the purchaser of a commodity is guided in the price which he offers for it, solely and entirely by the consideration of the use he expects to derive from the article. This can only happen when the supply of a commodity is absolutely limited." (Book iii., chap. ii.) The same principle has been expressed by Marshall ("Economics of Industry") in what he calls the "law of demand": "The price of a commodity measures its final utility to each purchaser; that is, the value in use to him of that portion of it which is only just worth his while to buy." — 2. In commodities of the second class an increased demand can only be supplied at an increased cost. As representative of this group may be instanced agricultural products. In an old country where the land is limited in quantity, a new demand for wheat (as an example) can be met only by a resort to uncultivated lands, or by increasing the yield of those already under cultivation. It must be obvious, that at a given time all lands that are fitted to grow wheat and return the average profit to the cultivator, will be turned to that use. So that in resorting to new land, it must bring under cultivation land of an inferior quality, or situated remote from the markets, that will yield a less average product to the tiller. The cost of producing the wheat that is grown on these poor lands will determine the price of all wheat. That is to say, while wheat may have as many different costs of production as there are qualities of land, its price is determined by the cost of producing it under the least advantageous circumstances. To secure the fertility of a given piece of land already under cultivation, additional labor and capital must be expended upon it. But after a certain period the returns obtained are not commensurate with the additional expense incurred; after a certain amount of capital has been applied to land every increase in produce is secured by a more than proportionate increase of capital. Such an investment of capital must follow, just

as a resort to an inferior quality of lands precedes and enforces a rise in the price of the product. The general tendency, therefore, of the prices of agricultural produce, is in the long run to increase. This same principle applies also to mining operations, as mineral deposits are limited. Of course the opening up of vast extents of unoccupied and fertile soil, or the discovery of new and productive mines, may not only counteract this tendency of prices to rise, but may even produce a fall, by offering very much greater advantages than existed before. The application of improved processes to agriculture, both such as enable the land to yield a greater absolute produce, without an equivalent increase of labor, and such as diminish the amount of labor and expense of obtaining a given produce, may prevent a rise in the price of the produce. Mining operations are more susceptible of mechanical improvement than agricultural, and therefore the antagonizing agency against a permanent rise in the prices of mineral products is more active than in agriculture. The law of diminishing returns, that natural agents that are limited in quantity are also limited in their productive power, but that long before that power is stretched to the utmost they yield to any additional demands on progressively harder terms, holds true, as it is only suspended, not annulled, by improvements in the arts of production. (Mill.)—Agriculture has been able to profit least by the important advances made in recent times, and consequently there are not such active forces to counteract the tendency for the prices of agricultural products to increase, as there exist in purely industrial operations. The principle of a division of employments can be applied only to a limited extent in the cultivation of land, and the introduction of machinery is not followed by that wonderful increase which accompanies its use in manufactures. The land possesses a certain fertility, which becomes exhausted as successive crops are taken from it, unless it is renewed. At the beginning of the eighteenth century it was a common usage to grow successive crops of white corn until the land was utterly exhausted, when it was left to recruit itself by resting in a state of nature, while other portions were undergoing the same process. The practice of fallowing annually a portion of the arable land, and of interposing a crop of peas between cereal crops, was even then becoming common, and at a later period green crops, such as turnips, clover and rye grass, were alternated with grain crops. This rotation of crops increased the capacity of the soil, and the improvements in the breeding of live stock, the preparation of artificial manures, and the application of better methods to the cultivation of the land, were reflected in the increased productiveness of the soil. These steps have required a great outlay of capital, and if the laws prohibiting or restricting the importation of agricultural produce had not been repealed, England could not have obtained sufficient food for her population from her own soil, and what wheat she did grow would have sold at famine prices. In spite of these many advances in practical agriculture, the average yield per acre in England has steadily diminished. While it was 29.3 bushels during the decade 1849–58, in the following ten years it was 29.1 bushels, between 1869–78 only 25.6 bushels, and in 1879 it had fallen to but 16 bushels. Mr. Laird then wrote that, "In the United Kingdom we appear to have approached a point in agricultural production beyond which capital can be otherwise more profitably laid out than in further attempting to force our poorer classes of soils." It had become cheaper to take the surplus production of Russia, India and the United States, and the tendency of the price of wheat to rise was thus checked. — It is said that rent does not enter into the expenses of production, because the price of a commodity is regulated by the expenses of producing that portion which is raised under the most unfavorable existing circumstances. For example, the price of wheat is governed by the cost of growing a bushel upon the poorest quality of land cultivated, so poor that it can not and does not pay rent. So that if rent, which is but the surplus produced by the better lands over this margin of cultivation, as fixed by the poorest lands, were abolished, the price of grain would remain unchanged. This was Ricardo's theory, and, if properly understood, is true. That is to say, rent does not make price, but price, rent. If a demand for grain arises, and the increased price will enable lands hitherto not capable of growing wheat and returning the expenses of production to be cultivated, the rent of all other more productive lands will rise. The increased price of grain has extended the margin of cultivation, and rents have been increased. The same principle applies also to manufactures. But in estimating the cost of producing or manufacturing, or even selling, any product, rent must be included as a factor. When water power was chiefly used in manufactures, the sites where water power was to be obtained, were sought and commanded high rents. The most available business sites in a city are soon occupied, and may command almost fabulous prices. The farmer who pays rent for a certain piece of soil can not compete successfully with another who owns, or hires at a lower rent, land of a like degree of fertility; and for this reason, the wheat growers of England, who have to pay high rents for their land, can not contend against wheat grown in America by farmers who obtain rich lands for a mere trifle. — But as land is limited in quantity, while population and the demand for land are continually increasing, the price of land and also the rent of land rise. An examination into the price of land in France showed that the average price per hectare had been quadrupled since 1789, tripled since 1815, and doubled since the first years of the rule of Louis Philippe. As regards rents, little that is definite can be said. In France it is estimated that in rural districts the rents of agricultural lands are about 3 per cent. of their value,

being governed almost entirely by the returns the land will make to the tenants. In large towns and cities they may be as high as 20 per cent. of the value of the land, as the most available business sites may command that rent, and yet allow the full rate of profit to the tenant. Some agricultural lands, such as are fitted to produce certain vines giving a peculiar wine, may also command what appear to be exorbitant rents. It may even happen that the price of land and of rents diminish, as, for example, in small villages which are drained of their population by a neighboring large city. Such cases are, however, not so frequent as to affect the general tendency of prices with respect to land. — Of commodities in the third group, that is, such as may be increased to an almost unlimited extent without an increase in their cost, manufactures may be said to form a large part. As most manufactures, however, consume articles that are the produce of the soil, it might be supposed that they would follow the laws governing the value of those articles. This is in a measure true, but only to a limited extent. The value of an agricultural or mineral product lies almost wholly in the value of the raw material, the labor expended being merely one of appropriation. Any increase in the difficulty of obtaining the raw material is added, to its full extent, to its cost. It is not so with a manufacture. Here there are three elements, or factors, which enter into the price of the finished product: 1, the cost of the raw material; 2, the plant necessary to carry on the process of manufacture; and 3, the labor employed. Of these three factors the cost of the raw material plays the least important part, and a fluctuation in its price must be a great one to be felt in the product. For example, a rise of 20 per cent. in the price of flax would not cause the price of linen cloth to rise as much as 5 per cent. An increased demand for a manufacture, as a rule, affects only the price of the raw material. There may be, and generally is, an increase in the price of the finished product when the demand is greater than the supply. But this increase is only temporary, and is corrected by the increased production which follows the extension of works by the introduction of new capital. There need not necessarily, therefore, result any permanent increase in the cost of production, and consequently in price, save as respects that which follows the rise in price of the raw material used in the manufacture, and this is generally so small as to be inappreciable. In this group of commodities the price more nearly approximates to the actual cost of production than in the first and second groups, as the competition among manufacturers is more active. — It may even happen that in the face of a greatly increased demand the prices of manufactured products may fall. In our former position we assumed that no increase in the cost of the necessary plant or of the labor employed was occasioned by such an alteration in the demand. The cost of production may be lessened. This follows from the increased productiveness that may be caused by conducting manufacturing operations on a large scale, as it allows a more complete division of employments, thereby causing a greater degree of skill in the labor, a saving in the material, and an economy in many of the processes and methods. As the extent to which this saving process may be carried depends upon the extent of the market, and as the market is, in the case of commodities that are necessary or even of voluntary consumption, enlarged by a reduction in the price, which brings them within the reach of a wider circle of buyers, there is practically no limit to which the price may not attain. Through improvements in machinery and processes of manufacture the price of the product may fall as the enlarging of the market offers new opportunities for applying such improvements. Should, however, a marked rise in wages occur, the cost of production is increased and the price of the manufacture generally follows, but this is neither a usual nor a lasting result. — General prices have their periods of ebb and flow, rising at one time and falling at another, according to the general conditions of trade and industry. These general movements have a certain periodicity, rising until checked by a financial or commercial crisis, and then falling until again raised by a new demand. Thus, the years 1837, 1847, 1857, 1866 and 1873 were marked by extremely high prices, but they were succeeded by years of falling prices. "When trade is good, a state of things is created in which a downward movement of prices is sooner or later inevitable. A great stimulus has been given to production in certain favorite industries; capital has been employed in creating new establishments, or in extending fixed works and plant; laborers have flocked into the trade, attracted by high wages; at a point the demand is found to be below the supply, the prices of the manufactured article become unremunerative, and in time the raw material and labor employed in the trade are at a discount. The fall is precipitated, moreover, by the inability of speculative holders of stocks to hold on in the face of falling markets. At each new stage of the decline new sales become necessary, till there is apparently no limit to the fall, just as before there seemed to be no limit to the rise. By sympathy almost all markets come to be affected, the low prices in one market attracting capital to it, and so weakening other markets, while speculators who are hit in one department of trade seek to cover their losses by sales of some commodity or stock which has not depreciated." (Giffen.) — This course of events may be illustrated by an example. The year 1873 marked the culmination of an era of great speculation and inflated prices. During the following six years, or until 1879, the depression of trade and industry became more and more aggravated, and was accompanied by a gradual fall in prices. This will be shown by the following table:

ARTICLES.	Jan., 1878.			Jan., 1879.			Per Ct. of Fall.
	£	s.	d.	£	s.	d.	
Pig iron .....per ton	6	7	0	2	3	0	66
Coals ..... "	1	10	0	0	19	0	37
Copper ..... "	91	0	0	57	0	0	37
Wheat ....per qr.	2	15	11	1	19	7	29
Flour .....per sack	2	7	6	1	17	0	22
Beef, prime.....per 8 lbs.	0	5	3	0	4	9	10
Cotton .....per lb.	0	0	10	0	0	5½	46
Wool .....per pack	23	0	0	13	0	0	43
Sugar .....per cwt.	1	1	6	0	16	0	26
Coffee ..... "	4	0	0	3	5	0	19
Saltpetre ..... "	1	9	0	0	19	0	34

It will be noted that the fall in the price of food products was relatively less than of manufactures and raw materials of manufactures. — As 1873 was the period of maximum inflation, so 1879 was the year of greatest depression. In that year, however, a reaction occurred, and was marked in this country by a great revival in the construction of railroads, which resulted in a great increase in the demand for iron and steel. So great was the demand that production could not for some time meet it, and the course of prices in the iron trade during the last four years (1879–83) will afford a very good example of the manner in which the supply and demand are equalized, in accordance with the law we have already described. — At the beginning of 1879, pig iron was selling at about $18 per ton. The sudden demand was such that neither domestic production nor importations of foreign iron were able to satisfy it, and in February, 1880, the price had risen to $41 per ton. This exceptional condition could not, however, continue for any length of time, as the promise of rich profits induced the blowing in of all furnaces that had remained idle during the long period of depression, and gave a stimulus to investments in new blast furnaces. In April, 1879, but 241 furnaces were in blast; one year later the number had increased to 431; at the same time in 1881, to 453, and in 1882, to 457. Meanwhile, however, the supply was being adjusted to the demand. During the years 1880–82 there were laid 27,875 miles of new lines, but the mileage laid down was already beginning to be less, and new enterprises were slowly taken up by capitalists. This decrease in the construction of railroads was reflected in the demand for iron and steel. While the price of pig iron was, in February, 1880, $41 per ton, the average price for the year was $28.50; for 1881, $25.12, and for 1882, $25.75; showing that the vastly increased production was bringing prices to a normal condition. During the first six months of 1883 the high rate of production was maintained, but in the face of a continually diminishing demand, so that prices fell to $20 per ton, and less. The producers then commenced to restrict their output, and furnaces were closed, so that while in April, 1882, there were 457 furnaces in blast, in April, 1883, there were only 375, and many others were on the point of shutting down. In time conditions will again be equalized and production resumed. — The fluctuation in prices must vary widely according as they apply to commodities that are necessary to support life, or to those which may be dispensed with. For example, food is essential to existence, and any deficiency will produce an alteration in price out of all proportion to the amount of the deficiency. Men must have food, and a certain quantity of it; it has been noted that the consumption of food of men in easy circumstances does not differ widely in times of abundance and of dearth. If the price of food rises, they curtail their expenditures in other directions, so that a scarcity of food is very apt to be accompanied by a general prostration of industry, and the only trade that thrives is that which deals in food products. The fluctuations that occur in the price of food have a very wide range, and are great even when there is no famine or real dearth. At the conclusion of the seventeenth century, Gregory King estimated that a deficiency in the harvest would raise the price of corn in the following proportions: A deficit of one-tenth would raise the price above the common rate three-tenths; a deficit of two-tenths would raise it eight-tenths; of three-tenths, one and six-tenths; of four-tenths, two and eight-tenths; and of five-tenths, four and five-tenths. (Quoted in Davenant's Works, vol. ii., p. 224.) In a famine there is no limit to prices of food save the ability of the consumers to buy. Whatever affects the supply of grain (taking this as a representative article of general and necessary consumption) will be reflected in prices, and prices will vary in a ratio very different from the variation in quantity. Mr. Tooke observes that the price of corn in England has repeatedly risen from 100 to 200 per cent. and upward, when the utmost computed deficiency of the crops has not been more than between one-sixth and one-third of an average. The cause of this is not difficult to determine. At the time he wrote, there were laws which prohibited, except under certain conditions, the importation of corn into England, and the home crop was chiefly depended upon. Agriculture is, however, most uncertain, and until the harvest is actually secured, it is as likely to be deficient or to fail utterly through meteorological influences which it is beyond the power of man to control. A deficiency, whether it really exists or is only apprehended, becomes under such circumstances a serious matter, and, being exaggerated, forces the price beyond what is justified by the facts. "The more the mere forces of nature preponderate in production, the less can the supply be increased or decreased at pleasure; the more frequently, as a consequence, do we find monopoly prices. Thus, the production of wheat is invariably connected with the order of the seasons. Between seed-time and harvest, there are a number of months which neither capital nor skill can shorten to any extent. The cultivation of land, to be very much greater and more lasting, supposes so many conditions precedent, increase of live stock, buildings, etc., that it can be attained only after a series of years. Hence it happens that wheat, much more than manufactured prod-

ucts, is subject to oppressively high and to oppressively low prices, during a long period of time. No matter what the influence of the forces operating in the opposite direction may be, the price of wheat depends most largely on the result of the last crop." (Roscher, "Political Economy," cxii.) These violent fluctuations are, however, corrected in proportion to the extension of the market. Wheat varies in price much less now when there are three great wheat exporting countries, Russia, India and the United States, than it did when there was but one. — As regards manufactures, while, as we have already seen, there may occur violent fluctuations in price by reason of a sudden demand, yet they are soon corrected by an increased supply, as capital and labor may be had to almost any extent. — It is hardly necessary to more than note the great influence which the cost of transportation has on prices, and how great changes have been produced by every improvement in the means of carrying commodities from the place of production to the place of consumption. — Among the many circumstances that may artificially affect prices may be mentioned the attempt to determine them by law. "Fixed prices by governmental authority were soonest attempted after bad harvests." Nor was the attempt confined to articles of necessity, for the rate of wages has also been subject to such measures. As prices are governed by a number of conditions over which the law can have no control, such ill-considered efforts are worse than useless, because, by interfering with natural conditions, they may work great mischief. A curious survival of these laws, which are to be met with in the history of all nations, lies in the usury laws, which attempt to fix a limit to the rate of interest. — There are, however, other circumstances that may artificially raise prices. For example, there may not exist free competition among producers, but one or a limited number may alone have the power of producing or of selling the commodity. A man may possess, say, all the available mines of a certain metal, and this will enable him to fix his own price; a patent may confer the same power upon an inventor or one who disposes of the patented article. In such cases the price depends upon the ability of the purchaser, and also upon the position of the vender. If he holds a complete monopoly, he may almost fix his own price; but if at a certain limit, competition may be called out, he must make his price below this limit if he intends to reap the full profit. In either case the price is a monopoly price. Caprice or fashion may for a time succeed in forcing prices far above their normal level. The price of false hair was enormously increased during the time when fashion dictated the wearing of enormous masses of hair grown by others than the wearer. In time of war the supply of some commodity may be partially or wholly shut off, and almost fabulous prices may be the result. The price of cotton was quadrupled during the rebellion, on account of the blockading of the principal southern ports, and for a time a veritable famine in cotton existed. Or the ravages of disease or of insects may produce a scarcity. The price of wine in France attained the highest limit when the oïdium ravaged the vines. — It has been assumed that the value of gold and silver, the currency in which prices are expressed, remains unaltered. We must now consider the effects of changes in the value or purchasing power of the circulating medium. The value of the precious metals is governed by the same laws which regulate the value of other commodities, and in the long run depends upon the cost of production. Being, moreover, products of the earth, their supply is in any one district limited, and an increased quantity can be secured only with a greater expenditure of labor and capital, and consequently at a greater cost. They belong, therefore, in the second group of commodities. This tendency, however, of the value of gold and silver from time to time to increase, has been counteracted by the discovery of new and productive mines, and in some cases the supply has been so much increased that a marked fall in prices has resulted. The value of money is determined by comparing it with other commodities. If at one period a yard of cotton cloth is worth fifty cents, and at another only twenty-five cents, two things may have happened. Either the cost of producing the cloth may have been decreased to that extent, or the purchasing power of money has been increased. In the first case, the value of the cloth, as compared with other commodities and with gold, will have fallen; and in the second, the value of the cloth, as compared with other commodities, may have remained unchanged, and it has changed only as regards gold. In this latter case the value of gold will have been altered, and as it measures the value of all other commodities, their prices will also be changed. A general rise or a general fall in prices is due to a change in the value of money. Hence the value of money varies inversely with general prices, rising as they fall, and falling as they rise. — The value of money varies with the supply, like the value of any other commodity. If the exchanges of a community remain unchanged in quantity, by doubling the amount of money in circulation, general prices would also be doubled; by halving it, prices would fall one-half. "The value of money, other things being the same, varies inversely as its quantity; every increase of quantity lowering the value, and every diminution raising it, in a ratio exactly equivalent." (Mill.) In order that this law may be true, we must suppose that gold and silver alone constitute the currency, and that credit in no form is used. Credit has, without regard to the form it may take, exactly the same purchasing power with money; and an exercise of the credit power has the same effect upon prices as would an equal amount of money, because prices depend upon purchases. "By far the most powerful influence exerted by credit on prices is caused by increasing

the purchasing power of the country. If it were not for credit, the demand for commodities would frequently be much less than it is. In fact, when credit is freely given, the demand for a commodity may increase without any assignable limits; when the demand is so stimulated, prices may temporarily rise in a very striking manner. We lay particular stress upon the word 'temporarily,' because, as frequently stated, the price of all commodities, except those whose supply is absolutely limited, must always in the long run be regulated by their cost of production. But although cost of production determines a point toward which the prices of commodities must ultimately have a tendency to approach, yet the prices of commodities may temporarily either very much fall short of their cost of production, or be greatly in excess of it. These variations in price are due to sudden fluctuations in the demand and supply of any particular commodity; nothing exerts so powerful an influence in producing these fluctuations as an extended system of credit. If no credit were given, and if everything were consequently paid for by money directly it was purchased, there would be little speculation; commodities would generally be bought as they were wanted; everything connected with trade would be regular and uniform, and there would be no great variations in the demand." (Fawcett.) "Money and credit," says Mill, "are exactly on a par, in their effect on prices." — Any event which largely increases the amount of money in circulation will alter its value, and cause prices to vary. In ancient times, when large stocks of gold and silver were hoarded by the state, or in the temples, or by private individuals, the opening of such reservoirs produced great revolutions in prices, but the effects were almost wholly local. In modern times such revolutions have been caused by the discovery and working of large deposits of gold or silver. Thus, about the beginning of the sixteenth century the mines of Peru, and later on, of Mexico, began to pour their products into the lap of Europe. Humboldt estimates that the annual export of gold and silver from America to Europe, between 1492 and 1500, amounted to 250,000 piastres; between 1500 and 1545 to 3,000,000; and from that time to 1600, to 11,000,000. According to the same authority, Europe, before the time of Columbus, had a circulation of 170,000,000 piastres; about 1600, of 600,000,000. A rapid depreciation in the value of money occurred in this period. The prices of rye in Saxony from 1525 to 1550 were twice as high as from 1475 to 1500. According to Garnier, the French prices of wheat, from 1450 to 1500, were on an average 4.08 francs of the present price per *setier:* from 1501 to 1520, 5 francs; from 1522 to 1540, 11.26 francs; from 1541 to 1560, 11.69 francs; from 1561 to 1580, 21.33 francs; and from 1581 to 1600, 32.51 francs. In England the price of wheat from 1560 to 1600 was 2.64 times as high as from 1450 to 1500. According to the French writer Mantellier, the purchasing power of silver, as compared with the average value of twenty-seven commodities, assuming it to have been 1.0 from 1750 to 1850, was 2.9 from 1350 to 1450; 2.8 from 1450 to 1550; and 1.5 from 1550 to 1650. Mr. Tooke says ("History of Prices," vol. vi., p. 232), that "no rise in prices can be discovered until 1570, fifty years after the entry of the Spaniards into Mexico, and almost thirty years after the discovery of the Potosi silver mine in Mexico." But the figures we have just quoted show that the purchasing power of silver had begun to decline even before the supply from America could have produced any effect. Roscher attributes the fall in the value of money to the fact that at this period in many nations there was a "transition from a sluggish circulation of money, made still more sluggish by the custom which everywhere prevailed of hoarding treasure, to a rapid circulation, which was made still more rapid by the use of all kinds of substitutes for money. Adam Smith believed that till 1570 the value of silver did not fall, but an historical table of English coins would show that a great change occurred between 1546 and 1551; for while the ratio of gold to silver in the former year was as 1 to 5, in the latter it was 1 to 11, and in 1626 had become 1 to 13.3. It is known that from 1570 to 1640 the purchasing power of silver fell rapidly, and the ultimate range of prices was reached in 1640. Alison ("History of Europe") sees important consequences attending the increased supply of money. "The annual supply of the precious metal for the use of the globe was tripled; before a century had expired, the prices of every species of produce were quadrupled. The weight of debt and taxes incensibly wore off under the influence of that prodigious increase; in the renovation of industry, the relations of society were changed; the weight of feudalism cast off; the rights of man established. Among the many concurring causes which conspired to bring about this mighty consummation, the most important though hitherto the least observed, was the discovery of Mexico and Peru." And Mr. Cairnes declared that the new supplies of gold and silver "supplied and rendered possible the remarkable expansion of oriental trade, which forms the most striking commercial fact of the age that followed." ("Essays in Political Economy," p. 110.) On the other hand, it was followed by much misery and hardship. "So rapid was the fall, so great the disturbance of trade and industry that followed, so wholesale the reduction in the value of fixed incomes and permanent charges, that widespread distress and much permanent pauperism resulted. * * Mr. Jacob attributes to the overwhelming changes in the purchase power of money, at this period, that sudden increase of pauperism which gave occasion for the establishment of the English poor laws, and those financial embarrassments of Charles I. which led to the great rebellion. Instead of a slow and gradual diminution of the weight of indebtedness, debts were, in many cases, almost confiscated by the rapid depreciation of the money in which they

were to be paid. The creditor class was very generally impoverished, if not hopelessly ruined." (Walker, "Money," p. 136.)—From 1640 the value of money appears to have been quite stationary. During the seventeenth century the annual export of gold and silver from America to Europe was, according to Humboldt, about 16,000,000 piastres; during the first half of the eighteenth century it was 22,500,000, and during the second half, 35,300,000. He estimated that in 1700 Europe had a circulation of 1,400,000,000 piastres; and in 1809, 1,824,000,000. But in spite of these increased supplies the variations of price are rather to be attributed to alterations in the commodities themselves, and not to changes in the value of money. Mr. Jevons believed that the value of gold did undergo extensive variations during the latter part of this period. "Between 1789 and 1809 it fell in the ratio of 100 to 54, or by 46 per cent. From 1809 to 1849 it rose again in the ratio of 100 to 245, or by 145 per cent." ("Journal Statistical Society," June, 1865.) And there are other facts which would prove that there was an extensive disturbance of values at that time. Roscher attributes the fall in value to the restrictions imposed by the war upon the free circulation of commodities, and the rise which occurred 1818–48 to the removal of these restrictions.—In 1848 large deposits of gold were discovered in California, and three years later in Australia. The Mexican and Peruvian deposits were chiefly of silver, but the produce of these new mines was largely gold. At about the same time the Russian gold mines became very productive. At once a panic arose in Europe over the results that must flow from such a vast increase in the supply. M. Chevalier in France recommended the adoption of a single standard of silver in that country, and his work was translated by Mr. Cobden in England. But the best examination into the effects of the new discoveries is to be found in Mr. Cairnes' "Essays on Political Economy," to which we must refer our readers. Mr. Rogers says that it is calculated that, between the years 1848–68, gold valued at £657,000,000, and silver at £345,000,000, were added to the stock of the precious metals of the world. A goodly share of the silver has been absorbed by India and China, the "London Economist" estimating that, between 1858 and 1872, upward of £90,000,000 was sent to those countries. As to the real effect of these discoveries on general prices little is known. Mr. Jevons believes that the value of gold fell at least 20 per cent. between 1849 and 1874. As compared with silver, its value did not materially alter between 1850 and 1866. The discovery of large deposits of silver in the United States caused the price of silver to fall, and the fall was accelerated by its demonetization in Germany and the Scandinavian countries in 1872–3. So that, while the ratio of gold to silver was, in 1867, 1 to 15.57, in 1878 it had become 1 to 18. Such was the expansion of trade and the increase in the uses for money during the period that has elapsed since the Californian and Australian mines were opened, that it may be doubted if there has been so great a variation in prices as Mr. Jevons imagines. And as a proof of this, it may be noted that during the last few years a number of economists have raised a cry of a scarcity of gold, that its value is appreciating, and prices of commodities are tending downward. (See Giffen, "Essays in Finance," and the files of the "London Economist" during the last four years.) An exceedingly valuable essay upon the "Distribution and Value of the Precious Metals in the Sixteenth and Nineteenth Centuries," by Prof. T. E. Cliffe Leslie, will be found in "Macmillan's Magazine," August, 1864.—Prices under an inconvertible paper currency, whose value is always purely arbitrary, may reach almost any limit.—Of prices in the United States, little study has ever been made. In colonial times prices fluctuated widely, and indeed until long after the revolution. This was due, not so much to the scarcity of money, as to the almost total absence of a market, which is at once an incentive to production and a regulator of price. The scarcity of money led to the regulation of prices of labor by law, and also to a resort to wampumpeag, or shell money, and a barter currency. Silver prices fell enormously, and there were many complaints. The crops were limited and uncertain, and until 1641 there was little or no trading. In that year New England commenced to build up her carrying trade, and in 1652 was enabled to establish a mint, the pine tree shilling then coined becoming the standard of value. The barter currency was still maintained, as was also the wampum, so that silver was exported. In time, paper issues were resorted to, at first under such limitations as to prevent depreciation, but later excessive issues were made. Every change affected prices in the same way that like restrictions affect them to-day. Numberless laws were passed with the intention of preserving a balance between the prices of labor and merchandise and the currency, but to no purpose. "Whereas there hath bene divers complaints made concerning oppression in wages in prizes of commodyties in Smith's worke, in excessive prizes for the worke of druaghts and teames and the like, to the great dishonor of God, the scandell of the Gospel, and the griefe of divers of God's people both heare in this land and in the land of our nativity," etc. (Mass., 1638.)—The elder Winthrop wrote about 1640, that "the scarcity of money made a great change in all commerce. Merchants would sell no ware, but for money. Men could not pay their debts, though they had enough. Prices of land and cattle fell soon to one-half and less, yea, to a third, and after to one-fourth part." In that year the price of Indian corn was fixed by law at four shillings, of summer wheat at six shillings, of rye and barley at five shillings, and of peas at six shillings a bushel. The interest of money was fixed at 8 per cent. The prices of corn, cattle and other produce were continually falling, and the wages of

labor was made to follow. In 1646 the law determined the rate at which cattle should be taken in payment of public dues: cows of four years old and upward, £5; heifers and steers, between two and three years old, 50s., and between one and two years, 30s.; oxen of four years and upward, £6; horses and mares of four years and upward, £7, etc., etc., and such estimations were frequently made. In 1693 the rate of interest was reduced to 6 per cent. Prices were in great confusion by reason of the many currencies then used. Madam Knight gives this sprightly account of a bargain: "They give the title of merchant to every trader, who rates his goods according to the time and specie they pay in; viz., pay, money, pay as money, and trusting. 'Pay' is grain, pork and beef, etc., at the prices set by the general court. 'Money' is pieces-of-eight, ryals, Boston or Bay shillings, or good hard money, as sometimes silver coin is called; also wampum, viz., Indian beads, which serves as change. 'Pay as money' is provision aforesaid one-third cheaper than the assembly set it; and 'trust,' as they agree for the time." A knife, worth in hard money six pence, would cost twelve pence in pay, and eight pence in pay as money. In 1712 a régime of depreciated paper money existed, and a few years later banks were resorted to. Between 1712 and 1716 the price of silver rose from eight to twelve shillings per ounce. In 1720 a long list of commodities receivable for public dues at prices determined by the general assembly, was issued, but was repealed in 1723, only to be renewed as occasion seemed to require. In 1727 silver was at seventeen shillings per ounce; good merchantable beef at £3 per barrel; pork, £5 10s.; winter wheat, eight shillings; summer wheat, seven shillings; barley and rye, six shillings; Indian corn, four shillings per bushel; and other commodities in proportion. The condition of affairs became worse in spite of numerous financial expedients for bettering them. In 1741 Gov. Shirley stated that exchange between sterling and Massachusetts paper was 450 per cent. in favor of the former. As showing the condition two lines may be quoted from an almanac of 1749:

> "The country maids with sauce to market come,
> And carry loads of tattered money home."

In 1748 the price of silver was forty shillings per ounce, and one year later had risen to sixty shillings per ounce, the prices of commodities following. Then began the oppressive measures of the English parliament, which ended in the revolution. The issues of continental currency deranged values everywhere. — In 1776 monopolies and extravagant prices in the necessaries of life were important questions, and in 1777 Massachusetts passed a law fixing the price of labor and of commodities: Farm labor in summer shall not exceed three shillings per day; wheat, 7s. 6d. per bushel; rye, 5s.; wool, 2s. per pound; beef, 3d. and 4d. per pound; cotton, 3s. per pound by the bag; flannel, 3s. 6d. per yard; flour, 25s. per cwt.; bloomery iron, 30s. per cwt. at the place of manufacture, etc., etc. — Much the same course of events was experienced in the other colonies. In Rhode Island, for example, rum, which sold for 13s. per gallon in 1746, brought £1 in 1748, and £1 8s. in 1754; molasses, £1 3s. per gallon in 1746, and £2 11s. in 1765; salt, 14s. per bushel in 1746, £1 16s. in 1748, and £2 13s. in 1765; flour, £18 1s. per barrel in 1748, and £45 4s. 9d. in 1769. In 1779 a convention fixed the price of rum at £6 15s. per gallon; of molasses at £4 16s. per gallon; and of salt at £10 per bushel. Tea was worth £5 17s. per pound; cotton, £1 17s. per pound; wool, 18s. per pound; Indian corn, £4 10s. per bushel; and bloomery iron, £27 per cwt. The wages of a common laborer was fixed at £2 8s. per day, and other labor in proportion. — It must be obvious that little would be gained by a more extended study of these prices. They show a period of enormously inflated prices, induced by excessive issues of an irredeemable paper currency. When in 1781 the legislature of Virginia by law fixed the scale of depreciation of the continental currency at 1000 to 1, values were no longer measured in this medium. Throughout this period congress passed legal tender acts, laws determining the prices of labor and of commodities, and laws against "forestalling" and "engrossing," but all to no purpose. The currency was subject to higher laws than those of a legislative assembly, and prices were governed by the currency. As illustrating the effects of an over-issue of an irredeemable currency, the period is most instructive; but as regards prices, it is almost barren of results. After 1781 specie began to come into the country, and a more normal régime of prices was established. — For the subsequent period there exist few data for any complete history of prices, and before attempting to summarize what material is at hand it will be well to look at the conditions of production and the means of marketing the results. The farmer himself was the principal consumer of the produce raised on his farm, and his few and simple wants were almost wholly satisfied by his household. In 1809 Gallatin estimated that about two-thirds of the clothing (including hosiery) and of the house and table linen, worn and used by the inhabitants of the United States not residing in cities, was the product of family manufactures. What few things could not be supplied in this way he obtained of the village tradesman or mechanic, between whom and the surrounding farmers a limited amount of exchanges took place. But everything was local. The roads were bad, the cost of transporting produce was such as to prohibit any resort to a distant market, and confined as he was to a limited territory there was little inducement for the farmer to grow more than was sufficient to supply his own wants. Prices also were local. In the neighborhood of cities, farm produce was higher in price than in the interior, and the further one went from the city the lower fell the price, because there was no market for it. Moreover, prices fluctuated wide-

ly; wheat might be very low one year, and at famine prices the next; it might be superabundant in one county while very scarce in a neighboring district, the difficulties attending its transportation prevented an equalization of conditions. Nor were there the means for marketing the produce, as the merchant class were rather engaged in a foreign and not in a home trade, the former being the more profitable. As the markets were limited, manufactures were in their infancy. In fact, everything was primitive, and prices also were in a rudimentary condition. "Where the economic life of a people is still undeveloped, and the production of one enterprise is not from the first based on the estimated consumption of another, the circulation of goods brings with it great profits and great losses; whereas, profits and losses grow smaller, but at the same time more uniform and regular, in proportion as the circulation of goods increases in rapidity and regularity." (Stein.)—Such was the condition at the beginning of the revolution. Laws not only restricting their power of manufacturing, but also their power of trading, had been imposed on the colonies by parliament, so that they were forced to depend upon their own exertions, both for the munitions of war and the necessary articles of consumption, which had previously been chiefly imported from Great Britain. Exhausted by the long war, and without funds or credit, with no regular markets for their produce, jealous of one another on account of commercial regulations, and pressed with taxes, some of the states had recourse to paper money and legal tender laws. It was a period of great suffering and depression, and the range of prices differed in each state according to its currency, and in each district according to its natural characteristics and the means of access. On the formation of a stable central government, confidence was restored, and with the year 1795 one of our tables of prices begins. Already the chief industries of the country were agriculture and commerce. The European wars, which began in 1793, gave a great impetus to both, a great proportion of the carrying trade of the world being thrown into the hands of the neutral Americans. The wars lasted until 1807: in that period the registered tonnage increased from 367,734 to 848,306, and while the exports of domestic produce increased barely one-fifth, the export of foreign products increased nearly 125 per cent. In years of scarcity in England the export of grain would expand, and the export of cotton show some growth; but generally speaking, the country had only a small foreign market, and was content to do the carrying trade for other nations. Pitkin says of these years: "We have before us a table giving the price of flour at Philadelphia from 1785 to 1828, a period of forty-four years, the accuracy of which, we believe, may be relied upon. The average price of flour, from 1785 to 1793, according to this table, was $5.41 per barrel, while the price from 1793 to 1807 (excluding the years 1802–3, when Europe was at peace under the treaty of Amiens), being twelve years of war, was $9.12, making a difference of $4.71 per barrel. * * By adverting to the price from 1820 to 1828, after Europe had again settled down in peace, it was reduced to $5.46, being only five cents more than in the first-mentioned period. The advanced price of agricultural productions, during the long wars in Europe, was accompanied by a great advance in the price of lands in the United States."—In November, 1807, the Berlin decree and the British orders in council led to the withdrawal of the larger part of the foreign commerce of the country from the ocean. The value of the total exports fell from $108,343,150 in 1807 (of which $48,000,000 were of domestic produce), to $22,130,960 in 1808 (of which but $9,500,000 were of domestic origin). Shut out from foreign markets for the time, prices naturally fell sharply, and this our table shows. In 1809, however, the export of domestic produce rose, but was not so large as in 1806–7, and was seriously interfered with by the war of 1812–14, and fell in value in the latter year to less than $7,000,000, although our table shows that prices ruled high. The carrying trade was for that year *nil*. This compelled a greater attention to the development of the internal resources of the country, which had up to this period remained almost unnoticed. By shutting off commercial relations with the outer world the embargo acts, non-intercourse laws, and, finally, the war, gave an impetus to domestic manufactures, by creating, as it were, a market for their products. During the war prices ruled high, and in some of the states were further inflated by redundant paper issues. In 1812–13 silver flowed to New England, being displaced in the other colonies by the paper currency. In 1814 business was brisk and prices rapidly advancing, when the bubble burst, and all banks outside of New England suspended. The paper issues increased, and prices continued to rise. "Money lost its value. The notes of the city banks depreciated 20 per cent., and those of the country banks from 20 to 50, and specie so entirely disappeared from circulation, that even the fractional parts of a dollar were substituted by small notes and tickets, issued by banks, corporations and individuals. The depreciation of money, enhancing the prices of every species of property and commodity, appeared like a real rise in value, and led to all the consequences which are ever attendant upon a gradual advance of prices. The false delusions of artificial wealth increased the demand of the farmer for foreign productions, and led him to consume in anticipation of his crops. The country trader, seduced by a demand for more than his ordinary supply of merchandise, was tempted to the extension of his credit, and filled his stores, at the most extravagant prices, with goods vastly beyond what the actual resources of his customers could pay for, while the importing merchant, having no guide to ascertain the real wants of the community, but the eager-

ness of retailers to purchase his commodities, sent orders abroad for a supply of manufactures wholly disproportioned to the effective demand of the country. Individuals of every profession were tempted to embark in speculation, and the whole community was literally plunged in debt. The *plenty of money*, as it was called, was so profuse, that the managers of the banks were fearful they could not find a demand for all they could fabricate, and it was no unfrequent occurrence to hear of individuals solicited and urged to become borrowers, under promises as to indulgences the most tempting. Such continued to be the state of things until toward the close of the year 1815." (Quoted in Gouge.) As in New England specie payments were maintained, this speculative mania was not reflected in our table. The abuses of "banking," which at that time was considered to be issuing notes, were the main cause of the fluctuations in prices from this period even down to 1860. Almost every state had a circulation of its own, and the scale of depreciation differed in each state. To make the currency more uniform, congress established a national bank in 1816, and the state banks resumed specie payments in 1817. In the next two years banks were greatly multiplied in the west, nearly all issued circulating notes, and conducted their operations in a reckless manner. The national bank speculated in its own shares, forcing the price up to $156.50 per share in September, 1817, but in December, 1818, it had fallen to $110 per share. In 1819 the crisis came, and a period of stagnation and depression succeeded. Land in Pennsylvania was worth, on the average, in 1809, $38 per acre; in 1815, $150; in 1819, $35. "The newspapers of 1819 contain numerous accounts of riots, incendiary fires, frauds and robberies. The house committee spoke of the 'change of the moral character of many of our citizens by the presence of distress.' The distress extended to New England, but was less severe there than elsewhere. In the west it was intense. * * Stagnation and distress lasted throughout 1820. Prices were at the lowest ebb, and liquidation went slowly on. Wheat sold at twenty cents per bushel in Kentucky. A man in western Kentucky stopped "Niles' Register" because one barrel of flour used to pay a year's subscription; now three barrels would not. At Pittsburgh flour was $1 per barrel; boards, 20 cents per hundred; sheep, $1. Imported goods were at the old prices. * * * Rent of a given house in Philadelphia fell from $1,200 to $450; fuel from $12 to $5.50; flour from $10 to $4.50; beef from 25 cents to 8 cents per pound. * * Wages were low on half time." (Sumner and Gouge.) In 1821 occurred a slight reaction, but prices fell again in 1822. Stop laws, stays of execution and execution acts were passed, in the hope of relieving the distress. Briefly summarized the course of events was as follows: 1821, business was dull in the beginning of the year. The effects of an expansion, apparently commenced in the spring, began to be felt in June or July, and by October the spirit of speculation was tolerably active. In 1822, a reaction commenced in May; some kinds of imported goods fell 15 per cent. in Philadelphia; and United States bank stock, which had been held at 115 in February, was sold in New York on the 1st of May at 102, and before night had fallen to 98½. The effects of the reaction were felt throughout the year. In 1823–4, banks extended their operations, increased their issues, and the spirit of speculation was excited, resulting in the crisis of 1825. In April (1825) news came of a great rise of prices in English markets, and excited great speculation here. Twenty-seven cents were offered for upland cotton, and refused, though the holders would, a week before, have been happy to obtain 20 cents; cotton yarn, No. 15, rose from 35 to 45 cents; Muscovado sugars advanced a dollar on a hundred, and St. Domingo coffee rose from 17½ to 21 cents per pound. The rise in the prices of tobacco, drugs and spices was very considerable. The mania applied chiefly to cotton, and lasted through May and June. The "Charlestown Patriot" mentioned that "the same parcel of cotton had changed owners six or seven times within a week without leaving the hands of the factor." Corn was uprooted in order that cotton might be planted. In July the news of a fall of 3d. a pound in the price of cotton in Liverpool pricked the bubble and precipitated a crisis. The effects of the reaction continued through 1826, in a general dullness of business. "In the southern states the consequences were most trying, as the high price of cotton had led to an over-extension of the culture of that article, and as the planters, encouraged by the demand for their staple, had plunged themselves in debt to support a splendid style of living. The manufacturers of cotton were, also, great sufferers. Cotton cloth, which it cost 18 cents per yard to import in 1825, was imported in the spring of 1826, at 13 cents." (Gouge.) — We must now retrace our steps, and note two important influences which were beginning to be exerted on prices in this period. During the war large amounts of capital were invested in manufactures, especially in woolen and cotton mills. On the return of peace there occurred, as we have seen, an era of speculation, and enormous importations were made without regard to the condition of the markets and the ability of the purchasers. During the first three-quarters of 1815 the value of imports was $83,080,073, and from October, 1815, to the same month in 1816, the value amounted to the enormous sum of $115,302,700, of which but $18,000,000 were re-exported. About $70,000,000 of the imports represented woolens and cottons. The domestic manufacturers could not make any progress in the glutted markets, and appealed to congress. The tariff act of 1816, having especial reference to cotton and woolen manufactures, was passed, and as the first really protective tariff it marks the beginning of that long course of legislation which has materially affected the prices of manufactured goods. Henceforward this must always be taken into account,

YEARS.	Flour.	Corn.	Rye.	Barley.	Rice.	Beef.	Pork.	Fish, Cod.	Cotton, Upland.	Tobacco.	Tea.	Sugar.	Molasses.	Coffee.
	bbl.	bu.	bu.	bu.	cwt.	bbl.	bbl.	cwt.	lb.	cwt.	lb.	cwt.	gal.	lb.
1795	$12.00	$1.00	$1.16	.....	$7.00	$13.00	$18.00	$4.66	$0.33	$ 6.87	$1.33	$14.00	$0.60	$0.21
1796	16.00	1.25	1.30	$1.00	8.00	14.00	18.00	6.00	.30	7.00	1.25	13.16	.62	.25
1797	10.00	1.00	1.33	1.00	4.00	13.00	18.50	5.50	.30	9.00	1.50	16.00	.68	.26
1798	7.00	.60	.75	.90	2.25	10.00	18.70	4.25	.36	12.00	1.42	15.50	.56	.24
1799	10.00	.67	.83	.83	3.00	8.00	17.00	3.50	.36	10 50	1.50	16.00	.50	.30
1800	10 00	.75	1.00	.79	4.50	8.00	17.00	3.50	.40	5.00	1.34	14.00	.48	.25
1801	13.00	1.16	1.20	.90	7.00	13.00	26.00	6.00	.30	5.50	1.10	14.00	.56	.26
1802	9.00	.63	.83	1.25	4.75	11.00	18.00	4.25	.25	7.50	1.04	15.50	.36	.22
1803	7.00	.70	.75	1.00	6.25	13.00	16.00	4.50	.19	7.25	1.16	13.00	.42	.22
1804	7.75	.86	.84	.83	5.50	12.00	15.50	4.80	.18	8.50	1.35	13.00	.54	.28
1805	13.00	1.25	1.33	1.00	6.50	10.00	16.50	5.50	.25	8.00	1.20	14.50	.40	.31
1806	7.50	.75	1.10	.92	5.25	10.50	21.00	4.25	.23	7.50	1.20	12.00	.38	.32
1807	8.25	1.00	.96	.90	5.25	11.00	22.00	4.50	.21	8.50	1.12	11.50	.41	.32
1808	6.00	.65	.65	.90	3.25	10.00	15.00	3.50	.17	8.00	1.00	12.00	.50	.25
1809	7.50	.80	1.00	.75	3.75	11.50	17.50	3.50	.17	7.00	1.30	13.50	.52	.27
1810	8.25	1.15	1.75	.87	4.00	10.00	19.00	3.00	.16	8.00	1.00	12.50	.48	.24
1811	10.50	.95	1.40	.92	3.50	10.00	18.00	4.00	.15	6.00	.95	14.00	.54	.17
1812	10.75	1.00	1 08	.85	4.75	12.00	16.00	3.75	.11	6.00	.95	12.50	.52	.16
1813	13.00	1.25	1.40	1.10	7.00	10.00	18.00	4.50	.18	5.00	1.75	15.50	.75	.21
1814	14 50	1.67	2.25	1.20	7.00	11.00	22.00	5.50	.27	6.50	2.10	18.50	.85	.24
1815	9.25	1.00	1.12	1.08	3.63	12.50	25.00	5.50	.20	7.00	1.75	16.00	.75	.23
1816	7.37	1.00	1.00	1.08	4.75	11.50	22.00	3.75	.30	20.00	1.70	17.50	.57	.24
1817	14.75	1.90	1.55	1.20	7.25	12.00	26.00	3.60	.27	13.00	1.20	14.50	.53	.20
1818	10.25	1.08	1.08	.95	6.75	13.50	26.50	.....	.32	12.00	1.20	14.00	.54	.26
1819	8.00	.80	.90	1.00	6.25	14.50	21.00	3.50	.25	12.00	1.10	16.00	.50	.30
1820	5.37	.60	.65	.67	3.50	10.00	14.50	2.75	.16	7.00	.95	10.00	.30	.26
1821	4.25	.43	.45	.50	3.25	8.50	11 50	3.00	.14	6.00	.94	11.00	.28	.27
1822	7.00	.84	.78	.65	3.50	7.75	13.00	3.00	.18	6.50	.90	12.50	.32	.29
1823	7.75	.63	.70	.65	3.75	8.25	13.00	3.00	.11	10.00	.95	12.00	.28	.26
1824	6.62	.48	.58	.60	3.75	7.00	12.00	3.00	.16	10.00	1.00	10.00	.27	.19
1825	5.37	.53	.58	.50	3.75	7.50	14 00	2.75	.20	10.00	1.05	11.00	.28	.18
1826	5.25	.85	.75	.80	3.50	8.00	12.00	2.75	.13	9.00	1.06	10.50	.28	.17
1827	6.00	.75	.90	1.05	3.25	8.00	10.50	3.50	.11	9.00	.95	9.75	.33	.15
1828	5.50	.55	.55	.70	3.75	8.25	13.00	2.62	.11	6.50	1.05	9.25	.30	.15
1829	8 00	.63	.82	.65	3.92	9.50	14.00	2.37	.12	4.50	.95	10.64	.30	.13
1830	5.00	.55	.65	.50	3.00	7.75	12.00	2.08	.11	6.00	.90	9.50	.25	.12
1831	7.25	.82	.81	.60	3.62	7.75	14.00	3.00	.10	6.12	.95	9.50	.27	.12
1832	5.62	.62	.85	.75	3.62	8.25	13.00	2.75	.11	5.50	.80	8.40	.27	.13
1833	5.87	.80	.90	.65	3.62	8.75	13.50	2.50	.12½	5.00	.70	10.08	.32	.13
1834	5.50	.66	.62	.65	3.36	8.50	12.50	2.33	.12½	7.00	.70	10.64	.34	.12

as it artificially raises prices and introduces a disturbing influence. The fact may be noted, without attempting to trace the effects of the many tariff laws on prices. Manufactures began to extend as population increased, as their demands became enlarged, and as the great natural resources of the country were developed. The introduction of machinery supplanted the household industries, and the growth of a market for manufactured goods allowed the concentration of processes in large establishments, where a more minute division of employments could be carried out; the rise of manufacturing towns, and the wider cultivation of the raw materials of manufactures, accompanied these altered conditions. This resulted in a gradual fall in the prices of manufactured goods, as improvements in processes were introduced, or a wider market, both to buy and to sell in, arose. From this time on, prices of manufactures became steadier, and followed, in a general way, the economic condition of the markets. — Another important influence consisted in the improved means of transportation and of marketing goods, which brought the producer near to the consumer, reduced the cost of transporting products, and thus extended the markets, while at the same time equalizing prices by allowing a freer and more rapid interchange of commodities in all parts of the country. As early as 1790 Pennsylvania undertook to construct canals, but the attempt was abortive, and ended disastrously. It was not until the completion of the Erie canal, in 1825, that extensive schemes of internal improvements were laid out. In ten years (1822–32) the amount of tolls collected on the Erie canal had increased from $44,486 to $1,196,008. "By means of this extensive water communication through a country naturally extremely fertile, the farms of the west are placed nearly upon an equality with those of the east, in the vicinity of the great market towns and cities." (Pitkin.) The success attending this canal aroused a spirit of emulation in the neighboring states, and the construction of canals in Pennsylvania opened up the coal fields, thus bringing to the market a most important factor of production. Delaware, Maryland and Virginia also constructed canals, and the spirit for canal improvement passed into Ohio, nearly 400 miles of artificial inland navigation being completed before 1835. Pitkin estimated, that, in 1835, upward of 2,867 miles of canals had been built, at a cost of $65,000,000, and the expenditure had been made chiefly during the previous fifteen years. Steam navigation was being introduced on the rivers, and, beginning with 1826, railways for the transportation of passengers and merchandise were being built, and their rapid extension, superseding in a great measure all other modes of conveyance, has resulted in making the country practically one market. The two important factors in making prices were a vast increase in production, and a greater degree of accessibility

to markets. The population, or market, at each decade since 1830, is in the following table compared with the growth of railroad facilities:

YEARS.	Population.	Miles of Railroad.
1830	12,866,020	23
1840	17,069,453	2,818
1850	23,191,876	9,021
1860	33,443,321	30,635
1870	38,558,371	52,914
1880	50,155,783	93,671

— From 1831, with which year our second table of prices begins, it may be said that the prices follow almost regular cycles of rise and fall, following closely the periods of speculation and subsequent depressions. Commercial crises occur periodically about every ten years, and the course is pretty much the same in every case. The extension of credit may occur under a redeemable, as well as an irredeemable, currency, but the consequent prices are higher, and their fluctuations greater, under the latter. In 1825, as we have seen, there was a crisis, which had been preceded by inflated prices. The years 1837, 1839, 1857 and 1873 were each marked by great financial disturbances, which were reflected in the industry of the country. — Returning to where we left off in our examination of prices, in the year 1827 money was plenty, but in 1828 there was an alarming scarcity of money in May and September, and this continued until July, 1829, when great distress was felt. Prices ruled low. In Rhode Island "the embarrassments which have been realized in this immediate neighborhood for the last ten days, have had no parallel in the history of the republic. Men of reputed capital, who have withstood the shock of former changes and times; men who for the last forty years have stood firm, erect and undismayed before the tempests of the times that have assailed them, are now tottering on the verge of bankruptcy and ruin. Their fall bears excessively heavy on the poor and laboring classes, who, by the way, are in reality the principal sufferers. * * Within the last ten days, within the circle of the ten adjacent miles (Providence), upward of 2,500 people have been suddenly and unexpectedly thrown out of employment, and the distress that such an event has produced can be far better imagined than described." In the next two years money was plentiful, and prices began in 1830 to rise. "In 1831, which was a year of great expansion, rents rose enormously in many parts of the town (Philadelphia), store goods advanced in price, and such fresh provisions as are sold in the market were higher than they had been at any time since the resumption of specie payments; but the money rate of wages was hardly affected." (Niles.) In 1834 there was distress, incident to the fear of results attending the withdrawal of public deposits from the United States bank, and in the same year prices were influenced by an alteration in the coinage laws which practically changed the standard from silver to gold. In 1835 the government was out of debt, and possessed a surplus, and the expansion of bank issues began. A speculative period followed, and speculation in cotton was especially marked. Whereas the price of upland cotton in 1834 was 12.5 cents per pound, in 1835 it was 16.7 cents, and in 1836, 16.6 cents per pound, when its price was suddenly lowered by the stringency in the money market. Thousands of persons had been tempted by the high prices to embark in the cultivation of this staple, and when the fall came, it proved disastrous. Speculation had extended in every direction, and even to western lands, an unlimited quantity of which might be had at a fixed price. The revulsion ran through the whole speculative system. In May a delegation of the merchants of New York represented that real estate in New York had in six months shrunk $40,000,000; in two months 250 firms had failed, and stocks had shrunk $20,000,000; merchandise had fallen 30 per cent., and within a few weeks 20,000 persons had been thrown out of employment. (Quoted in Sumner.) The banks throughout the country suspended, and the distress was increased by a failure of the wheat crop, grain being imported from abroad. In 1835 wheat was selling at $1.22 per bushel, in 1836 at $1.78, in 1837 at $1.69, and in 1838 at $1.90. The next year it had fallen to $1.24 per bushel. In 1838 a great number of the banks resumed, but in 1839 came a bank crash, chiefly due to speculation in cotton. Cotton (upland) in 1838 sold for 10.6 cents per pound, in 1839 at 13.3 cents, and in 1840 at 8.7 cents. In 1843 it had fallen as low as 6.6 cents per pound, nor did it recover until 1847. Prices were falling until 1843, when they began to rise again under the more improved conditions, the banks having resumed in 1842, which allowed a new and healthy development of industry and credit. The prices reached in 1843 have rightly been called the "low-water mark of the century," as the limit has never since been reached. "The fall of prices from 1839 to 1843 was not due to any forced contraction of the currency. The more correct explanation of the phenomena is that the destruction of the banking system brought with it a collapse of the industry of the country. * * The year 1843 was one of the gloomiest in our industrial history. The grand promise of ten years before was now entirely obscured. Mortgaged property was passing into the hands of the mortgagees. Factories were idle. Trade was dull, investments slow." (Sumner.) In 1844 prices began to mend. In 1847 the exports of breadstuffs were very large, owing to a partial failure of the crops in England, and the abolition of the British corn laws opened up a market for the agricultural produce of the country. Immigration commenced to flow into the country on a larger scale, and the internal development of the country kept up with these improved conditions. The discovery of the California mines in 1847 aided this growth, and in the following year large

TABLE SHOWING THE ANNUAL AVERAGE GOLD PRICE OF STAPLE ARTICLES IN THE NEW YORK MARKET, 1831–81.

YEARS.	Flour, Superfine.	Wheat, Northern.	Rye.	Oats.	Corn.	Coal, Anthracite.	Coffee. Rio.	Coffee. Java.	Copper. Pig.	Copper. Sheathing.	Cotton, Upland.	Fish. Cod.	Fish. Mackerel.	Flax.	Glass.	Gunpowder. Rifle.	Gunpowder. Blasting.	Hides, South American.	Hops.
	bbl.	bu.	bu.	bu.	bu.	ton.	lb.	lb.	lb.	lb.	lb	cwt.	bbl.	lb.	100 ft.	25 lbs.	25 lbs.	lb.	lb.
1831	$5 71.0	$1 18.5	$0 78.2	$0 87.5	$0 69.5	$7 08.5	$0 11.2	$0 11.5	$0 18.0	$0 22.2	$0 09.0	$2 77.5	$6 30.0	.....	$6 12.0	$4 50 0	.....	$0 16.0	$0 11.5
1832	5 77.0	1 26.0	83.0	45 5	68.0	10 21.0	12.5	13.1	17.5	22.5	09.5	2 87.5	5 64.5	.....	6 12.0	4 50.0	.....	14.4	18.5
1833	5 56.5	1 19.3	80 0	40.5	73.5	6 82.0	12.3	12.7	16 5	23.0	12.5	2 72.0	6 62.0	.....	6 12.0	4 50.0	.....	13.8	28.2
1834	4 98.0	1 05.8	66.2	35.7	65.9	6 00.0	11.5	12.3	16.2	23 5	12.5	2 38.5	6 24.5	.....	5 75.0	4 50.0	.....	12.7	14.9
1835	5 85.5	1 22.0	91.0	48.2	90.5	6 71.0	11.9	12.5	16.5	23.5	16.7	2 79 5	7 15.0	.....	5 10.0	4 50.0	.....	13.7	14.5
1836	7 49.5	1 78.0	1 04.0	52 9	95.0	8 54.5	11.5	13.2	20.5	27.0	16.6	3 36.5	9 61.5	.....	5 37.0	4 50.0	.....	13 4	14.6
1837	8 74.7	1 69.8	1 07.6	50.2	1 00.0	9 26.3	10.1	13.0	17.7	25.8	11.5	3 27.7	9 40.7	.....	5 50.2	4 30.6	.....	13.0	07.1
1838	7 88.4	1 90 2	1 03.5	39.1	83.4	7 81.9	10.3	12.2	16.8	25.2	10.6	3 47.8	11.23.3	.....	5 60.8	4 45.9	.....	14.1	08.1
1839	7 30.0	1 24.5	96.8	47.0	86 5	8 10.0	10.8	12.5	17.5	24.5	13.3	3 74.5	13 51 0	.....	5 75.0	4 50.0	.....	15.0	15.9
1840	5 29.5	1 05.5	59.8	34.0	57.0	7 14.5	10.1	12.8	18.2	24.5	08.7	2 51.0	12 82.0	.....	5 75.0	4 00.0	.....	14.6	37.5
1841	5 58 5	1 18.5	63.8	44.0	62.5	7 56.0	10.0	11.7	18.0	25.0	09.8	2 58.5	13 55 0	.....	5 75.0	3 87.5	.....	14.3	24.3
1842	5 57.0	1 14.0	65.5	36.5	59.5	6 35.0	08.3	11.0	17.0	22.7	08.0	2 27.0	10 55.0	.....	5 75.0	3 87.5	.....	12.5	13.5
1843	4 85 0	98.1	62.1	29.0	55.0	5 11.0	07.2	11.0	17.0	21.2	06.6	2 46.0	9 25.0	.....	5 75.0	3 87 5	.....	12.3	09.7
1844	4 67.0	97.5	67.5	31.8	50 0	5 06.0	06.5	10.0	17.5	21.5	06.6	2 67.0	10 78.5	.....	5 75.0	3 87.5	.....	12.1	08.6
1845	4 93.5	1 04.0	68.5	38.0	54 8	4 83.0	06.7	08.2	17.2	22.7	06.2	2 62.5	12 56.5	.....	.....	3 12.0	.....	12.0	15 1
1846	5 06.0	1 08.5	74.6	39.5	68.0	5 72.5	07.0	08.3	17.8	23 5	07.3	2 82 5	10 64.5	.....	.....	2 75 0	.....	11.5	19.6
1847	6 68.5	1 36.5	99.0	49.0	85.5	5 70.5	07.0	07.7	18.1	23.2	10.3	3 58.0	9 99.0	.....	6 12.0	2 75.0	.....	11.5	09.8
1848	5 96.0	1 17.5	73.5	41.4	63.5	5 39.0	06.0	07.1	18.0	21.5	06.1	2 95 5	8 44.5	.....	6 12.0	2 75.0	.....	09.1	05.0
1849	4 51.0	1 24.0	60.1	38 7	62.7	5 59.0	06.9	06.6	17.1	21.5	08.0	2 52.0	10 55.5	.....	6 12.0	2 75.0	.....	10.0	08.8
1850	5 55.0	1 27.5	64.7	43.0	62.5	5 73 0	10.6	12.0	17.2	21.5	12.3	2 60 0	10 79.5	.....	6 12.0	2 75.0	.....	12.5	13.8
1851	4 52.0	1 07.5	73.0	43.5	61.7	5 22.0	09.0	11.5	17.5	20.5	10.2	2 74.0	9 94.0	.....	6 12.0	2 75.0	.....	13.6	37.5
1852	5 00.5	1 10.5	81.5	43.0	67.5	5 44.5	08 5	10.8	19.5	23.5	09.0	3 44 5	10 06 0	.....	6 12 0	2 75.0	.....	14.7	30.6
1853	5 78.0	1 39.0	92.0	47.5	71.0	5 72.0	09.2	11.2	23.6	29.1	10.6	3 32.0	13 45.5	.....	5 75.0	2 64 5	.....	17.5	25.2
1854	8 94.5	2 21.0	1 19.5	54 0	84.5	6 91.5	10.1	13.1	29.3	30.2	09.0	3 40.5	16 91.5	.....	5 75 0	2 62.5	.....	21.2	33.6
1855	8 76.0	2 43.5	1 33.5	59.5	99.0	6 36.0	10.0	13.5	24.0	29.7	09.2	3 84.0	20 10.0	.....	5 75.0	3 29.0	.....	21.4	19.1
1856	6 42.0	1 75.5	96.0	43.2	70.5	6 87.5	10.7	14.2	25.0	31.2	10.6	3 86.0	20 89.5	.....	5 88.0	4 46.5	.....	26.5	07.7
1857	5 78.5	1 67.5	94.0	52.6	81.0	6 11.0	11.0	15.4	24.7	30.1	14.0	3 77.5	20 50.0	.....	6 39.0	5 37.5	$3 69.5	32.7	08.5
1858	4 29.5	1 32.5	72.0	45 0	80.5	5 22 5	10.3	15.8	23.2	26.0	13.0	3 38.0	11 63.0	.....	6 49.0	5 28.5	3 58.0	24.3	06.5
1859	5 11.0	1 43.5	85 5	48.0	86.2	5 31.0	11.2	14.5	.....	26.1	11.4	4 11.5	15 93.0	.....	6 25.0	5 30.5	3 06.0	25.5	11.8
1860	5 19.0	1 49.5	82.5	41.7	74.0	5 52.0	13.5	15.5	.....	26.2	10.5	3 48.5	16 71.0	.....	6 25.0	5 12.5	3 14.0	23.5	13.2
1861	4 96.5	1 42.5	70 0	35 5	61.0	5 24.5	13.7	17.5	.....	24.2	16.1	3 05.0	11 63 5	.....	6 25.0	5 12.5	3 25.0	19.5	20.5
1862	4 56.0	1 29.7	70.1	42.3	55.2	5 02.8	19.4	23.9	.....	26.5	36.3	3 42.6	13 52.7	.....	5 55.4	5 69.9	3 46.1	21.6	14.5
1863	3 92.0	1 12.9	73.3	52.9	61.3	5 97.0	20.8	25.1	.....	28 6	51.2	3 98.5	12 02.9	.....	6 44.2	4 76.4	2 95.5	19.7	15.1
1864	3 96.6	95.5	77.4	45.6	73.9	4 93.5	20.4	23.4	.....	27.4	55.8	3 70.1	7 00.5	$0 10 9	5 35.6	4 03 8	2 89.9	15.6	12.5
1865	4 90.1	1 37.3	75.8	46.9	73.6	7 26.0	15.5	19.2	.....	34 9	37.6	5 34 6	11 97.0	13 2	8 21.4	5 51.1	4 23.9	15.7	22.9
1866	5 62.3	2 09.0	74.5	38.0	64.2	6 76.5	14.6	18.6	.....	32.9	28.2	4 98.8	13 80.0	14.5	9 08.0	5 50.2	3 81.6	14.0	34.7
1867	6 63.4	2 05.9	1 07.2	54.3	87.6	5 21.2	13.4	17.9	.....	25.9	19.7	4 91.9	13 93.1	13.9	9 12.5	5 00.7	3 22.7	15.1	41.3
1868	5 66.4	1 81.9	1 35.0	58.4	84.6	5 53.9	12.0	16.7	.....	22 8	19.3	4 70.5	15 08.0	14.1	8 36 6	4 56.4	2 86 4	14.8	26.8
1869	4 30.5	1 24.1	97.6	54.8	76.2	6 64.2	09 3	17.3	.....	24 4	22.4	5 59.2	20 44.4	15.7	10 59.0	4 88.8	3 00.8	16.8	11.5
1870	4 37.5	1 19.4	88.9	52.2	84.8	4 38.1	13 3	18.3	.....	25.7	18.5	5 93.1	22 18.5	12.7	12 83.2	5 38.2	3 11.7	19.8	14.7
1871	5 23.8	1 41.4	89.4	53.7	68.1	6 48 8	14.7	18 3	.....	27 2	16 0	5 18.2	13 79.7	13.2	13 20.1	5 14.6	2 68.5	22.7	14.4
1872	5 52.6	1 58.4	81.8	42.7	60.7	4 33.6	17.3	18 9	.....	37.2	18.4	5 10.7	11 92.1	14.6	13 62.7	5 24 6	2 96 6	23 8	45.1
1873	5 13.4	1 57.0	84.2	43.0	55.0	4 36.5	17.5	19.7	.....	35.6	16.5	5 32.4	15 71.2	14.9	15 96 7	3 88.1	3 25.9	22.9	33.6
1874	4 61.2	1 36.3	91.8	67.4	80.6	5 10.3	19.7	23 0	.....	24.2	14 8	4 77 2	12 75 4	14.3	17 32.8	5 51.0	3 27 3	22.6	35.5
1875	4 23.1	1 22.0	84.9	54.6	70.2	5 02.8	16.0	22.6	.....	25.2	13.0	5 43.4	15 10.3	12.7	17 09.5	4 28.4	2 46.8	19.7	14 9
1876	3 22 6	1 18.5	71.3	36.1	51.2	4 19 0	14.0	18.8	.....	27.8	10.5	5 79.2	16 88 2	12.5	17 78.0	4 84 9	2 60.4	17.7	17.5
1877	5 40.3	1 60.7	76.0	42.4	58.3	3 38 7	15.8	22.5	.....	27 6	11 1	6 03.8	19 55.7	14.3	15 83.6	5 15.1	3 00.5	21.3	11.4
1878	3 93.4	1 24.2	64.1	32.8	51.3	3 54.9	13.5	22.2	.....	25 8	10.7	5 65 4	18 55.0	14.8	13 39.2	5 45.3	3 12.4	20.2	10.5
1879	4 10.5	1 23.3	66.3	38.5	49.0	2 89 8	14.7	24.0	.....	23.1	11.4	5 27.7	19 40 0	.....	14 62.0	5 65.0	3 15.0	24.1	27.5
1880	4 13.5	1 25.3	93.4	43.8	54.7	4 08.9	12.8	21.6	.....	28.0	12.1	5 99.6	17 20 0	.....	13 03.0	6 00.0	3 15.0	21.1	19.7
1881	4 43.9	1 30.7	1 02.4	48.4	62.5	4 21.6	11.6	17.3	18.3	25.0	11.5	5 44.9	18 99.0	.....	.....	6 21.9	3 81 0	24.0	20.1

TABLE SHOWING THE ANNUAL AVERAGE GOLD PRICE OF STAPLE ARTICLES IN THE NEW YORK MARKET, 1831-81.—*Continued.*

YEARS.	Iron.		Lead, Pig.	Leather.	Liquors.		Molasses, New Orleans.	Nails.		Naval Stores, Rosin.	Oil.		Paint, Red Lead.	Petroleum.		Pork, Mess.	Beef.		Lard.
	Scotch.	English bar.			Brandy.	Whisky.		Cut.	Wrought.		Olive.	Linseed.		Crude.	Refined.		Mess.	Prime.	
	ton.	ton.	cwt.	lb.	gal.	gal.	gal.	lb.	lb.	bbl.	gal.	gal.	cwt.	gal.	gal.	bbl.	bbl.	bbl.	lb.
1831	$43 33.0	$72 12.5	$4 12.5	$0 21.7	$1 84.5	$0 31.5	$0 28.5	$0 05.6	$0 13.0	$1 37.0	$0 92.5	$0 96.0	$6 55.0	.....	.....	$13 90.5	$8 49.0	$5 53.0	$0 09.0
1832	43 23.0	72 62.5	5 50.0	20.2	1 68.5	30.5	30.0	05.8	13.0	1 37.0	97.2	91.0	6 75.0	.....	.....	13 46.0	9 46.5	5 59.5	08.5
1833	41 69.0	74 64.5	5 43.7	17.6	1 62.0	30.7	33.0	05.0	13.0	1 42.5	1 06.5	91.2	6 64.5	.....	.....	14 58.0	9 38.5	5 75.5	08.6
1834	41 39.5	71 71.0	4 87.5	16.2	1 58.0	25.0	29.0	05.5	12.0	1 68.5	94.0	90.5	6 50.0	.....	.....	13 71.5	9 17.5	5 85.0	07.8
1835	40 25.0	69 37.0	6 00.0	17.1	1 65.0	33.6	31.7	06.0	12.0	1 71.0	1 17.5	1 09.5	7 00.0	.....	.....	16 39.0	11 08.0	7 66.0	09.4
1836	52 68.5	94 04.0	5 87.5	18.5	1 76.5	37.0	44.0	06.5	12.5	1 73.5	1 11.5	1 02.5	7 87.5	.....	.....	22 46.5	10 97.5	7 15.5	14.5
1837	49 74.0	91 60.8	5 74.2	18.1	1 45.4	34.9	35.4	06.2	12.9	1 61.2	91.8	78.9	8 61.3	.....	.....	20 17.3	12 91.4	8 11.5	10.0
1838	43 14.8	87 43.5	.....	18.4	1 56.0	35.8	36.6	05.9	13.0	1 65.0	1 09.5	78.2	8 42.8	.....	.....	21 18.2	14 56.2	10 98.0	10.5
1839	38 62.0	88 44.0	.....	21.6	1 68.5	36.5	34.5	06.2	13.5	1 83.1	75.2	1 05.5	7 88.0	.....	.....	19 35.5	14 31.0	10 45.5	11.8
1840	35 18.5	70 69.5	.....	18.6	1 70.0	25.0	26.1	05.5	13.5	1 50.5	69.9	1 09.0	7 50.0	.....	.....	14 30.5	12 52.0	8 86.5	10.0
1841	34 85.0	68 35.0	4 12.5	20.7	1 61.5	21.4	25.6	05.5	13.5	1 35.0	86.3	1 31.6	7 50.0	.....	.....	11 12.5	9 01.0	5 62.5	07.3
1842	28 66.0	57 06.0	3 06.2	17.1	1 60.5	18.5	20.7	04.0	11.5	1 17.5	89.0	92.0	6 12.5	.....	.....	8 41.5	7 39.0	4 08.5	06.2
1843	26 12.5	56 98.0	.....	16.2	2 16.5	22.0	22.5	04.5	11.0	89.0	80.5	84.4	5 50.0	.....	.....	9 90.0	7 15.5	4 87.5	06.2
1844	32 56.0	61 33.0	.....	15.6	2 46.5	23.8	29.7	04.5	11.0	69.0	76.0	92.6	5 50.0	.....	.....	9 30.0	5 67.5	3 66.0	05.7
1845	37 97.5	74 58.0	3 37.5	14.5	2 68.0	28.0	27.7	04.5	11.0	68.5	91.0	73.8	5 50.0	.....	.....	12 46.0	8 27.0	5 32.5	07.3
1846	38 21.5	78 25.0	4 15.5	12.8	2 82.5	21.7	29.5	04.5	11.0	65.5	88.1	74.3	5 50.0	.....	.....	10 78.0	7 54.0	5 30.5	06.7
1847	34 44.0	72 29.0	4 31.5	15.7	2 80.5	28.2	33.7	04.5	12.0	64.0	1 16.5	66.0	5 50.0	.....	.....	14 43.5	11 44.0	8 23.5	09.5
1848	29 10.5	59 06.0	4 18.5	18.7	2 62.0	24.0	24.5	04.5	10.2	84.5	1 06.7	58.7	5 50.0	.....	.....	11 11.0	9 88.5	5 78.0	07.5
1849	24 37.0	47 12.5	4 55.5	15.6	2 60.5	24.0	26.0	04.0	09.0	1 01.0	93.5	63.7	6 25.0	.....	.....	10 78.5	11 68.5	8 50.0	05.5
1850	22 33.0	41 87.5	4 71.5	15.7	2 78.0	25.3	27.0	03.5	09.0	1 16.0	94.2	78.5	6 50.0	.....	.....	10 62.5	9 08.5	5 79.5	06.4
1851	21 31.0	36 49.5	4 69.5	14.5	2 73.0	23.3	30.7	03.5	09.0	2 48.5	86.0	74.0	5 50.0	.....	.....	14 01.5	8 86.0	5 09.5	08.1
1852	22 71.5	39 80.5	4 73.0	15.2	2 78.0	22.5	29.2	03.2	07.0	3 36.0	1 05.0	63.7	5 50.0	.....	.....	17 20.0	10 72.0	5 34.5	10.0
1853	34 52.0	65 14.0	6 68.0	18.5	4 77.0	24.5	28.5	04.6	08.5	3 79.5	1 24.5	65.5	7 25.0	.....	.....	16 09.5	9 37.0	5 31.5	10.5
1854	38 47.5	71 12.5	6 75.0	21.0	5 36.0	32.1	24.5	04.1	09.3	3 36.0	1 25.5	77.6	7 75.0	.....	.....	13 77.5	10 94.5	6 50.0	09.7
1855	28 75.0	58 75.0	6 44.5	22.5	6 10.0	37.7	30.5	04.0	09.5	3 12.0	1 19.5	85.5	7 37.5	.....	.....	16 06.0	11 47.0	8 86.5	10.3
1856	32 41.5	59 39.0	7 02.5	25.5	6 29.0	32.5	51.0	03.5	06.5	3 86.0	1 21.0	86.0	7 75.0	.....	.....	18 56.5	9 46.5	7 72.5	11.5
1857	31 12.5	56 14.0	7 03.0	26.6	6 19.0	27.1	65.5	03.3	05.9	5 68.5	1 26.0	76.5	7 16.5	.....	.....	21 89.5	12 37.5	9 76.0	13.6
1858	24 47.5	51 89.0	5 70.5	23.0	4 85.5	22.2	38.8	03.0	04.7	5 32.5	1 04.5	63.5	7 00.0	.....	.....	17 01.0	10 48.5	7 18.0	10.2
1859	25 27.0	45 46.0	5 69.5	24.5	4 94.0	25.5	39.0	03.0	03.6	4 45.5	1 12.0	60.5	7 00.0	.....	.....	16 38.5	7 59.0	6 06.0	10.7
1860	23 51.0	42 44.0	5 70.0	21.5	5 50.0	22.2	46.5	03.0	04.2	3 09.0	1 26.0	57.8	6 25.0	.....	.....	17 98.5	5 17.0	4 14.5	11.2
1861	22 25.0	43 89.5	5 50.5	19.5	5 60.0	18.1	39.5	03.0	04.2	5 03.5	1 13.5	59.0	6 25.0	.....	.....	15 89.5	5 67.0	4 45.5	09.0
1862	22 95.3	52 09.7	6 24.8	20.3	5 19.6	24.9	37.0	02.7	03.8	12 54.7	1 17.4	79.5	6 95.3	.....	.....	10 84.8	6 92.2	4 89.1	07.3
1863	25 60.6	50 68.9	6 01.7	20.0	5 25.0	35.3	33.9	03.4	.....	19 48.1	1 24.0	94.0	7 40.6	.....	.....	9 92.1	4 72.6	3 48.6	07.0
1864	26 15.7	77 38.7	6 59.3	18.3	.....	.....	46.4	03.8	.....	17 69.1	1 11.9	76.9	8 50.7	$0 19.9	$0 33.6	15 03.8	5 21.7	.....	08.3
1865	32 58.0	82 41.4	7 11.8	23.0	.....	.....	72.3	04.7	.....	7 97.6	1 67.3	83.7	9 76.5	26.0	43.3	19 00.6	9 91.7	.....	13.2
1866	34 52.4	78 54.3	5 74.8	24.4	.....	.....	68.7	04.9	.....	2 83.6	1 27.9	1 11.1	8 91.9	19.1	42.9	20 93.5	12 08.4	.....	12.5
1867	31 31.3	71 87.1	4 89.8	22.1	.....	.....	61.4	04.3	.....	2 75.4	1 17.6	91.8	8 45.5	12.7	32.2	16 18.2	13 04.6	.....	09.3
1868	29 59.4	63 39.5	4 75.2	20.1	.....	.....	59.3	03.7	.....	2 01.6	1 03.4	78.0	7 86.0	13.8	25.6	16 76.9	11 67.9	.....	11.6
1869	30 36.2	66 74.0	4 95.7	22.5	.....	.....	59.9	03.6	.....	1 71.9	1 19.5	75.1	8 16.2	17.0	24.2	21 29.8	8 91.8	.....	13.7
1870	30 01.5	66 33.7	5 60.4	30.4	.....	.....	72.2	03.8	.....	1 73.6	1 21.1	80.3	8 44.9	15.8	22.7	23 59.3	11 36.8	.....	13.7
1871	30 26.1	63 24.6	5 66.1	25.5	.....	.....	50.4	04.1	.....	2 76.0	1 03.7	74.9	8 09.1	12.7	23.0	14 97.9	11 05.6	.....	09.9
1872	43 38.7	88 42.5	5 84.2	25.2	.....	.....	58.4	04.3	.....	3 57.2	1 16.0	74.3	7 93.5	15.4	21.2	12 29.1	8 07.4	.....	08.0
1873	45 03.0	77 71.7	6 04.6	24.5	.....	.....	60.3	04.3	.....	2 77.6	1 06.3	74.5	7 99.8	07.3	16.4	14 73.6	6 04.3	.....	07.3
1874	38 18.1	67 89.2	6 00.0	24.8	.....	.....	68.5	03.6	.....	2 18.4	1 05.8	79.0	8 09.1	05.4	12.3	16 53.7	10 21.6	.....	10.5
1875	29 78.0	.....	5 12.2	23.4	.....	.....	58.5	03.3	04.4	1 64.2	1 02.7	58.2	7 26.8	05.5	11.2	16 16.3	9 89.5	.....	12.0
1876	25 87.1	.....	5 79.2	19.7	.....	.....	52.7	03.1	04.3	1 74.3	1 10.8	51.0	7 36.3	11.2	21.3	16 45.0	10 12.0	.....	09.5
1877	25 98.7	.....	5 26.7	22.4	.....	.....	49.1	03.0	04.3	1 84.1	1 13.7	60.4	7 82.2	08.4	14.9	13 21.1	12 84.0	.....	08.9
1878	24 23.8	.....	3 68.0	20.1	.....	.....	44.1	02.8	04.4	1 48.3	1 14.5	59.4	8 89.8	06.2	10.6	11 47.5	11 93.3	.....	06.9
1879	27 13.4	.....	5 13.6	24.1	.....	.....	53.6	04.3	05.6	1 56.9	1 00.0	67.9	6 56.0	03.7	09.0	12 47.6	10 50.0	.....	07.8
1880	24 48.9	.....	4 23.3	21.2	.....	.....	37.0	03.1	04.5	1 39.7	1 06.6	66.1	7 90.0	04.7	08.0	10 14.3	11 19.9	.....	06.5
1881	24 44.5	.....	4 85.8	23.4	.....	.....	47.6	03.7	04.9	2 06.7	97.9	58.8	6 29.0	07.1	08.3	17 29.9	11 83.2	.....	12.0

TABLE SHOWING THE ANNUAL AVERAGE GOLD PRICE OF STAPLE ARTICLES IN THE NEW YORK MARKET, 1831–81.—*Continued.*

YEARS.	Butter.	Cheese.	Rice.	Salt.		Sugar.			Tallow, American.	Tea.		Tobacco.		Wine.			Wool.		
				Liverpool	Turk's Island.	New Orleans.	Cuba.	Loaf.		Young Hyson.	Souchong	Kentucky	Manufactured.	Port.	Madeira.	Claret.	Common.	Merino.	Pulled.
	lb.	lb.	cwt.	sack.	bu.	lb.	lb.	lb.	lb.	lb.	lb.	lb.	lb.	gal.	cask.	lb.	lb.	lb.	lb.
1831	$0 14.8	$0 06.0	$3 10.5	$1 91.0	$0 50.7	$0 06.0	$0 05.8	$0 15.8	$0 09.0	$0 97.7	$0 63.5	$0 04.5	$0 10.7	$1 10.0	$1 87.5	$24 37.0	$0 27.5	$0 53.5	$0 55.0
1832	15.5	06.0	3 35.5	2 00.0	48.5	06.2	06.5	15 5	09 0	88.0	50.0	04.0	11.0	1 16.0	1 71.5	21 95.0	27.5	47.5	42.7
1833	15.6	07.0	3 22.0	1 83.5	43.5	06.3	07.2	15.8	09.2	74.5	36 5	04.7	11.0	1 26.5	1 68.5	17 20.5	31.5	49.0	46.7
1834	14.1	07.1	3 91.0	1 56.0	38.5	06.2	07.1	15.8	07.0	61.0	30.0	06.5	12.0	1 23.0	1 66.5	14 33.5	30.2	48.8	46.3
1835	17.3	07.2	3 49.5	1 77.5	36.2	07.2	07.8	15.0	08.2	62.8	27.5	08.0	13.0	1 28.7	1 67.0	15 25.0	33.7	53.9	47.1
1836	19.5	08.8	3 68.5	1 91.0	37.5	09.1	09.0	16.2	09.2	63.7	32.0	08.2	15.6	1 30.8	1 62.5	15 29 0	42.8	58.6	52.7
1837	17.2	09.0	3 83.7	1 90.9	36.8	06.3	06.7	14.8	09.9	58.8	29.1	06.2	15.3	1 61.2	1 55.5	15 06.8	41.6	40.5	40.3
1838	19.8	07.9	4 31.5	1 98.7	39.1	06.6	06.8	15.3	10.2	57.4	27.2	07.5	15.5	1 29.4	1 65.1	15 60.8	30.4	37.7	34 3
1839	19.0	09.1	4 36.5	1 74.2	37 3	06.8	06.8	15.5	11.6	63.3	27.5	13.0	20.5	1 30.0	2 00.0	20 00.0	38.5	51.2	42.5
1840	17.5	07.1	3 38.0	1 52.5	34.7	05.7	05.8	12.5	08.7	67.7	45.5	08.5	13.7	1 16.0	1 70.0	19 16.5	28.0	39.1	28 2
1841	11.9	05.7	3 46.0	1 59.0	30.0	06.0	06.0	12.0	07.5	74.9	.58.9	08.2	13.5	1 06.0	1 67.0	15 00.0	27.0	44.2	33.0
1842	11.7	07.0	2 80.0	1 67.0	25.1	04.4	04.6	10.0	07.0	64.0	49.4	05.0	11.6	95.0	1 68.5	12 71.0	19.3	32.0	29.0
1843	08.6	05.2	2 64.5	1 46.5	.....	05.3	05.7	10.7	06.8	60.0	43.0	04.7	12.5	87.5	1 25.0	12 75.0	20.5	30.5	23.0
1844	09.9	04.6	3 06.0	1 40.5	.....	05.2	06.2	11.0	06.6	60.0	37.0	04.0	12.5	1 08.5	1 62.0	19 00.0	30.0	40.0	32.0
1845	13.5	06.8	3 81.0	1 37.0	37.5	05.8	05.9	11.4	06.7	59.5	36.5	04.5	12.5	97.5	1 44.5	22 50.0	27.0	35.1	29.7
1846	13.0	06.8	3 65.5	1 34.0	33.0	06.3	06.5	11.0	07.2	58.0	39.0	04.7	12.5	1 13.0	1 55.0	22 00.0	23.5	33.3	23.6
1847	16.0	06.9	4 12.5	1 35.5	30.0	06.5	07.7	10.0	08.7	52.0	56.0	04.8	13.1	1 52.5	1 80.5	25 77.0	26.2	35.2	28.0
1848	16.0	06.7	3 17.0	1 39.0	25.2	03.8	06.7	08.0	08.0	48.5	27.0	05.3	13.5	1 50.5	1 83.0	28 17.0	26.1	34.3	26.0
1849	15.0	05.0	2 96.5	1 29.0	24.2	04.7	06.9	08.5	07.5	47.5	34.7	06.1	14.0	1 50.5	1 88.5	23 50.0	29.2	36.1	27.6
1850	15.1	06.2	3 18.5	1 36.5	23.4	05.1	07.4	09.5	06.8	49.6	40.0	08.2	21.0	1 25.0	1 88.5	23 50.0	32.6	40.0	33.5
1851	14.2	05.7	3 02.5	1 34.0	22.5	05.2	07.5	09.0	06.7	51.3	34.3	08.1	25.5	1 33.5	1 90.0	23 50.0	35.5	42.5	34.7
1852	19.2	07.0	3 71.5	1 20.0	21.5	04.3	07.0	08.0	08.1	50.5	30.5	06.5	19.5	1 37.5	1 90.0	23 50.0	33.0	39.7	32.7
1853	18.0	08.5	3 98.5	1 34.5	34.0	04.7	07.2	08.3	08.8	45.0	27.0	07.0	20.2	1 38.0	1 92.0	23 50.0	41.0	50.0	40.0
1854	19.5	09.5	4 39.0	1 59.5	47.0	04.7	06.7	09.0	11.6	42.5	23.0	08.0	18.5	1 67.5	2 14.0	33 33.0	33.4	42.1	30.8
1855	21.8	09.5	4 51.5	1 06.5	44.5	05.6	07.2	08.6	11.7	36.8	21.0	09.4	19.7	2 21.0	2 33.0	43 33.0	39.8	37.0	25.0
1856	21.6	08.5	4 16.5	92.5	29.2	07.8	09.8	10.7	11 0	37.5	17.7	11.0	22.0	2 80.0	2 86.5	50 00.0	38.5	44.6	31.1
1857	21.5	09.4	4 34.0	79.7	22.1	10.0	11.8	12.6	10.7	42.0	28.7	14.1	27.7	3 00.0	3 37.5	50 00.0	36.8	49.0	32.8
1858	18.5	06.8	3 26.5	65.5	18.5	06.5	08.7	10.0	09.3	35.5	26.5	10.5	24.0	2 95.0	3 29.0	56 66.0	30.0	39.0	24.8
1859	19.0	08.3	3 66.5	68.0	18.5	06.3	08.8	09.5	10.5	32.7	29.5	08.8	23.0	2 92.5	3 50.0	52 50.0	36.0	49.2	32.0
1860	16.7	09.8	4 08.0	90.5	18.5	07.1	08.5	09.8	10.0	35.0	30.0	08 1	19.7	2 95.0	3 68.5	52 50.0	36.7	50.0	29.4
1861	15.0	07.2	5 02.5	73.0	20.1	06.0	07.6	08.0	08.8	43.0	27.0	09.1	24.0	2 80.0	4 25.0	52 50.0	33.5	43.0	26.5
1862	15.4	06.6	6 36.2	97.5	25.1	07.8	09.0	10.1	08.2	54.3	38.8	13.2	37.5	2 42.8	3 75.2	46 35.7	44.1	46.7	36.2
1863	15.1	08.0	4 19.2	1 01.9	27.3	07.4	07.2	10.0	07.7	38.7	40.7	14.4	39.6	2 12.2	2 92.8	47 94.0	46.5	51.4	40.3
1864	18.7	08.2	5 41.2	1 27.4	33.3	.....	08.6	09.9	07.5	44.9	47.1	18.1	.....	.....	.....	.....	.....	43.7	43.3
1865	19.3	10.1	7 70.4	1 32.8	34.7	.....	09.1	11.6	08.7	68.9	59.2	11.8	.....	.....	.....	.....	35.3	51.3	48.7
1866	23.5	12.5	9 10.3	1 32.2	34.6	.....	07.4	10.7	08.7	65.3	64.7	09.5	.....	.....	.....	.....	34.2	47.3	41.3
1867	15.5	11.0	7 83.5	1 42.0	36 7	.....	07.6	10.5	08.2	69.9	70.7	08.7	.....	.....	.....	.....	33.3	44.3	36.7
1868	22.1	10.2	7 30.4	1 51.2	33.2	.....	07.8	10.5	08.6	67.0	70.9	07.9	.....	.....	.....	.....	31.4	41.1	33.8
1869	19.3	12.3	6 54.0	1 39.2	35.2	.....	08.3	11.2	08.5	72.4	67.9	07.5	.....	.....	.....	.....	32.4	44.7	33.0
1870	20.1	12.8	5 53.4	2 04.5	34.8	.....	07.9	11.0	08.3	73.4	73.1	08.1	.....	.....	.....	.....	19.6	48.2	34.3
1871	16.1	09.9	7 54.3	2 22.9	39.8	.....	07.8	11.2	08.1	43.8	61.8	07.6	.....	.....	.....	.....	28.3	53.7	36.9
1872	15.1	10.6	7 75.9	2 12.4	35.6	.....	07.4	10.5	08.1	41.1	52.2	10.7	.....	.....	.....	.....	31.1	63.1	56.6
1873	18.2	11.3	7 40.9	1 77.2	31.0	.....	07.0	09.1	07.3	48.8	40.8	10.6	.....	.....	.....	.....	27.7	50.4	42.7
1874	25.4	10.7	7 20.5	1 00.4	26.1	.....	07.0	09.3	07.2	44.9	38.9	09.7	.....	.....	.....	.....	26.0	51.6	41.7
1875	18.9	09.4	6 47.0	88.2	22.4	.....	07.0	08.7	07.9	43.6	39.0	11.8	.....	.....	.....	.....	25.1	48.7	38.8
1876	20.4	09.4	5 28.0	80.1	24.4	.....	06.2	09.3	07.4	33.2	42.6	09.8	.....	.....	.....	.....	22.7	39.9	31.2
1877	24.0	11.6	5 80.5	73.2	27.1	.....	08.5	09.7	07.5	35.2	45.3	09.8	.....	.....	.....	.....	25.7	48.8	36.2
1878	23.3	09.9	6 15.0	65.0	26.3	.....	07.2	08.8	06.9	25.8	34.4	07.1	.....	.....	.....	.....	24.1	41.6	33.6
1879	22.7	11.2	6 00.0	73.8	28.8	.....	07.6	09.0	06.2	31.3	31.5	08.0	.....	.....	.....	.....	22.6	52.0	41.4
1880	23.0	07.6	6 59.0	69.0	30.5	.....	07 0	08.6	06.3	23.4	24.6	07.7	.....	.....	.....	.....	25.4	41.4	34.9
1881	23.2	11.4	6 20.0	75.0	22.0	06.7	07.7	10.0	07.0	25.6	27.5	08.2	19.5	1 37.5	5 25.0	.....	29.0	45.4	36.4

sums of foreign capital were sent here for investment. The rise in prices was very rapid between 1850 and 1853, and continued until 1857, aided by an expansion of bank issues. Cotton sold for 9 cents in 1852; in 1856 for 10.6, and in 1857 for 14 cents per pound. In 1857 the crisis came, banks suspended, and prices dropped, reaching their lowest limit in 1861, after which time they were unnaturally increased by the changed conditions forced upon the country by the rebellion. All banks suspended in 1861, and in 1862 an era of irredeemable paper currency was entered into, which lasted until 1879. The financial policy pursued, only aggravated the disturbance. In 1863 gold was at 140–150, and the paper dollar was worth only 65 or 70 cents; under further issues gold rose to 200–220, making the paper worth 45 or 50 cents. A tariff, higher and therefore more restrictive, than the country had ever before experienced, was built up between 1861–6, the duties collected in 1865 being 54 per cent. of the dutiable imports. An onerous system of internal taxation was adopted, under which a commodity and its various parts were subject to many different taxes, thus vastly increasing its price. The special commissioner of the revenue (Mr. David A. Wells), in his report for 1866, says that a somewhat extended investigation respecting the advance in the prices of the leading articles of consumption and of rents, indicated an increase of nearly 90 per cent. in the year 1866, as compared with the mean of prices during the four years 1859 to 1862. The price of cotton varied from 300 to 500 per cent. above the price in 1860. The price of labor, however, did not advance in an equal ratio with the price of commodities, being but about 60 per cent. The effect of the great increase and disturbance of prices thus noticed, he summarizes as follows: a decrease of production and consumption, and a partial suspension of national development. — At the end of the war the country showed a wonderful recuperative power. In 1868 over-production was complained of, and prices continued to fall until 1871. Some of the burdens to which the industry of the country had been subjected by the war were removed in these years, and, although prices were low, the country was being prepared for a period of great speculation and inflation, which culminated in 1878. During the next six years the country experienced one of the most, if not the most, severe periods of commercial and financial depression it ever felt, and one of its marked characteristics was the great shrinkage everywhere felt in values. In 1879 there again occurred a great revival in business, marked by a rapid increase in prices; but this led to such an enormous production in the great industries, notably in iron, woolen and cotton manufactures, and paper industries, that in less than three years prices had nearly touched the low level they had reached in 1878. — Such, in brief, has been the general course of prices in the United States. Each commodity, however, has its own history, and ought to be studied carefully, not only by itself, but also in connection with all other commodities. This, however, the limits of the present article would not permit, and this "sketch" must be sufficient. The first of our tables shows the prices of leading commodities in Boston, and was prepared by Mr. John Hayward. Our second table is taken from the report of the director of the mint for 1881; all gold prices. — AUTHORITIES. The works of Rogers (*Agriculture and Prices in England*, 1259–1582, 4 vols.) and of Tooke and Newmarch (*History of Prices*, 1793–1856, 6 vols.) are two of the most valuable contributions ever made to economic science. The essays of Felt, Phillips, Bronson, Gouge, and Raquet, on American currencies, are valuable, and Sumner's *History of American Currency* is the best work that has yet appeared on this subject. The same author's *Life of Jackson* should also be studied. Niles' *Register* contains much that throws light upon the course of prices. Walker's *Money* shows the changes that have occurred in the value of the precious metals, and the reports of the various international conferences on silver should be consulted. The French economist A. de Foville has made a special study of prices during the present century, and the results of his studies were published in *L'economiste Français*. Giffen's *Essays in Finance* and Grosvenor's *Does Protection Protect?* contain suggestive special studies of prices, as does Cliffe-Leslie's *Essays in Political and Moral Philosophy*. The reports of Mr. David A. Wells while special commissioner of the revenue should be carefully studied. WORTHINGTON C. FORD.

PRIMARY ELECTIONS. Primary elections, the caucus and the caucus system, are terms used to designate the political action through which nominations for elective officers are made. In a restricted sense, primary elections would only refer to the election of delegates and committees in the primary assemblies of the people, or to political associations for political purposes; but the phrase is used herein as comprehending the theory and action of both those associations and of the delegates they select. — By reason of the very restricted suffrage in Great Britain, until within a few years, her history affords little instruction in regard to such elections. Her politicians are now looking to our system, as by far the most developed, for light in dealing with problems which the ballot and her enlarged suffrage have lately presented. — In a sparse population, or even before considerable cities arise, there are so few officers elected, and all political affairs are so simple and transparent, that if what may be called a "primary system" exists, it rarely develops abuses. Those who are most worthy of office, and the merits of those who seek it, are known to nearly all the voters. Complex machinery for nominations and for the support of candidates, is equally unnecessary and unavailing. The gains to be derived from controlling caucuses and coercing officials, are too small to enable

political manipulators to convert such matters into a profitable business. — But the growth of cities and of the complexity of life which creates a need for elaborate police and sanitary administration, soon causes some organization for making nominations to be indispensable. At first it is very simple, hardly more than an informal coming together of the more patriotic citizens just before the election. The caucus system of New England, said to have been devised by Samuel Adams, was in theory, and at least in early practice, little more than an extemporized consultation by the voters generally—or by a portion of them and the recognized leaders of the others acting publicly for those who did not attend in person—for the purpose of deciding upon the proper persons to be voted for at the next elections. The idea of dictation, monopoly or gain, was no part of the motive force of the system. Such, too, is that system as now being generally carried into effect in the country districts. But in the larger cities of New England, as in other cities, it has lost much of its original justice and purity in the growth of vicious methods more or less analogous to those of New York and Philadelphia. — The long habit of treating whatever action precedes the election as beyond the domain of law, and hence as within the range of the absolute, irresponsible liberty of the citizen, naturally causes every proposal to bring primary elections within statute regulation to be denounced as a species of despotism, repugnant to the just liberty of parties and the private rights of politicians. They appeal to the past as illustrating the true sphere of law and of the liberty of partisans, precisely as the authors of intolerable nuisances and the builders of unsafe houses make the same appeal, when for the first time safe walls and good sewerage and ventilation are required by law. — A resort to the same reasoning is also prompted by other motives. The control of primary elections by party managers—by chieftains and bosses in their final development—creates powerful combinations and interests in behalf of its continuance. A specious appeal to a pretended natural right and to familiar usage is thus made to cover gross forms of corruption and extreme methods of despotism. — Further than this, those who make a trade of politics, and find a profit in giving their time to manipulating primaries and dictating nominations, charge those who can not give so much attention to politics with neglecting their political duties, and with complaining of abuses of which their own neglect is declared to be in large measure the cause. There is unquestionably some foundation for this charge; but it is vastly overstated. The important question is, whether we have a good primary system, whether a better one is practicable, and whether the facilities for making a lucrative trade of politics may not and should not be checked by law. — There is yet another cause worthy of notice, which facilitated the toleration of those abuses until long after their magnitude had required the hand of the legislator. Besides, being of a character little open to observation, they were connected with a discharge of public duty by those causing them, the very performance of which seemed to supersede the need of the citizens giving much attention to the elections. To assail the abuses, therefore, seemed to combine ingratitude with self-condemnation. It was only when the evil began to be alarming that the higher public opinion began to boldly condemn such specious arguments, and to reason soundly on the subject. — It was in the very nature of these abuses that they should be the greatest in New York city, where population is most concentrated, the greatest number of officers are to be elected, and the extremes of ignorance, poverty and wealth are the most developed. They had there become so threatening before 1866, that in that year the New York legislature, in a statute in a loose way covering the principle of adequate legislation, made penal certain forms of bribery at primary elections. The active and venal classes interested in the corruptions of her primary system have thus far, however, been strong enough to prevent an efficient execution of the law. But, in the meantime, the sense of peril and duty has developed far more potentially, demanding more comprehensive enactments in the same spirit. This demand caused two limited enactments on the subject by the New York legislature of last winter. In the same spirit there has been legislation on the subject in Ohio, Virginia (applicable to Richmond) and in Pennsylvania, though on several points it is yet very defective. The two laws enacted in Pennsylvania last winter are far more comprehensive and penal than those of the same date enacted in New York. But in some respects the statutes of Ohio on the subject are superior to both. In Ohio (Rev. Stat., vol. i., §§ 2916–2921, and vol. ii., §§ 7039–7044), primary elections are in large measure brought under the general election laws. Notice of the elections must be published and posted. Judges, clerks and supervisors of the elections are to be sworn. Any qualified elector may challenge any one offering to vote, and questions must be put touching his qualifications. The offering or accepting of money or reward by a voter to influence his vote at a primary election, or the making of threats, or any attempts to intimidate or distract a voter at such election, are made penal, and are also a disqualification; and so is the asking or receiving of any money or property by any delegate from any candidate for nomination, or the paying or promising of any money by any candidate to any delegate for the purpose of obtaining any influence or vote in a convention. It is also made penal and a disqualification for holding the office, for any candidate for nomination by a political party for an office of trust or profit, to do any act forbidden as aforesaid, for the purpose of securing influence in his behalf. These provisions are in a high degree comprehensive and salutary, and they deserve the attention of other states. Yet they are less complete, in important

particulars, than the English bribery and office-brokerage laws in this article referred to. — The statutes of California make the calling and holding of primary meetings under the election laws optional. But, in case they are so held, some special provisions of a mild character are added. The entire provisions are meagre and inadequate. (Political Code, section 1357.) — In New York the corruption and despotism of her system of primary elections are now regarded as so intolerable that the state convention of each party, for the present year, has made a pledge in its platform to reform that system. But much diversity of opinion exists as to the most appropriate and efficient means. — To comprehend the system is the first essential step toward a remedy for its abuses. Wherever such abuses exist, they tend to become identical with those in New York, falling short as do population, complexity and ignorance. If a remedy can be found there, it can be found everywhere. If the evil grows at that great centre, it encourages imitation in every other city. Let us, then, see what they have become. — The vastness of the population and the great number and variety of the officers to be elected are important elements of the problem. In towns and villages, every shoemaker at his bench, and every woman over her wash tub, may know the merits of the candidates. But in a city of 1,200,000 people, not one voter in a hundred is acquainted with one in twenty of the candidates. Besides voting for governors and federal electors, the city elects seven members of congress, five state senators, and twenty-four members of the assembly. To these the local judges, justices, coroners, the mayor and aldermen, and other officers, both executive and judicial, who are elective, must be added. Each party, and sometimes each faction, has its candidates. An official list of the candidates to be voted for in November, 1881, though no governor or lieutenant governor, only two members of congress, and no judge of any one of the three higher courts in the city, were to be elected, yet shows 165 candidates in the field to be voted for on the same day. At some elections hardly less than 200 candidates are pressing their claims. There are 688 different places where the votes are received in the city. The legislative officers of a town or village represent the peculiar local interests and views as to the corporation, of which the voters are well informed. These views and interests are the basis of responsibility and the test of fidelity. In a great city, the districts or wards, in which such officers are elected, and which in theory they represent, are little more than nominal divisions—the dwellers in so many blocks of houses separated only by streets from the next divisions—having no organic relations and no peculiar interest or opinions to be represented; such conditions are very unfavorable to a high sense of responsibility to constituents. They make all local test of fidelity almost impossible. The boundaries of the 688 polling districts are as arbitrary as those of the districts for representation. The voters, on an average, perhaps do not know by sight one in twenty of the persons who vote at the same place. All such facts add new facilities to those afforded by the heterogeneousness of the population and the great number of the candidates, for double and treble false voting, fraudulent personation and counts at these numerous polling places —evils which the most stringent registry laws and the most efficient inspection can do little more than mitigate. Ignorance on the part of the voter of much that he needs to know, a sense of irresponsibility on the part of candidates and officials, and an almost impenetrable complication in the whole machinery of primary elections, are natural under such conditions. They suggest the possibility of making a vast and profitable business and a potent influence in politics, through controlling "the primaries," and thereby predetermining the elections. For many of those candidates the whole city votes; for others only a few wards or districts: for still others only a single one of the smaller districts. The great parties — the chieftains, bosses and their lieutenants who have reduced the nominating machinery to a system and become experts in its management — are a central power, the whole force of which can be concentrated upon the smallest district. Those who confront it there stand alone. Citizens who do not make a business of politics lack the organization and time necessary for resisting successfully the aggressive and ceaseless activity of the great party managers. The greed of many for office; the ambition of scheming leaders for patronage and supremacy; the fierce zeal of partisans for party victory; the heat, recklessness and impetuosity born of nearly 200,000 voters contending together in the political arena of a single city, in which a nomination at the primaries, unless there be a popular uprising, is essential to an election: these are but a part of the elements which give importance to primary elections, and concentrate upon them all the cunning, intrigue and interests of the politician class. That class acts upon the theory that the primary elections practically decide who is to be elected, and that the control of them is, in a general way, the control of the legislative, executive and judicial authority, by which 1,200,000 people are governed. — The other elements of the primary system are more venal and corrupt, being in part the outgrowth of the abuses of the primary system itself. 1. There are, subordinate to these elected officers, about 10,000 officials and many employés in the city, of whom the annual compensation (including that of the elected officers) is nearly eleven millions of dollars. And of federal officials there are in the city more than 2,500 (besides employés), whose annual compensation exceeds $2,500,000. There are to be added also many salaried officials of the state who serve in the city. It has long been the practice of both parties (and sometimes even of chieftains and bosses on their own account) to levy upon such salaries and wages amounts varying

from 1 to 3 or 4 per cent., under the name of "political assessments" (see ASSESSMENTS, and "North American Review," for September, 1882); and the large sums thus extorted have been used to meet the expenses both of the primary system and of party management generally. 2. This habit of assessment extortion, which is really the enforcement of an annual rent upon his office against the public servant (a practice vigorously supported by the elected officers) naturally led to the practice of demanding money for a primary nomination. Vast sums are thus obtained, to be used for the same objects as the assessment collections. Here is a practice having all the iniquity of a public sale of offices. There is, in fact, what may be called a customary price required for nomination to the respective grades of office, and good reason for thinking that from $500 to $1,000 is exacted for a nomination to the legislature and from $1,000 to $5,000 for nomination to a judgeship. (See last citations.) The demoralizing effects of such practices, and the vicious and almost irresistible potency they give to the regular nominating machinery, are obvious. 3. The other great element of corruption at the primaries is not less powerful and demoralizing. Under the spoils system (see article under this heading), this vast army of subordinates, federal, state and municipal, have had their appointments dictated by the elected official and the party chieftains. It has been a part of the conditions of the nomination, not only that they should pay such assessments or be removed, but that, subject to the same penalty, they should render active feudal service to the powers that gave them places. Failing to do this, they are, under that system, sure to be removed. (See REMOVALS.) These thousands of officials under such a tenure, have swelled the list of obedient voters at the primary meetings, and of subservient workers for the election of the nominees of such meetings. — In these facts we find the intimate relations between the purification of the primaries and the great problem of civil service reform. If the primaries were honest and made worthy nominations, the great officers could no longer secure money and henchmen by plundering and enslaving the humble member of the civil service. If the civil service was filled by the more meritorious, selected through competitive examinations (see CIVIL SERVICE REFORM), subordinate officials would be under no pledges and have no inclination to pay assessments or perform degrading partisan work. — With such facts in mind, let us see what kind of a primary system has been developed in New York. The practical methods of that system, as it is now enforced by either party, were matured under the control of the Tammany society. That society, generally designated as "Tammany Hall," was founded in the first year of Washington's administration, and was incorporated in 1805. It had originally a benevolent or patriotic purpose, and a distinguished membership. But as early as 1812 it was seeking political control. In 1827 it began to meddle with the primaries, and by 1834 it was dominant in city politics. There seems to be good authority for saying, that, in the forty-eight years since which New York has elected her mayors, Tammany Hall has controlled their nomination for at least thirty years. Its power had become absolute alike over nominations, appointments, assessments, removals, and all city expenditures, long before the saturnalia of corruption, pillage and despotism, during which Tweed, Barnard, Fisk, and their associates, flourished. The society is permanent. It has a central general committee with autocratic power, whose action is final and secret. There are subcommittees in each of the twenty-four assembly districts, whose members are drawn from each of the 784 election districts in the city; there being, in all, from 2,500 to 3,000 of these working committeemen. The general committee appears to have power to supersede any nomination made in any of the districts, and it may remove any subcommitteeman for insubordination. While this great central authority has not wholly prevented the growth of powerful factions in the democratic party, it has, with slight exception, controlled with a resistless hand all the primary elections of the party, and no rebellious faction has long survived. It has sold nominations, and levied assessments in vast amounts, to fill its treasury, and has used the money to pay its expenses, to bribe the press, to purchase the support of persons of influence, and to reward its own chieftains. It has also rewarded its friends and bribed its opponents by the gift of places in the public service. It has converted those who fill that service into henchmen as servile, and into voters as compliant, as its own dependent committees. Its perpetuity of corporate life; its long experience in the arts of manipulation; its ability to fill its own treasury by indirectly plundering, through assessments, that of the city, state and nation, as well as by the sale of nominations; its great army of workers made up of its own subordinates and the public officials: these vast elements of power have made Tammany Hall almost as irresistible as it has been audacious, greedy and aggressive. It only needed the authority to say who should be members of the primaries, and, as a result, who should be allowed to vote for delegates and nominations, in order to make such an organization absolutely despotic. That final step was not difficult. With resources so unlimited, within the partisan circles, it was easy to dictate the terms upon which the new generations should enter them. It was not long after 1834 before such authority was acquired. The primary organizations in the smallest districts were changed into partisan (Tammany) clubs, with a continuing membership and strict tests for admission. Neither long adhesion to the party, nor sincere devotion to its principles, would secure admission to the local primary. Every applicant must secure the vote or consent of a majority of the old members after his election, before he would be admitted. If elected, he must come under two

pledges: 1, to obey all orders of the general committee, and 2, to support all regular nominations, before his membership would be complete. The members of these primaries were the only recognized members of the party, and hence the only persons eligible to any office or able to participate in any action or honors of the party. Whoever attempted, even in the most obscure district of the city, to bring forward any candidate not approved by the great central mercenary authority, at once felt the crushing weight of this powerful, all-pervading, despotic primary system. How hostile such a system is to all free and noble aspiration, to all exposure of abuses, and to all disinterested effort in politics, and how naturally and rapidly official degradation followed from such a system, need not be pointed out. It is plain enough, too, that such a system would never give a true representation of the people, especially of the more patriotic and self-respecting portion of them. — The republicans not only found this primary system complete, but, early, there came into their ranks thousands of politicians familiar with its enforcement, and greedy for its spoils. The time and manner of its reproduction in the republican party we need not recount. It is enough that, not long after the war, assessments, nominations made for a price, officials converted into partisan henchmen, the old democratic primary methods, an aristocratic secret central committee, and servile pledges of support and obedience at the gates of the primaries, were all a part of the machinery of the new party. No one could become a member of a primary unless elected by a majority of the old members. No one not a member, however true and worthy a republican or noble a citizen, had any vote for a delegate, any chance for an office, any recognition by the party leaders. The smaller the membership of the primaries, the more easily they were manipulated by the chieftains and bosses, and the more certainly the henchmen could outvote the more independent members. At no time did that membership exceed in number a fourth of the city voters of the party, and for several years it has hardly been one-sixth. All nominations and all platforms, save when the independent unite in rebellion, are made by the delegates of these primaries. The pledges and servility required for getting into a primary have excluded the more independent and conscientious voters. There is nothing in the republican primaries corresponding to the original primary meetings of New England, in which every adherent of the party was presumptively a member. Hence there is, even in theory, no real representation of the party, but only a confederation of selfish, partisan clubs, under the name of primaries and the pretense of representation. The organization of the twenty-four republican primaries of the city is as complicated, and the access to membership is as difficult, as that of any private club. The name of the applicant must be posted on a bulletin, and there stand until the next monthly meeting, before it can even go to the committee on admissions. If favorably reported, it must yet gain a majority of those present at a monthly meeting of the primary; a result quite problematical if the pliant obedience of the candidate is not made clear, or if he is not a member of the faction or the follower of the boss domineer in his primary; and his application must be to the primary of his district. If he secures a majority, he must yet not only take in substance the old Tammany pledge, "to obey all orders of the general committee," (whose action is secret), and "to support all nominations approved by that committee," but he must also bind himself not to join any organization which does not recognize the authority of the primary association he seeks to join! This is, of course, intended to prevent all movements for reform. If elected, he may at any time be expelled by a majority of the members at any meeting of the association, if he is held to have violated any of those pledges. After an expulsion, he can get back only by a vote of the primary. Such is the liberty of a member. — The growth of these evils has long been apparent. The servile conditions of membership have repelled the better class of citizens. A large part of the money gained by assessment and the sale of nominations has found its way into the pockets of the henchmen and schemers, by whom, generally, the primaries have been controlled. From the same fund venal demagogues and mercenary journals have secured liberal pay for doing the dirty work of politics. An unscrupulous, greedy generation of partisans has made a profitable trade of party management, and has obtained the control of the city primaries. These classes have brought the party management under a low morality and poor ability, in the same degree that they have disgusted and alienated its worthy members. Such causes have greatly increased the indefensible inclination of many citizens to stand aloof from politics. — It is in such associations, and through the votes of members thus deprived of half their manhood and all their independence, that the delegates of the republican party are selected, by whom the seats of its conventions are filled, the declarations of its principles are framed, and the nominations of its great officers are made. Nowhere else in the state is the primary system so arbitrary as in the city of New York, but much of its theory is enforced in all the municipalities, and its spirit is felt even in the towns. It is such a system in New York, and hardly less in Philadelphia, which has made possible the servility in conventions, the feudal despotism of party leaders, the shameless forgeries for carrying nominations, and the open warfare of factions, by which the better citizens are disgusted, politics are degraded, and great parties have been enfeebled, demoralized and corrupted. In a letter dated August, 1871, the present governor, Mr. Cornell, then chairman of the republican state committee of New York, after saying that "the interests of the party could not be in-

trusted to the republican primaries, and that their rolls contain fictitious names," declares that "when the delegates to the general committee of 1871 were elected, *a very large portion of the true republicans in every district declined to take part in such election*, on account of the frauds and violence and the facts hereinbefore set forth"; and that "many of the presidents of the republican associations were in the direct employment of the city officials. * * Members of the general committee have since acknowledged that they were paid large sums of money to vote in accordance with the dictates of the Tammany officials. * * As might be expected, *the elections of delegates to conventions in nearly all of the districts were mere farces.*"—There has been but very inadequate improvement since. George Bliss, district attorney under President Grant, in a letter to President Arthur, dated November, 1879, says: "The rolls are deceptive; in one district half the names of those on the rolls are not known in the district. These bogus names afford a convenient means for fraudulent voting. The rolls of many of the districts are full of the names of men not republicans, and are *used by the managers to perpetuate their control of the associations.* On the other hand, desirable members, good republicans, who have an absolute right to become members, are excluded. Sometimes this is done by a direct rejection, but oftener by a refusal to vote upon the names presented. * * At elections they are or are not members, according as they are or are not prepared to vote a ticket satisfactory to the controlling powers. So notorious is it that elections in the associations are not fairly conducted, that contests are of rare occurrence." He says, "a reform of the primary system must be made," or the republican party of the state "must and will be swept out of existence." There has hardly been any change in New York for the better since 1879, if indeed her primaries have not become more mercenary and proscriptive. Such are the reasons which have made the question of primary elections in the leading states, and must, not long hence, make them in other states, a subject of great peril and difficulty. — As the fate of elections and the general welfare is plainly involved in this primary action, there can be no more question of the sound policy of extending the laws over it than there is as to the expediency of registering voters or educating the poor. The real question is, how to do it effectively. — 1. It is plain, that, in the voting for members of the primaries, in their proceedings as organized bodies, in the methods of selecting delegates, and in the discharge of duties of the delegates, there is every opportunity for injustice, fraud and corruption that there is in the formal elections of officers, or in the discharge of their duties. The New York state convention, for example, has just been disgraced by flagrant cases of forgery which have affected, if they have not decided, the nomination of a governor. No New York statute covers such cases, though that of Ohio probably would. It is plain enough, therefore, that the provisions, in principle if not in detail, which punish cheating, falsehood and violence at the final election, should be extended to the primary elections also. A committee of the legislature of New York reported, last winter, that the fraudulent practices at the primary elections now unpunished can be prevented from soon extending to the official elections, only by legal prohibitions. More stringent legislation on it is essential. The two Pennsylvania laws enacted upon this subject in 1881, go far beyond the New York statutes of the same year, and are examples of legislation which well illustrate the better spirit which is becoming potential in both states. — 2. Recognizing the possibility that a disciplined band of politicians may gain too much power in the primaries, whatever legal safeguards may be thrown around them, other bills offered on the subject, and especially in New York, have gone further than mere penal provisions, by providing for a *direct vote of the people* in the primaries for the candidates for election, instead of for delegates to make nominations. The primary elections are thus practically converted into a first vote for officers; the second vote being the elections themselves, at which, however, only those can be voted for who have received the highest vote of the party at the first election. On this theory, strictly applied, delegates and conventions are made unnecessary, but, in some forms of its proposed application, delegates for specific purposes are to be voted for at the time of the first vote. There are also provisions in some of the bills allowing a given number of citizens to put forward a candidate, at the first election, they being in the sense of the law "a party," though not in the popular sense of the word. Their candidate, having the majority of their votes, could therefore be among the highest eligible to be voted for at the second or final election. Much as that device might at first curtail the present power of the primary despots, it is plain that their vicious nominating machinery could be put in force to forestall the first election by making nominations therefor. Without adequate provisions for making a fictitious legal party as aforesaid, it is plain that the rule of confining the final vote to the party candidates having the most votes, would greatly increase partisan tyranny and monopoly. It would make partisan tests more mischievous and controlling than they now are in municipal elections. As both elections, on this theory, are made legal and public proceedings, the expenses of both alike are to be paid from the public treasury. It can not, therefore, be doubted that the legitimate expenses of elections would be considerably increased; though, if the sums gained by assessments and the sale of nominations are added, it is very likely the expenses of the new methods would be less. This experiment of double voting appears to have been tried with some benefit in Richmond, Virginia. The need of bringing the action of the primaries under legal provisions is so plain

and imperative, the subject is so complicated, difficult and new to legislation, that the expediency of attaching to it new and doubtful methods of elections is at least very questionable. It may cause great delay.—3. Other legislation and further remedial measures are needed for the purification of the primary system. We must by penal statutes suppress the raising of money by assessments and the sale of nominations. So long as partisan managers are allowed to gain by such means abundant money for filling their own pockets and those of their camp followers, for bribing the press, and for compensating demagogue oratory, they will be stimulated to a pernicious and almost irresistible activity. The unnatural spectacle will continue, of the lowest class of partisans, having the least stake in the welfare of the country, being the most active in politics and the most influential in the elections. Why should we expect any other result as long as that corruption fund can be divided among them by their own vote or the order of their chieftains? What is it but partisan despotism awarding the prizes for political corruption and servility? — 4. We must also, as an essential condition of honest primary elections, take from the great politicians and the elected officers their corrupt patronage, by reason of which, through threats of removal, they make the public officials their servants, and through actual removals they make places and spoils for their followers, who do the basest work of the elections. (See PATRONAGE.) The reform of the primaries is largely dependent upon the reform of the civil service. So long as we allow such opportunities of prostitution and corruption to be the prizes of elections, we have no right to expect them to be pure, and no reason for surprise that honest voters are discouraged and the baser elements so often triumph. If the better classes would elect their candidates, they must use their own money to pay expenses, and must forego the use of places for rewarding their mercenary supporters. The existing system allows the public treasury to be indirectly plundered, and the public service to be directly prostituted, by the politician class for their own ends; and when that system is arraigned, those who live upon its spoils declare that the abuses at the primary are caused by the neglect of the honest and independent voters to attend. In the very outset of their resistance, such voters must take money from their own pockets to match the tens of thousands which machine politicians plunder from the public servants, for campaign expenses. Let both classes alike be compelled to appeal to the voluntary contributions of the voters. When corrupt patronage shall be suppressed by filling the subordinate places through competitive examinations, and assessments and the sale of nominations shall be made penal, so that all classes alike must tax themselves for the election of their candidates, we shall no longer see the most mercenary and patriotic citizen the most active at the elections. Take from the vulgar lords of the primaries in New York or any other great city, the money they gain by extortion and the patronage they dispense by favor; force them thus to organize and to vote, like good citizens, on the basis of principle and duty, and the feverish, mercenary activity of those leaders will cease. The most intelligent and patriotic classes will be not only the most active but the most potential in our politics. — 5. The abuses of the primary system are as intimately connected with the sums which candidates pay, if not directly as a bribe for a nomination, yet indirectly by reason of its having been made, as they are with the moneys extorted through political assessments. A citizen of New York has, in the pending canvass, publicly refused to be a candidate, because the nomination was tendered on the condition of a money payment. The funds secretly gained by either means are secretly expended without legal responsibility, and often in ways utterly corrupt. In England, the laws have for some years required a public statement and official audit of election expenses; and these safeguards, together with her office-brokerage laws, have been a considerable check upon the corrupt use of money for influencing elections. These statutes are worthy our study. — It might also be found an improvement if the voting papers were furnished, and portions, at least, of the legitimate expenses of the elections were, after proper audit, paid from the public treasury. Such payments would remove various excuses for assessment extortion and the sale of nominations; and, while taking an unjust advantage from candidates who can command money, would make it easier for worthy and scrupulous citizens of limited means, to stand as candidates. — It would be altogether reasonable, and it would not be difficult, to compel every candidate for an elective office to file a statement, for public inspection, which should clearly set forth all money he had paid or become responsible for, directly or indirectly, by reason of his nomination or toward the expenses of his election; and he might also be made subject to a properly guarded examination before a judge upon the whole subject. The British government gave this theory of opening official doings to public inspection a very radical application nearly a century ago. (See 24 George III., chap. 25, sec. 55, and Eaton on "Civil Service in Great Britain," p. 140.) And an application somewhat analogous has been made in the laws applicable to the city of New York. (Laws of New York, 1873, chap. 335, sec. 109.) — The purification of the primaries in great cities would be much facilitated by increasing the length of terms and by reducing the number of elective officers. The great number of candidates for election confuses and disgusts the voters in much the same degree that it makes the business of caucus management intricate, active and profitable. The election of such officers as constables, county clerks, secretaries, justices and judges, whose functions are in no sense representative, and who were appointed until the spoils system had become established, is indefensible upon any sound principles. The changes that made them

elective were naturally desired by all those interested in the patronage of party chieftains or gains of primary elections. The honest voters, alarmed at the abuses of the appointing power, too readily consented to the change, in the hope that it would be an improvement. But for the abuse of that power, such officers would never have been made elective. With a true reform they will again be made appointive. (See REMOVALS.) Here, again, we see the close connection between the reform of the civil service and the reform of the primary system. To make the reappointment of such officers safe and satisfactory, we must reform the civil service. To relieve the primary system of the demoralizing duty of selecting officers in no sense representative, and only ministerial and administrative, we must make such officers again appointive. DORMAN B. EATON.

PRIORITY OF DEBTS DUE TO THE UNITED STATES AND TO THE STATES. In the first decade of its existence under the constitution, congress passed several laws giving priority to debts due to the United States. As early as July 31, 1789, it was enacted, that the claims of the national government upon bonds given by importers for the payment of duties should have precedence over all other obligations. (U. S. Statutes, 1789, chap. 5, § 21.) Subsequent revenue acts contained similar provisions. (U. S. Statutes, 1790, chap. 35, § 45; Ib., 1792, chap. 27, § 18; and Ib., 1799, chap. 22, § 65.) On May 3, 1797, a bill became law which regulated in detail the settlement of accounts between the government and revenue officers. (U. S. Statutes, 1797, chap. 20.) It contained a section (§ 5) which gave preference to debts due to the United States in all cases whatsoever, whether "a revenue officer or other person" was the debtor, and however he might have become indebted, if only the debtor became insolvent, or if his estate after his death was insufficient to pay his creditors. This sweeping clause, curiously inserted in a bill of limited scope, still remains in force; and in all cases of insolvency or insufficient assets in the hands of executors or administrators, debts due to the United States are first satisfied. — It is easy to ascertain why congress gave priority to the claims of the government. These statutes were framed for the purpose of building up our system of customs, and preference was given the debts of the government simply to increase the revenue and make it more certain. The heavy national debt which the confederation had left behind it made such a course especially desirable. The section which extended this preference to all debts passed as a part of the revenue laws. These statutes neither recognize nor adopt any traditional prerogative. They rest the right of priority, not on the dignity, but on the need, of the government. In 1805 the supreme court at Washington held that the constitutional right of congress "to pay the debts of the United States," (Constitution, art. 1, § 8), and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," (Ib.), included the right to make laws preferring debts due to the government. (Fisher *vs.* Blight, 2 Cranch, 358.) Our highest tribunal thus bases this priority on the power of congress to use whatever means it considers eligible to raise revenue for the purpose of paying the debts of the nation. No legal objection to the preference of debts due to the national government could be made on the ground that it interferes with the rights of individual states, because the constitution, and the laws of the United States made under it, are the supreme law of the land. (Constitution, art. 6.) The insolvency of the debtor which gives preference to the United States under the act of 1797, must be legal insolvency, manifested by some notorious act. Mere inability on the part of the debtor to pay his debts is not enough, unless it is accompanied by a voluntary assignment of all his property for the benefit of creditors. The courts usually construe the act strictly, and do not allow the right of priority unless it is clearly established. — Would this right of preference have existed independent of statute? Our national and state governments are the successors of the British crown, and, as such, they acquired those prerogatives of the crown which are adapted to the changed condition of things in this country. This right of preference is a royal prerogative in England. Where the king's right and that of a subject meet at one and the same time, the king's is preferred. (8 Bacon's Abridgment, Prerogative E. 4, p. 91.) In a case which was several times argued in the court of common pleas during the reign of Elizabeth (Skrogs *vs.* Gresham, Anderson, 129, case 176), Lord Chief Justice Anderson decided that the queen should be preferred in the payment of debts before any subject, partly because of the requirements of *magna charta*, and for various other "self-evident reasons," (*et per divers auters reasons queur jeo omit pur ceo que sont evidents*). These reasons are not as evident to-day as they were then, and it is a pity that the learned chief justice did not give them at length. — Did the United States and the states themselves inherit the right of priority from the crown? Our courts have divided on this question. As the state and nation are equally sovereign in their own spheres, the arguments which apply to one apply also to the other. The supreme court of the United States has distinctly held that the national government had no right to prior payment before the acts were passed. (1815, United States *vs.* Bryan, 9 Cranch, 387.) In South Carolina the state has no right of priority. The court there holds that the state has not succeeded to all the prerogatives of the crown. A monarchy is a government for the benefit of the king, while a republic is a government for the protection of the citizens. The state, therefore, has no privileges but such as are granted by its constitution, or by act of the legislature, or such as are necessary to the proper administration of the govern-

ment. (State *vs.* Harris, 2 Bailey, 599.) In Maryland, on the other hand, preference is given to debts due to the state. Its court recognizes the right as a common law prerogative of the government. (State *vs.* Bank of Maryland, 6 Gill and Johnson, 205.) In most of the states the question has never been settled. This is the case in New York, but at one time the court of appeals seemed to favor the right of priority. One of the judges, in an opinion of the court, said that there was great force in the suggestion that the people of the state have succeeded to all the prerogatives of the crown in so far as they are necessary to the effectual exercise of the essential powers of civil government, and that consequently taxes should here be paid first, as they are in England. (In re Columbian Insurance Company, 3 Abbott's Court of Appeals Cases, 239.) — The statutes of the states have declared and altered the law in many cases. Taxes are usually preferred by express enactment, but in some cases this preference only applies to insolvents, and in others only to bankrupt estates in the hands of executors or administrators. The reader must examine the statutes of each state to ascertain the law. It is to be noted that the right of priority existed under the Roman law, and that it usually prevails now wherever the civil law is followed. — See on the general subject, 1 Kent's *Commentaries*, Lecture 12; see also *U. S. Revised Statutes*, § 3466 et seq.

ERNEST HOWARD CROSBY.

PRISONERS OF WAR. Persons coming under any of the following heads can not be regarded as prisoners of war, namely: those who are connected with the service of the army, but who do not form part of the combatants; innocent subjects of the enemy who have not taken part in the hostilities; soldiers who have committed acts of violence without orders from their commanders; those who have spontaneously, without order from the state, armed themselves against the enemy; spies, deserters and fugitives. These classes do not include surgeons, chaplains and sutlers, quartermasters, drummers and fifers; they form part of the combatants, and are considered as belonging to the active army; they are likened to soldiers, and classified as prisoners of war. (In pursuance of the convention agreed upon Aug. 22, 1864, between nearly all the countries of Europe, and completed in 1868 by additional articles, all medical persons, and even the wounded in ambulances, as well as chaplains and nurses, are considered as non-combatants. In the war of 1870–71 complaints were made on both sides of infractions of these treaties, but we do not believe that these infractions were voluntary, even supposing that the complaints were well founded. M. B.) — "Even in the best days of pagan antiquity, the laws of war, from which the law of conquest was derived, said, with inflexible severity: 'For the possessions of the enemy, confiscation and pillage; for the person of the enemy, slavery or death.' But, under the influence of Christian principles, customs have become modified. The laws which our fathers, after having conquered the Roman empire, made in fire, in action, in impetuosity, in the pride of victory, they softened; these laws were harsh, they made them impartial. The Burgundians, the Goths and the Lombards always desired that the Romans should remain a conquered people; the laws of Euric, of Gondebaud and of Rotharis made the Romans and barbarians fellow-citizens." (Montesquieu, *Esprit des lois*, book x., chap. 3.) — To slay an enemy after the battle, or to reduce him to slavery, is no longer permitted by international law; to make him lay down his arms, and to hold him as prisoner of war until the re-establishment of peace (unless a free retreat be granted him, either at once or at a stated time), are what the laws of modern warfare prescribe. — The effects of captivity date from the moment of surrender. The prisoners are then placed in the interior of the country under the surveillance and authority of the conqueror, and restored to liberty *either unconditionally or on bail, or for a ransom*, or in exchange. — The decree of May 25, 1793, breathing the spirit of human dignity, declares that no person taken from the enemy shall be forced to serve in the army of the state which has taken him. — The law of June 20, 1792, places prisoners of war, in France, under the safeguard of the nation, and orders that they shall be protected, the same as French citizens, against all insult or outrage. This law contains also other orders full of humanity. — A decree of April 4, 1811, says: Any prisoner of war, having the rank of an officer, and any hostage, who, after having given his parol, violates it, shall, if recaptured, be regarded and treated like a soldier, as to pay and rations, and confined in a citadel, fort or castle. — The rules relating to the exchange of prisoners have been established by several legislative provisions. Until very recently, it was customary to agree as to the exchange and the pecuniary ransom according to rank, at the same time, in order to settle the account in case of an inequality in the number or rank of the prisoners. We find an example of this in the cartel of March 12, 1780, between France and England. But France set aside all ransom during the war of the revolution, by decreeing, May 25, 1793, that only an exchange of man for man and rank for rank should be allowed. (See EXCHANGE OF PRISONERS.) — We see that legislation with regard to prisoners of war in Europe is founded upon generous sentiments. If the fatal laws of war permit a belligerent power to make prisoners and to hold them, whether to prevent them from again bearing arms or to weaken the enemy, or even to lead them to accept equitable conditions of peace, they do not permit violence or ill-treatment toward them so long as they do not disturb the quiet of the state. It is also customary to allow a greater degree of liberty to higher officers than to non-commissioned officers and soldiers. They are, as a general rule, placed upon honor (parol) in a certain town, and it is not

unusual to see them sent back to their own country upon the promise of paying a ransom, and virtually under engagement not to bear arms against the government which has restored them to liberty. — The victorious state can not, however, be disarmed against prisoners of war and their breach of parol. Thus, besides the penalty which we have cited above in the decree of April 4, 1811, to punish violations of sworn faith, it was necessary to provide for cases in which prisoners of war, taking advantage of their number, might organize a resistance against lawful authority. This was done by the decree of the 17th of frimaire, year XIV., which orders as follows: "All mutiny, resistance to the police or the national guard, all plots of which prisoners of war may be guilty, shall be punished by death." — Outside of this, the life of a prisoner of war is sacred, inviolable, according to law. The distinction is easily understood. In the latter case, there is no longer any question of the application of the laws of war, but of the defense of society and the repression of a crime under the principles of common law. Publicists, however, have propounded this question: "Are there cases in which the care of one's own safety, and the danger to be incurred, will not permit us either to make prisoners or to retain those whom we have already made?" This question recalls a frightful episode of the French-Egyptian campaign. The French army had just taken Jaffa and sacked it during thirty hours of pillage and massacre. There remained several thousand prisoners who could not be kept for want of food, nor yet sent back to swell the ranks of the enemy. The unfortunate wretches stood on the shore with their hands tied behind them, waiting for their doom to be pronounced. "Bonaparte," says M. Thiers (*Histoire de la Révolution*, vol. viii., p. 401), "determined on a terrible measure, the only cruel act of his life. Transported to a barbarous country, he had involuntarily adopted the customs (morals?) of it; he caused the remaining prisoners to be put to death. The army, appalled but obedient, completed the execution with which it had been charged." "Who shall answer to posterity for so horrible an act? Those who commanded it," adds M. Dalley ("Natural and International Law," No. 123), "unless they tried every means, even in face of the enemy, to prevent it. For the principle is self-evident, that war, even the most just, can legalize only such injury to the enemy as is absolutely necessary." — Can a monarch and his family be made prisoners of war? International law has decided in the affirmative. Nevertheless, it has long been customary among the civilized powers of Europe, first, to consider it as contrary to the laws of war to take aim at a hostile sovereign or prince of the blood royal; secondly, to treat his family with distinction by exempting them from detention; thirdly, to alleviate for the hostile sovereign personally, or for his family, the evils of war, in all respects which would not affect the result of military operations. (It seems to us that there should be no question as to declaring women and children and non-combatants *prisoners* of war, even in the case of queens and princesses. Nevertheless, if a queen regnant should command an army, she would be justly considered a combatant. M. B.) — On the principle that war alone can make prisoners, as cause produces effect, it follows that any act by which the subject of a nation should be declared prisoner of war, even though he had not taken an active part in the hostilities, can be regarded only as a violent measure, in opposition to all the principles of civilization. Such is the provision of the decree of Berlin (Nov. 21, 1806), stating that any English individual in the countries occupied by France or its allies, is declared a prisoner of war. Such a principle, poorly veiled under the pretense of reprisal, demonstrates how far contempt of international law may carry a conqueror irritated by seeing limits put to his ambition. This sad example is happily the only one presented to us by modern history. (It is proper to say, that since the war of 1870 the Germans have been driven away, even when a long time settled, and that any of them found upon the territory would have been made prisoners.) PAIGNON.

PRISONS AND PRISON DISCIPLINE.

The extirpation of crime is the highest aim possible in a penal code. Since to extirpate crime is practically impossible, all existing penal systems content themselves with an effort to repress crime. Crimes are committed by men: therefore they can be repressed or prevented only by the exercise of some restraining influence or power upon the men who commit them. Men are influenced by motives. Their action is the outgrowth of their personal character and experience, which produce in them a greater or less susceptibility to hope, fear, and the sense of moral obligation, and lead them to say, as the case may be, I ought, I must, or, I will. The efficiency of every actual or proposed system for the repression of crime may, therefore, be measured by the knowledge of human nature and the harmony with its fundamental laws displayed in the elaboration of the code. In every good code there is a distinct purpose, and the means employed are wisely adapted to secure the end sought. — Crime may be repressed in either of two ways, namely, by physical or by moral agencies. — The highest form of forcible repression is execution, or the death penalty, called capital punishment, because it stands at the head of the list of possible punishments, so that all other punishments are said to be secondary. Capital punishment has been inflicted in many ways, by different nations, and at different stages of their development, among which may be named decapitation, strangulation, burning, breaking upon the wheel, stoning, crucifixion, burying alive, drowning, poison, starvation, shooting, driving a stake through the body, disemboweling and quartering. Most of these punishments are obsolete. The more usual modes of execu-

tion in modern times are by means of the gallows and the guillotine, except for military offenders, who are commonly shot to death. Electricity has been suggested as an instantaneous and painless mode of inflicting the death penalty, and an apparatus for its application devised, but not adopted. It is so obvious that a dead man can never again commit crime, that the killing of the offender appears to be the form in which the first rude conception of justice naturally presents itself to the savage mind. It is the usual form in which punishment is inflicted by a mob. But with the advance of civilization, we may trace the gradual disappearance of the stain of blood from the codes of Christendom. Sentence of death, which was formerly pronounced against a long list of crimes, is now reserved, for the most part, for actual murderers. The law even of homicide has been so modified, by the introduction into it of subtle distinctions, as to relieve from execution the majority of those accused of imbruing their hands in the blood of a fellow-creature, by the substitution of imprisonment for the gallows. It can not be denied that the tendency of modern thought is in the direction of the total abolition of the death penalty. The arguments urged against it are: that it is unnecessary; that it is useless, since men are not in fact deterred from the commission of crimes through fear of death; that it is unjustifiable, since society has no more right to take human life than has an individual; that it is unscientific, because it does not admit of degrees in its application, according to the degree of culpability of the offender; that it is irrevocable, which no human punishment, in view of the possibility of a mistaken verdict, should ever be; that it exerts a demoralizing influence upon the spectators and upon the public at large, by exciting the worst passions of human nature, by awakening popular sympathy for the victim, and by rendering punishment uncertain, in consequence of the reluctance of juries to assume the responsibility for a capital sentence; and finally, that if the soul is immortal, the consequences of capital punishment may be eternal, for it terminates abruptly the supposed or real culprit's chance of repentance and reformation. The apologists of the death penalty, on the other hand, appeal to the authority of the ancient law recorded in the book of Genesis, in the sacred Scriptures, "Whoso sheddeth man's blood, by man shall his blood be shed"; they insist that retribution is a natural instinct; a philosophic principle, a divine command; they urge that society has the same right to protect itself, which is conceded to individuals, that in face of extreme perils, extreme measures of safety are lawful, and that the fear of death has more power to deter a criminal from yielding to his criminal impulses than any other known motive; they also point out that there is a natural passionate reaction, on the part of communities, against flagitious offenders, which, if it does not take the form of duly authorized legal process, will find an outlet in mob law, against which it is the duty of human governments to protect individuals and the public. The universality of capital punishment is in its favor; opposed to it is the fact, that, with the gradual amelioration of the severity of punishments, punishment has become more certain, and crime has diminished in volume and intensity. It is evident that the question can be settled only by experience of the practical results of the gradual disuse of this extreme penalty. Executions, in the United States, are almost wholly private. — A second form of forcible repression is transportation; or the establishment of penal colonies, remote from the mother country, to which criminals are removed. England, Russia and France have resorted to this mode of punishment; but England has abandoned it, and even in Russia the system appears to be doomed to speedy extinction. The history of English transportation is a veritable romance. Little more than a century after the landing of Columbus, the English government began to ship convicts to the wilds of North America. From the year 1718, all offenders sentenced for a term of not less than three years were liable to be transported to America. Convicts were delivered by the courts to masters of vessels as merchandise, which they were at liberty to dispose of to the planters of Virginia, Maryland, Jamaica and the Barbadoes. Not infrequently those who were rich enough bribed the masters to let them go, at landing, and so set the law at defiance. But with the achievement of American independence, this practice of necessity came to an end. The result was, that by the year 1787 the number of prisoners in the hulks on the river Thames amounted to more than 15,000, for whom the government was discussing the propriety and necessity of building prisons. Profiting by the preoccupation of Europe with the events which preceded the French revolution, England had, however, taken possession of the newly discovered continent of Australia, of which the famous navigator, Captain Cook, had given the most glowing description; and accordingly New South Wales was determined upon as the site of a penal colony. On Jan. 18, 1788, after a voyage lasting eight months, 850 convicts, men and women, landed on the east coast of Australia, where the city of Sydney now stands. Thus was laid the foundation of a new empire, the history of whose early struggles and rapid development constitutes one of the most interesting chapters in the history of the world. A few years later, a second colony was established in Van Dieman's Land, an island south of Australia, now known as Tasmania. It was the policy of the government to encourage free emigration to these colonies by grants of land, which were also made to convicts who had served their time and were called emancipists. Subsequently the governor of the colony was empowered to assign convicts to landholders or other free colonists, something after the manner in which prisoners are leased to private persons in the southern states of the American Union. This practice led to the formation of

chain gangs and road parties. The worst convicts were sent to penal settlements, of which there were three; that on Norfolk island, which is of volcanic origin and about 900 miles east of Australia, has become famous in the history of prison discipline through the labors of Capt. Maconochie, who, from 1840 to 1844, was governor of the island, where he introduced the mark system, of which he was the inventor. Transportation was opposed by John Howard, at the outset, but in vain. Twenty years after Howard's death, Romilly and Bentham renewed the attack upon it. But it may be said to have received its death-blow, when Richard Whately, archbishop of Dublin, wrote two letters to Earl Grey, in which he characterized it as "a system begun in defiance of all reason, and continued in spite of all experience." In 1837 a parliamentary commission on transportation was formed, of which Sir William Molesworth was chairman, and Robert Peel and Sir John Russell were members, which reported in favor of its abolition, on the ground of its excessive cost, the injustice to the colonies involved in its maintenance, and its effect in increasing crime. This committee pointed out, that, as a punishment, transportation is unequal, because of the extreme variations in the personal fortunes of the expatriated, and because it is the occasion of the severest pain to the better class of convicts, while habitual and hardened offenders feel it the least. Its deterrent influence was said to be very slight, while upon some minds the prospect of emigration at the expense of the public operates as an inducement to commit crime. Transportation to New South Wales ceased in 1840, and to Van Dieman's Land in 1848. The colony in West Australia, established in 1829, still remained, but the number of convicts sent to it was small. From the year 1847 the principle of probationary punishment in the mother country, prior to transportation, was incorporated in the English criminal code. In 1853 parliament passed an act authorizing penal servitude at home as a substitute for transportation. By the act of 1857 transportation was formally abolished, but under the name of penal servitude it in fact continued until 1867, when the last cargo of convicts was sent to West Australia. During the latter years of its continuance the character of the system underwent a complete transformation. It became a reward for good conduct on the part of prisoners during their incarceration. Its final abolition was not so much the voluntary act of the English government, as it was a necessity arising from the vigorous protest against it by the inhabitants of South Australia. — The transportation of Russian criminals to Siberia dates from the year 1710, in the reign of Peter the Great. — France has made two experiments in this direction. The first, in Guiana, is admitted to have been a failure; but it is contended that the penal colony of New Caledonia is a valuable addition to the resources of the French penal system. — The question of transportation, as an alternative for imprisonment, has a certain limited interest for Americans, owing to the occasional appearance in the newspapers of articles suggesting the propriety of converting Alaska into a penal colony for the United States. But apart from the objections arising from the location and climate of Alaska, the realization of such a scheme as this would involve a revolution in the entire system of prisons throughout the Union, and the assumption of the task of repressing crime by the national government, instead of leaving it to be dealt with by the several states. De Tocqueville has said, in substance, that a nation which does not know what to do with its criminals at home, ships them beyond seas, which is a polite way of saying that nations, like individuals, are selfish, and seek to make others bear the burdens which properly belong to themselves. The question has three branches, namely, the effect of transportation upon the criminal himself, upon the colony to which he is sent, and upon the home country. It is not easy to defend the system upon either of these grounds. Transportation has in itself no reformatory influence; it relieves the home country from the presence of the criminal, but it does not, like hanging, relieve the world; it simply changes the scene of his exploits; and it affords no guarantee that the exile will not return. The supervision of criminals at a distance is difficult, expensive and unsatisfactory. Their presence in the colony is a constant menace and a social peril. Under the most favorable circumstances, the system needs to be surrounded with proper safeguards. In 1846 the Australians demanded of England that as many honest emigrants should be sent out as convicts, as many women as men, and that the families of convicts should be allowed to accompany them. — The third and only other possible form of forcible repression is imprisonment, by which culprits are removed from society, though not to another world, nor even to another country. Reduced to its lowest term, the fundamental idea of the prison is that of forcible seclusion from the outside world. Society ejects the prisoner, with no higher motive than that of self-protection. According to this view, the prison is a substitute for execution and for transportation, but nothing more. — In the history of the development of the prison it is easy to trace a certain logical and necessary sequence, corresponding to the order of thought upon this subject. In ancient history small mention is made of prisons, and what little is said about them leads to the inference that their principal use was as temporary abodes, for safe-keeping, of offenders awaiting execution, although there is abundant evidence that prisoners were often released, probably by an act of executive clemency on the part of the ruler, and sometimes they were for years forgotten, as was the case with Joseph, in Egypt. There can, however, never have been any age in which prisons, in some form, were not a necessity, for one purpose or for another; and while the prison, in its present form, is a modern

invention, some of the features of our modern system are clearly foreshadowed in the records of the past. It is related, for instance, that in China the young king, Tai-Kia, deaf to the monitions of his minister, Y-in, instead of following the example of his predecessors, gave himself up to every species of vice. The minister tried to reform him; but the king would not listen. Thereupon Y-in declared: "The conduct of the king is but a series of vices; his associations accord with his nature. No communication must be allowed him with evil companions. (Solitary confinement.) I will cause to be built a palace in Tong. There, near the ashes of his royal sire, I will give him instructions, to the end that he may no longer pursue a vicious life." (Reformatory discipline, with education as its chief feature.) Accordingly, the king took up his solitary abode in the palace of Tong, put on mourning (a prison dress ?), and at length entered into the true path of virtue. From the statement in the Chinese work, "Shu-King," written about 2,600 years before the Christian era, that a considerable inclosure of land was assigned to the inmates of a prison, M. Beltrani-Scalia has argued that the convicts must have been employed in cultivating the soil. The allusions to prisons in the Bible are numerous, but too familiar to require citation here. It is, however, worthy of remark, that there is no provision for imprisonment in the Mosaic law. At one time a single prison sufficed for the use of the Roman people, as appears from the third satire of Juvenal:

> Felices proavorum atavos! felicia dicas
> Sæcula! quæ quondam sub regibus atque tribunis
> Viderunt uno contentam carcere Romam.

This was probably the Mamertine prison, erected by Ancius Marcius, to which a second was added by King Tullius, which is supposed to have been built immediately under the Mamertine. The remains of this famous structure are still pointed out to travelers, for many of whom a special interest attaches to the spot, on account of the tradition that the apostle Paul was confined here. In the subsequent history of Rome, transportation was known, under the name of *relegatio ad insulam;* and penal labor was required of offenders, who were employed upon public works and in mines and quarries. A description of the *latomiæ* of Syracuse may be found in Cicero's oration against Verres. The great thinker Plato anticipated the best thought of our own times, in his book "De Legibus," where he has expressed his opinion in the following words: "Let there be three prisons in the city—one for the safe-keeping of persons awaiting trial and sentence; another for the amendment of disorderly persons and vagrants, those guilty of misdemeanors, to be called a *sophronesterion* (that is, a house of correction, a place for teaching wisdom and continence), which should be visited, especially at night, by the magistrates called *sophronestoi;* a third, to be situated in the country, away from the habitations of men, and to be used for the punishment of felons." But this was an ideal not realized by the ancient world, a legacy to us. — In order to comprehend fully the evolution of existing prison systems, it is necessary to remember that the progress of civilization has been from a condition of slavery to one of freedom, and that it has been characterized by the gradual substitution of the will of the community for the will of the individual, and by legal forms instead of summary process. Under the patriarchal and tribal systems of social organization, the father of the family, or the chief of the tribe, administered justice, according to his personal conception of it, which was often crude and barbarous enough. He alone was free; all the world beside were slaves. Then followed the invention of caste, the emancipation of one portion of the community, the distinction made between slaves and freemen: under this system justice was administered to the slave by his immediate owner and master. The *ergastula* of the Romans were the outgrowth of this phase of progress—strong, well guarded buildings, in which criminal and refractory slaves, or slaves disposed to run away, were confined. The feudal system came next, under which the face of Europe was dotted with castles, which served as prisons, as well as fortified places of residence. Our word "dungeon" is a modification of the French "donjon," or castle-tower, in which the feudal lord confined, at his own will, his vassals or his enemies. With the disappearance of the feudal system, this arbitrary power of imprisonment came to an end. The twenty-ninth section of *magna charta* provides that "no free man shall be taken or imprisoned unless by lawful judgment of his peers, or the law of the land." The liberty of the subject was further guaranteed, in England, by the writ of *habeas corpus*. Under the modern system of criminal jurisprudence, punishment is inflicted only by order of the courts, after judicial inquiry into the guilt or innocence of the prisoner, and the prison itself has become a mode of punishment, which in ancient times it was not. — Thus we are led to consider the second step in the evolution of the modern conception of the prison. The power to imprison can not, in any age, have been dissociated from the desire to make a display of the power possessed, in order to intimidate others. The appeal to fear always precedes the appeal to any higher motive. From the earliest times the greatest cruelties were perpetrated upon prisoners. Prisons have always been places of execution. They have often, especially in the middle ages, been places of torture. Not only have they been constructed with reference to their adaptation to create discomfort and terror on the part of prisoners, of which notable examples may be found in the *pozzi*, or wells, in the ducal palace of Venice, and the *oubliettes*, or bottled-shaped pits, of which the church name was *vade in pace*, into which, from deference to the maxim *Ecclesia abhorret a sanguine*, certain ecclesiastical prisoners were thrust, to die there of starvation; but they have been provided with the

most elaborate and varied apparatus for the infliction of physical pain. Beccaria, in Italy, whose book on "Crimes and their Punishment" appeared in 1764, was the first who impressed the world with a doubt as to the right or the utility of torture. The rack and the boot and the thumbscrew have disappeared, together with such cruel corporal punishments as mutilation, hanging by the armpits, branding with a hot iron, etc., but the difference between these and the scourge or shower-bath is only in degree, not in kind, while science has invented a new torture, in the application of electricity to a refractory prisoner. The experience of the world has demonstrated the truth of the principle that punishment in itself exercises no reformatory influence; on the contrary, it hardens the man upon whom it is visited, and excites his companions in crime to reprisals. In the war between society and the criminal class there must be a disarmament upon both sides before peace can be declared. — But without corporal chastisement the greatest suffering may exist in prisons, through the ignorance, neglect, brutality and cupidity of those to whom the custody of prisoners is intrusted. Promiscuous association of prisoners — the innocent with the guilty, the novice in crime with the hardened villain, the young with the old—and even, in some cases, of the two sexes; defective sanitary arrangements; the absence of all attempt at cleanliness or decency; the lack of discipline, or the failure to exercise any restraint upon the conduct of prisoners to each other, varied by occasional sudden and violent acts of interference; and the practice of extortion by granting special privileges to prisoners who pay for them; these were the evils which, little more than a century ago, aroused the world to a sense of the necessity for a reformation of prisons. — In order that the reader may have a more distinct understanding of the order of events, in the history of the prison reform movement, a chronological table of principal events is here inserted, which is not, however, designed to interrupt the course of the narrative. The list does not pretend to be complete; it is only intended to serve as an illustration.

TABLE.

1618. Geoffrey Munshull, of Gray's Inn, Gent., an insolvent debtor, published his book, "Essayes and Character of a Prison and Prisoners."
1619. James I. shipped 100 prisoners to Virginia, the beginning of English transportation.
1622. Vincent de Paul appointed chaplain to the galleys, at Marseilles.
1684. John Grevius, a minister, who had himself been a prisoner for a year and a half, on account of his religious belief, published a book against torture.
1688. Jacob Doepler's "Theatrum Pœnarum."
1699. Organization of the Christian Knowledge Society. Dr. Bray, chairman of committee of prisons, reported, and afterward published, an "Essay toward the Reformation of Newgate and the other Prisons in and about London," in which he proposed that every prisoner should be kept in a separate cell.
1704. Pope Clement XI. built the juvenile prison of Saint Michael, with the inscription: *Parum est improbos coërcere pœnâ, nisi bonos efficias disciplinâ.*
1710. Peter the Great established transportation to Siberia.
1724. "Reflections on the Prisons of the Religious Orders," by Mabillon, appeared in France.
1728. General Oglethorpe (afterward the founder of the state of Georgia) acted as chairman of a committee of the house of commons, to inquire into the state of English jails.
1735. A second parliamentary committee, of which William Hay was chairman.
1748. Montesquieu's "Spirit of Laws" published. France abolished the galleys, and substituted for them the *bagnes.*
1764. Beccaria on "Crimes and their Punishment."
1765. Blackstone's "Commentaries."
1771. Vilain XIV., of Belgium, published his First Memoir, proposing to convert the citadel of Ghent into a workhouse.
1772. Charles Lorraine ordered the construction of the original prison of Ghent, octagonal and star-shaped. Organization of the Society for the Relief of Poor Debtors. Denne's published Letter to Sir Robert, advocating separate imprisonment.
1773. John Howard, sheriff of Bedford.
1774. Jail fees abolished in England.
1776. Organization of the Philadelphia Society for Alleviating the Miseries of Public Prisons.
1778. Howard printed the first edition of his "State of Prisons." An act for the establishment of a penitentiary in England was passed by parliament; this act was the joint production of Howard, Blackstone and Eden, but remained inoperative in consequence of the determination of the government to transport convicts to Australia.
1780. The "preparatory question" (torture for the purpose of securing a confession of guilt) abolished in France.
1783. Parliament, at the instance of Sir George Paul, passed an act for a new jail and penitentiary in Gloucester.
1786. Capital and corporal punishment abolished in the state of Pennsylvania, and the solitary system of imprisonment adopted as a substitute. Construction of the Walnut street prison.
1787. England sent out the first cargo of convicts to Australia.
1788. Organization of the Philanthropic Society of London.
1789. France abolished torture.
1790. Death of John Howard in the Crimea.
1791. Jeremy Bentham's "Panopticon." The French National Convention adopted a penal code: simple imprisonment recognized as punishment for the first time in France.
1792. The Gloucester jail, in England, completed, on the solitary plan.
1801. Torture abolished in Russia.
1813. Elizabeth Fry's visit to Newgate.
1814. Louis XVIII., of France, ordered the construction of a model prison.
1815. Organization of the London Society for the Improvement of Prison Discipline.
1816. Mrs. Fry opened a school in Newgate. Creation of the Auburn penitentiary, in the state of New York.
1818. Organization of the New York Society for the Prevention of Pauperism. Buxton's "Inquiry."
1819. Milbank penitentiary, in London, begun. Organization of the Royal Prison Society of France. Organization of the Prison Aid Society of St. Petersburg. John Falk, of Weimar, organized the "Friends in Need."
1821. Edward Livingston, of Louisiana, began the preparation of his "System of Penal Law."
1823. Act. 4 George IV., c. 64—the English jail act.
1824. Organization of the Boston Prison Discipline Society.
1825. Opening of the New York House of Refuge for Juvenile Delinquents.
1828. M. Charles Lucas published "The Penitentiary System of Europe and America."
1829. Opening of the Eastern Penitentiary of Pennsylvania, at Philadelphia.
1831. De Tocqueville and Beaumont's tour of inspection of the penitentiaries of the United States.

1833. Dr. Wichern established the *Rauhe Haus*, at Hamburg.
1835. Colonel Montesinos appointed governor of the prison at Valencia, in Spain.
1836. Crawford's report to the English government, on American prisons.
1837. Visit of De Metz to the United States.
1838. Juvenile prison at Parkhurst, in the Isle of Wight.
1839. Opening of the Agricultural Colony of Mettray, near Tours, based on religion, the family principle, and military discipline. Matthew Davenport Hill made Recorder of Birmingham.
1840. Alexander Maconochie appointed governor of Norfolk Island. Prince Oscar, of Sweden, published a book on "Punishments and Prisons."
1842. Pentonville prison, in London, opened, on the Philadelphia plan.
1844. Organization of the New York Prison Association.
1845. International Prison Congress, at Frankfort-on-the-Main.
1846. International Prison Congress, at Brussels.
1850. Formation of the board of directors of convict prisons in England.
1852. Creation of French penal colony at Cayenne, in Guiana.
1853. English penal servitude act.
1854. Formation of the board of directors of convict prisons in Ireland, of which Capt. Walter Crofton was made chairman.
1857. Transportation abolished by the English parliament. International Prison Congress at Frankfort-on-the-Main. Organization of the British Association for the Promotion of Social Science.
1870. National Prison Congress at Cincinnati: organization of the National (U. S.) Prison Association.
1872. International Prison Congress of London.
1877. Organization of the Société Générale des Prisons at Paris.
1878. International Prison Congress of Stockholm.

— The above skeleton will serve its purpose, if it illustrates the thought that there is a natural order of progress in prison reform; that prisons are first places of detention, then of punishment, and, last of all, of reformation; reformation being their highest, as custody is their lowest, aim. There have been isolated spirits who have perceived this truth in advance; but it was many centuries before it took possession of the public: yet its acceptance has in the end been rapid and all but universal, for which, possibly, thanks may be due to steam and to electricity, the magicians of the nineteenth century. A review of the history of the movement will show that the first reformers have been those who have had opportunities to observe prison life from the inside; that sympathy has first been awakened for the innocent victims of the prison system, namely, for poor debtors; that the cruelties formerly practiced in prisons excited a reaction in noble minds, which, acting like leaven, communicated itself in the end to the public; and that science and religion have both contributed to the development of a more rational and humane prison discipline. It will also show that the first step in prison reform, everywhere, is classification of prisoners, which may or may not go to the extent of individual separation, but which leads to a classification of prisons; that for the realization of this end, a central administration is essential. By classification, the action and reaction of prisoners upon each other is checked, if not wholly prevented. The second step is kindness and conciliation, which prepare the prisoner for the reception of instruction, and incline him to yield to the influence brought to bear upon him for his conversion from an enemy into a friend of social order. The third is education, which includes not only religious instruction, but mental development, indoctrination in the laws of social life, and the acquisition of a trade or some other means of earning an honest livelihood. The last of these ends can only be secured by the introduction into prisons of organized and profitable labor, which has the further recommendation, that, by employing the prisoner's time and thoughts, it makes discipline more easy, while it also tends to reduce the cost of punishment. A system of reformatory influence, such as is here indicated, implies trained officials, by whom alone it can successfully be administered, and that again implies reasonable stability and permanence in office, which further implies non-interference for political reasons. Success in the effort at reformation implies the release of the prisoner, absolutely or conditionally, when reformed. Failure in this effort implies the necessity for punishment of the refractory prisoner, either by the infliction of suffering, by the deprivation of privileges, or by the increased duration of his term of imprisonment. Thus it may be seen that the modern prison system, at every stage of its evolution, revolves around one central thought—the possibility of reformation; that the reformation of the prisoner is its one animating purpose; that the hope of reformation is the motive to which it owes its origin; and posterity will pronounce judgment upon it from this one point of view. All this is clear, from an attentive study of the history, of which the table given above is an outline. Reformation, instead of removing the prisoner from society, restores him to society, by removing him from the criminal class. It is, therefore, the highest interest of society. The only question is, whether it is possible, which is a question of the prisoner himself, his nature, his antecedents and his habits. — The attempt to solve this question has led to the development of two distinct systems of prison discipline, which are commonly known as the Philadelphia and the Auburn plans, or the separate and the congregate systems. The first of these insists upon the separation of prisoners by day and night; the second, by night only. From these two a third has been evolved, which is, in a certain sense, a combination of the two, but has also distinct features of its own; this is commonly known as the Irish system, because, under Sir Walter Crofton, it has been most fully and successfully applied in Ireland. — The first experiment with the strictly cellular system (by day and night), sometimes called the solitary or separate or individual system, was made, under the influence of the society of Friends, in the Walnut street prison, in Philadelphia: it is sometimes called the Pennsylvania system, because Pennsylvania is the only one of the United States which has not abandoned it. Its essential principle is the complete physical separation of prisoners. It rests upon the conviction that mutual contact

between them is of necessity corrupting, and that classification upon any basis except that of individual character is impossible; in other words, each prisoner is a class by himself. At the outset, solitary imprisonment, without labor or recreation or mental contact with any human being, even with the officers of the prison, except in case of necessity, was the form which this experiment assumed; but the severity of this rule has now been relaxed, on account of the injury which it wrought, in some cases, both to the body and the mind of its subject. At present, useful, remunerative occupation is furnished to every prisoner, in his cell, and care is taken to preserve the activity of his mind by intercourse with the officials and with authorized visitors from the outside, who endeavor to exert upon him a salutary and reformatory influence. Certain incidental advantages of this system are obvious, namely: the impossibility of combination on the part of prisoners, which renders revolt impossible, and gives to the prison authorities more easy and certain control; there is, therefore, less occasion for the exercise of physical force in the discipline, which is an advantage to the prisoner himself; the discipline can be more varied, in accordance with the physical and mental condition, tastes and aptitudes of individual convicts; and the prisoner, when discharged, is not liable to be recognized by any who were incarcerated with him; he makes no acquaintances in the prison. These and other beneficial features of the system have occasioned its very general adoption upon the continent of Europe. Even its opponents concede its merits, when they advocate cellular imprisonment for short terms of sentence, and applaud the Irish system, of which cellular imprisonment is the initial measure. That it has produced excellent results is beyond dispute, and its friends claim, that, more than any other system, it reduces the number, of *recidivists*, that is, of discharged convicts who lapse again into crime. — The Pennsylvania system had no rival in the United States, for many years. The prison at Auburn, in the state of New York, was organized upon this plan; but after a year's trial it was abandoned, and the "silent" system was devised, to take its place. By the new method the prisoners were employed in large workshops during the day, and separation between them, the necessity for which was acknowledged, was secured by the institution of a rule forbidding them to communicate with visitors or with each other. For the enforcement of this rule (which could, at best, be only partial), flogging was the main reliance of the keepers, and the use of the whip was, for many years, a marked feature of the system. But with the lapse of time the requirement of absolute silence has been relaxed, so that all congregate prisons with separate cells for sleeping are said to be on the Auburn plan, even though two prisoners occupy one cell jointly. In this modified sense the Auburn system has so far displaced its predecessor and rival, that the Eastern penitentiary of Pennsylvania, in the city of Philadelphia, is now the only strictly cellular prison for convicts of the higher grades, in the United States. Many causes have conspired to effect this result, among which may be named the impression made upon spectators by the sight of hundreds of men at work, side by side, with their eyes bent down, and not uttering an audible word; the comparative cheapness of construction and maintenance of congregated prisons; the ease with which profitable labor can be introduced into them, especially in connection with machinery of all sorts; the facilities which they afford for contracting out the labor of convicts, thus relieving the administration of financial responsibility; and the popular dread of the consequences of solitary confinement. These have probably had more to do with it than any higher considerations relating to the comparative reformatory influence of the two systems. — The Irish system was, in its origin, an outgrowth of the experience of Capt. Maconochie, as governor of the penal settlement of Norfolk island. Conditional liberation, or the "ticket of leave," was an Australian invention; when it was first transplanted from Australia to England, it created a panic. The "mark" system was also an Australian invention, the product of Maconochie's own inventive genius. Add to these "progressive" classification, and the "intermediate" prison, and we have the four elements of the Crofton system. M. Bonneville de Marsangy, of France, foreshadowed it, in an address delivered before the bench and bar of Rheims, in 1846, in which he advocated association instead of separation of prisoners; but association modified by an initial period of cellular incarceration, by a certain number of separate and successive stages, by the employment of marks, by the intermediate prison, and finally by conditional liberation. In 1854 Capt. Crofton (afterward Sir Walter Crofton), who had for one year previous been one of the commissioners to inquire into the state of Irish prisons, was appointed chairman of the directors of convict prisons in Ireland. He was knighted in 1862 for his successful administration of this office, which he held for eight years, during which he established a mode of dealing with convicts which has attracted the attention of the world, and received the indorsement of the Baron von Holtzendorf of Prussia, Count Cavour and M. Beltrani-Scalia of Italy, Dr. Guillaume of Switzerland, Prof. Mittermaier of Heidelberg, Lord Brougham of England, and others equally illustrious and equally competent to judge of its merits. Briefly described, it is as follows: it consists of four separate stages, of which the first is not less than eight months of strictly cellular confinement in the Mountjoy prison, Dublin, with short rations and no employment but picking oakum for the first half of the time; the second is an indefinite period (not less than one year) of associated imprisonment at Spike island, at the southern extremity of Ireland, where the prisoners are divided into four classes, and are promoted from one to the other, according to their conduct, industry and

diligence at school, an account being kept with them by the use of marks, and their promotion depends upon their record; the third is a short period (not less than six months) of probationary detention in a condition intermediate between imprisonment and freedom, at Lusk, about twelve miles from Dublin, where the men are trained for entire freedom, and their capacity for it is tested, prior to their liberation; the fourth is conditional liberation, with police supervision. The intermediate prison for women is the Golden Bridge Refuge, three miles from Dublin. This system is supplemented by a very perfect system of obtaining employment for prisoners after their discharge. It is possible that its beneficial influence in preventing recommitments is also aided by the readiness with which the Irish emigrate to America. The principles which underlie it are: an inexorable justice, which will not remit punishment in the case of any convict; the holding out to every prisoner of the hope of a speedy release, to be effected by his own exertions; the employment of means to make him the agent of his own reformation; the regard shown for the public, in refusing to discharge any prisoner until expiration of sentence, unless he gives positive evidence of his capacity to resist temptation; the terrible severity with which a lapse into crime is punished; and the recognition of the necessity for mental and social contact between prisoners, after cellular separation, in order to prepare them for a re-entrance into the world. — There can be no prison system which is not, in some form, a modification of one of the three here mentioned and described. The application of these several forms to different classes of prisoners (to the young, to women, to first offenders, to misdemeanants, to felons, to prisoners awaiting trial, to convicts under short and long sentences, etc.), and their adaptation to the social state of different nations, constitute the problem of penitentiary science. — The details of prison administration, though of intense interest to specialists, would occupy more space than can be given them in the present article. Questions which have been much discussed, and concerning which a great variety of opinion exists, are such as these: prison architecture and sanitation; the prison staff; mode of appointment of officers; tenure of office; prison dietaries; labor in prisons—as a reformatory measure, as a means of reducing the cost of crime, as a preparation for the rehabilitation of the criminal, as it affects the interests of labor outside the prison walls, and the best mode of carrying it on, that is, whether under the immediate control of the prison authorities, or by contracting it out to private persons or corporations; prison schools, including the question of normal schools for training prison employés in their duties; religious instruction in prisons; prison libraries; the correspondence of prisoners; visits to prisoners by their friends and by other persons; the rights of convicts in prison; the privileges which it is expedient to grant them, and especially the effect of allowing them a percentage of their earnings; the dress of prisoners; disciplinary punishments in prison; prison registers, and the use of photography as an aid to the identification of escaped prisoners, or of recidivists; prison statistics; the proper treatment of sick prisoners and of convicts who are or who become insane; the duration of imprisonment,* as it is affected by life sentences,

* There are but three possible varieties of sentences for crime, namely: fixed, discretionary, and indeterminate.—A primitive state of society can be imagined, in which, in the absence of any penal code, all offenses are visited with a single extreme penalty, or, at least, in which the amount of torture inflicted is limited only by the caprice of the despot who inflicts it. The invention of a scale of punishments (*échelle des peines*), and the application of punishment according to this scale, under rules prescribed by a code, may be regarded as the first step in the onward march of humanity in quest of that ideal justice which forever eludes discovery. Under an absolute code, sentences are fixed; that is, the penalty for each offense is named in the code itself, and no latitude is left for the exercise of discretion by the courts. But experience under an absolute code makes it apparent that the legislature can not adjust punishment to guilt; that in order to equality of punishment, punishment must be more flexible; that the heinousness of an offense depends not merely upon the character of the act, but upon the circumstances of its commission, and the character and motives of the actor, which can not be known, except as revealed by the evidence at the time of the trial. To this conviction is due the amendment of the code, by substituting for definite penalties the principle of maximum and minimum punishments: the amount of punishment in each actual case is, within certain prescribed limits, determined by the court, and to that extent the sentence is discretionary. Under this system the legislature shifts from its own shoulders to those of the judiciary a large share of the responsibility for a just estimate of guilt. But the courts are as incapable of apportioning punishment as is the legislature: the inequality of punishment against which the system is a protest still exists: convicts feel it, prison officers see it, and judges confess it. One sole resource is left, namely, again to divide the burden of responsibility, by placing it in part upon the officials to whom the custody and oversight of prisoners are committed. The first suggestion of a possibility of such a solution was the creation, in the Australian colonies, of the ticket-of-leave. But the principle of conditional liberation, once recognized, gained adherents everywhere, and it has been incorporated in many penal codes. The "mark" system and "good-time" laws are outgrowths of this principle of variability in the duration of imprisonment, dependent upon the conduct of the prisoner himself. The indeterminate sentence is its highest and latest form. It exists only in theory, not having been reduced to practice by any government, but is advocated by many able men who have had practical experience in the administration of the criminal law and in the care of criminals. Under this ideal system, neither the legislature nor the courts prescribe any definite term of imprisonment; maximum and minimum penalties are abolished; the court passes solely upon the criminality of the prisoner under indictment; his release from prison depends upon his amenability to discipline, and the estimate formed of his character by those who hold him in custody and under observation, and by whom discipline or "treatment" is to be administered to him. — To this definition of the indeterminate sentence it is essential to add the briefest possible account of the nature of the arguments for and against it. It has a close logical connection with that theory of crime, according to which criminal actions are the product of disease; crime is a neurosis, like insanity or idiocy, and should be so treated; in so far as it is analogous to insanity, the criminal has a right to cure, and in so far as it is analogous to idiocy, he has a right to education, training and development; prisons should be regarded and conducted as moral hospitals or training schools for moral imbeciles, rather than as places of punishment. It is also connected with that theory of moral responsibility which either denies its existence or denies that it can be judged by

by cumulative sentences, by "good-time" laws, and by executive interference; the effect of transition from a state of imprisonment to a state of freedom upon the prisoner himself, and the necessity for continued care of him subsequent to his discharge, with especial reference to securing him honest employment. — The tests of successful prison administration are: 1. The behavior of prisoners during incarceration. An increased percentage of suicides, or of attempted escapes, or of riotous demonstrations, or even of disciplinary punishments, is an indication of weakness, cruelty, or vacillation in the discipline. 2. The sanitary condition of prisons, and especially the death rate. 3. The number of recidivists, or recommitments. 4. The general increase or decrease in the amount of crime perpetrated. 5. The financial result; but too much relatively may be made of financial success, since it may be attained by the sacrifice of other ends infinitely more important. — For the application of these tests, scientific observation, continued for a term of years, is essential; such observation must be by inspection, and by the accumulation and digestion of statistical information: it implies trained observers with authority to collect information, and an organized system of returns. Hence the effort to organize a system of international penitentiary statistics, of which M. Beltrani-Scalia is perhaps the most intelligent and persistent advocate, but which has thus far failed. As for this country, the absence of any approach to unity in the organization of our prison system renders it peculiarly difficult to collect data for a trustworthy estimate of its actual effect in the repression of crime. The percentage of failure is undoubtedly large. The causes of this failure are obscure: whether it is due to the persistence of the criminal character, or to the want of experience and of devotion on the part of prison officers, or to faulty methods of organization and discipline. — The failure of the prison everywhere to accomplish the work which is desired and expected of it, has led some bold thinkers to predict its abolition, but without clearly indicating what is to take its place. There are very many who believe that too much reliance is placed upon it, and too much use made of it; they would prefer to see more use made of judicial admonition and police supervision. One thought seems to run through all the publications with which the press has teemed, for some years past—books, pamphlets, reports, addresses, transactions of prison and other societies, and of prison congresses at home and abroad: it is that the prevention of crime is to be aimed at, rather than its repression. To prevent it, we must stop the operation of the causes which produce it. These causes are to be sought, either in the character of the individual who commits crime, or in his circumstances. The criminal himself has become the object of attentive study, in his physical as well as in his mental and moral organization, with a view to determine how far he is normal and how far abnormal, and how far any departure from a normal type which he presents for our consideration, is due to hereditary predisposition to crime; in other words, whether there is a criminal neurosis. The connection between crime and the social *milieu* has become apparent, and causes of crime are found not only in ignorance, in intemperance, in idleness, in destitution, and in the want of friends and of a home, but in the relations of labor and capital, in the character and amount of the food supply, in bad legislation and vicious customs, in

any but Almighty God; which would eliminate from criminal jurisprudence all thought of retribution or expiation; which would abandon the attempt to adjust penalty to ill-desert; and which denies the right of society, if not of God himself, to inflict punishment upon any sentient creature. Of the three possible bases of a penal code, it only accepts two, namely, the protection of society and the reformation of the offender. The *status* of the criminal is reduced to a dilemma: he can be reformed; or he can not; if he can be, he should be; if he can not be reformed, he should be held for life, if necessary, in order to protect society from injury at his hands. Hence, indeterminate sentences are sometimes called reformation sentences. In the terse language of Mr. Recorder Hill, of Birmingham, "To our limited faculties, crime and punishment have no common measure; our [present] course of proceeding is almost as vain in practice as it is absurd in theory; and in truth, there remain for us but two modes of usefully dealing with criminals—*incapacitation* and *reformation*." — It is evident that the questions raised by the advocates of the indeterminate sentence cover pretty much the whole field of human thought, in science, in religion, in philosophy, in morals, in politics and in law. To argue them exhaustively a profound knowledge of first principles and an extensive acquaintance with the facts of science and of history are essential prerequisites. — But from the practical side, the point of view of the statesman and the legislator, the question is one of the concentration or distribution of power: what powers shall be conferred upon prison officers, what use they might make of them for good or for evil, what guarantees can be given that such enormous power over individuals will not be abused. On the other hand, it is a question what benefit, in the reformation of prisoners or the repression of crime, would follow the grant if made. It is an outward obedience only which is paid to power. The heart is moved by love; and it is not easy to see wherein there would be any more room for the exercise of love under the new than under the present system, while it is quite certain that an increase of power begets an increase of fear, and that under the influence of fear the moral character is more likely to deteriorate than to improve. It may well be asked: If the adjustment of penalty to guilt is a task beyond the power of any legislature or any court, is it not also beyond the power of any prison board? Or if we discard the idea of penalty, and consider the criminal as a man diseased, what assurance can we have, that the persistence of the criminal, as of the insane, temperament, will not defy every effort for its eradication? If we concede that the majority are susceptible of cure, is it just to incarcerate for life those who can not be cured, and yet whose criminality may be of too feeble a type to involve any serious peril to society as the result of their liberation? and if not, then how, and by what tribunal, and upon what principle, is the date of their release to be determined? — There is no immediate prospect of the general acceptance of the indeterminate sentence; but the discussion opens up such a wide range of investigation and reflection as to make it interesting and profitable to all thoughtful students of penology. Its acceptance would put an end to the debates about cumulative sentences, restitution sentences, life sentences, a scale of penalties, the assimilation of penalties, and many other subsidiary questions of criminal jurisprudence. With the adoption of this form of sentence, society would return to its original position and conviction, that, in one way or in another, the expulsion of irreclaimable offenders is a necessity. No more complete confession of the failure of existing modes of dealing with crime can well be imagined.

inefficient police regulations, and a lax administration of justice. Human nature is as sensitive to its surroundings as is an electrometer to the electric current, and whatever tends to elevate mankind, to improve its condition either physically or mentally, tends also to the elimination of crime. The reformation of morals is a part of the general advance of civilization, and each part must advance with the whole, something as a railway carriage goes forward or backward with the train of which it forms a part. Too much dependence is not to be placed upon any prison system. It is always to be remembered that no system will succeed in the hands of an incompetent or dishonest man; while even a bad system, in the hands of an earnest and able man, may be productive of the best results. FRED. H. WINES.

PRIVATE BILLS. (See PARLIAMENTARY LAW.)

PRIVATE CALENDAR. (See PARLIAMENTARY LAW.)

PRIVATEERING is the act or the employment of attacking and seizing vessels or other property belonging to an enemy, at sea, by means of privateers. — Privateers are armed vessels that are owned, equipped and officered by one or more private persons, but sailing under a commission, usually called letters of marque, from a belligerent state, which empowers the person or persons to whom it is granted to attack and seize, at sea, vessels or other property of its enemy. — The right to use such vessels in maritime war is recognized by international law; their employment was necessary till states established permanent public navies; their use since that time has been claimed to be advantageous to states having small navies, because it enables them to increase their naval force in a short time, and at a small cost, and thus tends to prevent a state, with a powerful navy, from having an undue advantage over another state whose marine is mainly commercial. — The disadvantages of using privateers are, that, their services being obtained by allowing their owners to appropriate to themselves and to their crews the whole or a part of the vessels or other property they may capture, and their officers and crews not being under naval discipline, the desire of prize tends to lead both officers and crews beyond the limits of legitimate war, to produce disregard of the rights of neutrals, and to continue lawlessness after the return of peace. — These evils, the rapid growth of neutral interests, and the increasing difficulty of fitting out vessels, by private means, suited to the conditions of modern maritime war, have led, during the past century, to repeated efforts to abolish privateering. In 1785 a treaty between the United States and Prussia, negotiated by Franklin, bound the contracting states, in case hostilities arose between them, not to use privateers. In 1792 the French assembly agreed to suppress privateering, but without effect. In 1823 the United States unsuccessfully tried to secure the same object by treaties with Great Britain, France and Russia. In the Mexican war the United States issued no letters of marque, and, although Mexico issued such letters, they were not taken by foreigners, because municipal laws or treaties forbade. In the Crimean war neither of the belligerents issued letters of marque. At the close of this war the principal states of Europe, uniting in the belief that private armed ships, maintained at private cost for private gain, and often necessarily for a long time beyond the reach of the regular naval force of the state, could not be kept under proper control, signed the declaration of Paris (April 16, 1856), the first article of which reads: "Privateering is and remains abolished." Since that time all the important states in Europe and the Americas have become signataries of the declaration of Paris, except the United States, Spain and Mexico. This declaration binds only its signataries when at war with each other, and leaves them free to use privateers when at war with other states. — The refusal of the United States to sign the declaration of Paris, which secured to its signataries privileges which it had been the traditional policy of the United States to obtain, was due to a change in the attitude of the government since 1823, and a belief that the United States, with its large commercial marine, might be unable to adequately protect itself against belligerent states with powerful navies, without the aid of privateers. The United States, however, agreed to become a party to the declaration if its signataries would amend it by adding a provision protecting from capture all private property at sea, not contraband. This proposition, called the "Marcy" or "American" amendment, not being accepted by the signataries, was withdrawn in 1857. — In 1861, Great Britain unsuccessfully sought to induce the confederate government to accede to the declaration of Paris. The United States thereupon offered to accede unconditionally to the declaration of Paris, hoping thereby to obtain an international right to treat confederate privateers as pirates. Great Britain, having accorded the character of belligerents to the confederates, had practically recognized their right to employ privateers, and the offer of the United States was declined unless the United States would admit that its signature should not have "any bearing, direct or indirect, on the internal differences (now) prevailing in the United States." This attempted restriction by one state of a declaration of so general and permanent a character, and to which so many states were parties, was not acceptable to the United States, and its accession to the declaration of Paris has not yet been made. The confederate states having offered letters of marque to subjects of all countries, the congress of the United States authorized the president to issue letters of marque, but, as nearly all the maritime powers had warned their subjects, that, if they served in privateers in the war, their governments would not interfere to pro-

tect them, and as the United States had threatened to treat such persons as pirates, no avowedly foreign private armed vessels took letters of marque (from the confederate government), and the ostensibly confederate vessels were commissioned as of its regular navy; and the president of the United States did not make use of his power to issue letters of marque.— During the Franco-German war, in 1870, a royal decree of Prussia ordered the creation of a volunteer navy. The owners of vessels were invited to fit them out for attack on French ships of war; bounties were offered; the crews were to be under naval discipline, but they were to be furnished by the owners of the ships; the officers were not to be regular naval officers. The French government protested against the use of such a volunteer navy as an evasion of the engagement not to employ privateers, by which Prussia was bound by the declaration of Paris. The sole real difference discoverable between privateers and such a volunteer navy is, that the latter is under naval discipline. — In war all captives vest originally in the state, and the commission which alone gives privateersmen a legal interest in a valid prize must be kept on board of their vessel. Sailing under a commission from each of two belligerent states is piratical; acting under two or more commissions granted by allied states against a common enemy is irregular, but not piratical. The persons to whom, whether aliens or citizens, and the conditions upon which, states issue letters of marque, vary with their municipal laws. Persons applying for such letters are usually required to give large bonds that they will conform to the usages of war, obey the instructions of the granting state, observe the rights of neutrals, and bring into port, except in cases of overwhelming necessity, all captures for adjudication by a prize court. — Where, as in the United States, no positive municipal law exists upon the subject, the general rule is, that the owners and officers of privateers are liable in damages for illegal conduct, when admittedly engaged in privateering beyond the amount of security given, and that the measure of damages is the value of the property unlawfully injured or destroyed. — Treaties of varying duration have been made, and some of them by the United States, with France, Holland, Sweden, Prussia, Great Britain, Spain, and Colombia, which forbid the citizens or subjects of either contracting state, while they are at peace, to accept letters of marque from a third state, at war with the other contracting state. Municipal laws often prohibit the citizens or subjects over whom they are set from taking privateering commissions from a foreign state. Thus, the laws of both Great Britain and the United States impose severe penalties on citizens or residents who accept commissions, equip privateers or enlist men for service in any foreign war. See Wheaton's *International Law*, 8th ed., by Dana, sec. 858, and note; Kent's *Commentaries*, 12th ed., vol. i., pp. 98–102; Woolsey's *International Law*, secs. 127–130; Twiss' *Law of Nations* (Time of War), chap. 10; Hall's *International Law*, pp. 453–456; *Journal of Social Science*, No. 10, 1879, art. "United States and the Declaration of Paris," by T. S. Woolsey; *British Foreign Enlistment Act*, 1870; *Revised Statutes of the United States*, title 67. JAMES FAIRBANKS COLBY.

PRIVILEGE. (See PARLIAMENTARY LAW.)

PRIZES, Maritime. A maritime prize is a vessel or cargo or other property which is lawfully captured in war at sea by authority of a belligerent state. — By modern international law the fact of maritime capture does not vest the thing seized with the character of prize, nor pass a perfect title to the belligerent state under whose authority the capture is alleged to have occurred, or, through it, to any of its agents, until, upon satisfactory proof that such seizure was made in accordance with the usages of war, a competent court of the belligerent state by whose authority the captor acts, has pronounced a sentence of condemnation. Nor can property in the thing captured at sea be transferred in favor of a neutral vendee or recaptor, so as to bar the original owner, until such a court has pronounced sentence of condemnation; and the possession of the thing captured at sea by the belligerent state of the captor, until such court has pronounced sentence of condemnation, is a trust for the benefit of those who may be ultimately found to be entitled. — A competent court, for the purpose above described, is any court of the belligerent state under whose authority the capture is alleged to have occurred, which has jurisdiction in cases of maritime capture. Such a court is commonly called a prize court. In the United States such jurisdiction is confined to the federal courts, beginning with a district court, with appeal up through the circuit courts to the supreme court. A prize court may sit either in the territory of the state of the captor or in that of any allied state, but not in that of a neutral state, and its sentence of condemnation may be valid, though the thing captured has never been in its actual custody, or is in a neutral port or is not in existence, when pronounced. — The necessity of inquiry by a prize court into the lawfulness of maritime captures results from the responsibility of belligerent states to neutral states for aggressions upon the persons and property of their subjects, and the fact that a large proportion of maritime captures are neutral property "charged as involved in violation of rights of war, or property whose nationality as neutral or hostile is doubtful." — The duty of a captor in war on stopping a vessel, according to the authorities below cited, is to make such examination as circumstances permit, and to release the vessel unless there is probable cause for a fuller examination by a prize court. If such cause is found, the captor's duty is to send the vessel, as speedily as possible, into a convenient port of his own state (the modern practice of neutrals prohibiting the use of their ports by the prizes of a belligerent,

except in cases of necessity, and only while the necessity exists) for such fuller examination, together with all the papers, cargo and other evidence on board, unaltered, and with all persons on board likely to be useful to the owners as witnesses. If the vessel stopped is a neutral vessel, the captor's duty is, after examination, either to release the vessel absolutely with her cargo, papers and passengers, or to complete his capture, and send her into a convenient port of his own state for further examination by a prize court. He can not take any middle course in such a case. Necessity will excuse the captor from sending in the vessel seized. If she is unseaworthy, or there is imminent danger of immediate recapture, or if an infectious disease is on board, he may destroy or abandon the vessel seized, but he must preserve all papers and persons on board, for the validity of his acts is, even in such cases, matter for the adjudication of a prize court. — If, after seizure of a vessel, she escapes from her captor, or is retaken, or if the owner ransoms her, before sentence of condemnation, the property is thereby revested. — Even though no controlling necessity prevents the sending into a convenient port of the thing seized, some states (among them, the United States) allow their captors to release the vessel or other property captured at sea, upon a written agreement, made and delivered by or on behalf of its owners, to give something of value to the captor. This written agreement is called a ransom bill, and with it hostages have sometimes been given to the captor as collateral security for the fulfillment of the contract. The receipt for the ransom bill is a passport, entitling the releasee to pursue a definite voyage within a definite time without liability to capture by any one acting under authority of the state of the captor, or its ally. Failure to comply strictly with the terms of the ransom bill revives the liability to capture, unless it can be clearly proven that such failure is due to unavoidable necessity. If the ransomed vessel or other property is lost before completion of the prescribed voyage, the ransom is still due, unless the captor expressly insured the releasee against the perils of the sea. If the ransomed vessel or other property is recaptured on a different voyage from that described, or after the time limited, and is adjudged a lawful prize, the price of the ransom is deducted from the proceeds of the prize, and given to the first captor, and the residue is given to the second captor. The recapture of the ransom bill discharges the obligation of the releasee, but the death or flight of hostages given with the ransom bill does not. — If a captor, stopping a vessel at sea, is not relieved, after such examination as circumstances there permit, from the duty of sending her in for adjudication, and if she is not revested in her original owner by recapture or ransom, a fuller examination of the vessel or other property will be made by the prize court, and the property will either be restored to its original owner or condemned. The procedure in prize courts is summary, and not in the nature of litigation *inter partes*, or *ex parte*. *Prima facie* the vessel or other property captured is the property of the state. Opportunity is given to any person or state, not an enemy, who has an interest in the vessel or other property, to establish a right of restitution. If no claimant establishes a right to restitution, the vessel or other property is condemned. If any claimant establishes a right to restitution, he is entitled, not only to the captured property, but to damages from the captor, if the seizing and sending were without probable cause. If a state does not submit the question of prize to adjudication, or if its prize court is not constituted, or does not proceed, in the manner recognized by the usages of nations, or if the state should confiscate property against the decision of its own prize court, the state whose rights or whose subject's rights are affected has cause of complaint, and the question becomes political. — Upon condemnation, the disposition of the proceeds of a prize depends upon municipal law. Some states distribute such proceeds, called prize or head money, among the captors as a reward for bravery, and to encourage future maritime captures from their enemies. — The compensation to which recaptors are entitled, called salvage, is determined by municipal law between vessels of the same state, and by treaty between vessels of allied states, and, commonly, by the principle of reciprocity between vessels of other states. — See Wheaton's *International Law*, secs. 359–396, and Dana's *note*, pp. 480–488; Kent's *Commentaries*, vol. i., pp. 100–116; Woolsey's *International Law*, secs. 148–153; *Revised Statutes of the U. S.*, secs. 4613–4653. JAMES FAIRBANKS COLBY.

PRODUCTION OF WEALTH. The word *production*, which, in ordinary language, means the giving birth to, or producing, without regard to the utility of the thing produced, or the outlay required for that production, takes, in economic science, a particular meaning, much more restricted, more exact and more absolute. This word, in political economy, is applied to that particular branch of the science which has for its object the *creation of values*, considered apart from their distribution and their consumption; and, scientifically speaking, it can be applied only to work resulting in a product of a value superior, or at least equal, to that of the services of every kind which that operation has taken. It is only when this balance is obtained, that there is truly production. There would be destruction on the contrary hypothesis, that is, if the value produced was found to be inferior to the sum of those necessarily consumed in order to obtain it; and this is so true, that, if one attempted to repeat the same operation a certain number of times he would finally destroy the entire sum of the values he had originally employed in the experiment, so that it would become physically impossible to repeat it. There is, then, no doubt that in political economy, what is called *production*, and the only operation susceptible of being characterized as

productive, is that which, taking everything into account, results in a sum of values superior, or at least equal, to that which has had to be devoted to it; and, in truth, it is this exact estimation of the result, this strict reckoning of the consequences, for good or evil, for profit or loss, advantage or disadvantage, of our labors, our operations, our enterprises of every kind, which, more than anything else, has given to the investigations of political economy the character of a science, and which has made its intervention sometimes appear to ignorant or evil-intentioned rulers so much to be dreaded. — But if it is not possible to raise a question as to the essential meaning given to the word *production* in political economy, we must admit that we are still far from having exhausted the controversy: in the first place, on the determination of the kinds of labor that should be called productive: and secondly, on the analysis of the means by which production takes place. This controversy has lasted ever since the first systematic efforts were made, more than eighty years ago [now more than a hundred years ago.—*Translator*], to raise political economy to the condition of a science; and, first to speak only of the question of knowing what kinds of labor are susceptible of being qualified as productive, it seems to us that people are not yet well settled in that regard, either as to the category of the kinds of labor which act upon things, or, above all, as to that of the kinds of labor whose efforts are exerted directly on man. One can not deny, for example, that the nomenclature of kinds of labor of the first category presents omissions and inaccuracies that are quite serious. — There is, in the first place, one entire class of labors, viz., that of the extractive industries, which has become far too considerable for it to be possible to take an account of it, and which, at the same time, differs too much from all the others for it to be allowable to confound it with any other class. How incomprehensible that any one should omit to speak of a class of industries capable of throwing upon the market masses of products comparable to those furnished by hunting, fishing, the industry of the wood cutter, the quarry man, and, above all, the miner! and, on the other hand, how permit them to be confounded, as is sometimes done, with agricultural industry! What is there in common between arts, which, confining themselves to extracting from waters, forests and earth the materials for a multitude of industries, employ for that purpose only mechanical forces, and an art which, like agriculture, is devoted to the multiplication and improvement of useful animals and vegetables, and which, for that purpose, makes use of a force so special, so little understood, so delicate to manage, as *life?* Perhaps it would be better to confound them, as is also done, with the transportation industry; for, like that industry, the extractive arts do, in fact, change the place of things which they supply for consumption. But they are not, like it, confined to bringing about a change of place: their craft especially consists in the very fact of extraction, an industrial action very difficult to practice, in all cases very unlike that of transportation; and there is no other way but to make of it an altogether separate class of labors, under the name of the extracting arts or extractive industries. — Another serious inaccuracy to be noted in the nomenclature of the arts which are exercised in the material world, is the application of the term *trade* to the business of transportation.* Trade has put people in the way of that industry, has taught them to specialize it, has led them to recognize how an intelligent removal of things so as to bring them within reach of whoever needs them, may contribute to production; but it has not, for all that, become the art of transportation, the carrying industry. The carrying industry is a vast business, clearly distinguished from all others, and should accordingly have its separate name. We can not give it the name of *trade* without doing violence to language, without miserably mutilating it, in fact; and it is so much the more impossible to call the transportation industry *trade*, because the term *trade* is applied to a class of facts altogether different, which should also have its appropriate appellation. To *trade* is to buy in order to sell again; it is not an act peculiar to one class of workmen; it is an act absolutely common to all: and, to speak the truth, there is not a business, from the highest to the lowest, in which people do not begin by purchases and end by sales. If the owner of a vessel or other means of conveyance buys things in one place to sell them in another, the manufacturer buys them under one form to sell them under a different one; whoever practices any handicraft, art or function, has begun by acquiring aptitudes, talents, faculties, which he afterward continually sells under the form of services. Everybody, then, buys and sells, and buys in order to sell. Only, between the purchases and the sales which every one makes, there intervenes some labor, some art, the intelligent practice of which constitutes his avocation: and, to recur to the people whose business is to distribute things abroad in the world, and to put them within reach of whoever needs them, there is, between the purchases and the sales they make, an art, which consists less in the act of buying, selling and trading, which all kinds of workmen do, the same as they, than in the judicious change of place of things, and in the marvelous and peculiar labor they perform, from which it is but reasonable that their industry should receive its name.— Finally, a last inaccuracy to be mentioned in the nomenclature of the great classes of labors which act upon the material world, is the order in which they have been arranged. It is certainly not very natural to call attention first to the one of these classes which is the most difficult, which was the last to originate, and which, by the nature of the particular agent it employs, viz., *life*,

* M. Dunoyer here refers to the expression, "the carrying trade," the "commerce of transportation," and others similar.—E. J. L.

most nearly approaches the high arts* which act directly on the human race; and a logical arrangement would have placed agricultural industry last, instead of first. We have elsewhere given the order in which we should think it proper to class the kinds of labor in this first category. — But if science is not yet well settled as to their classification, or as to their nomenclature, does it, at least, now recognize that they all contribute to production? and does it know how they co-operate in it? It would be difficult to assert this of the long category of arts which act directly on the human race. As to these, we are where we have long been in regard to the others. We know how tardy was the recognition that the latter participated in the creation of wealth, and what difficulty there was in discerning how they participated in it. The truth in regard to this, which was first admitted in reference to the extractive arts and agricultural industry, was long denied in reference to manufactures, and still longer in regard to the industry of transportation, improperly called commercial. The only real products were those which were the immediate result of the extractive and agricultural industries. Manufacture transformed them; but it was supposed, without creating new products, since it took nothing more from the earth. The industry of transportation changed the places of things; but still less than manufactures did it create new products, since those it transported remained identically the same. It was only after much difficulty that the matter was relieved of its confusion, and people were made clearly to perceive how these industries added new values to existing wealth. — Here is where we now are as to the arts which act directly on men. People still deny, at this very day, that they add to the mass of wealth created. Most books on political economy, even to the last, including the best,† have been written with the supposition that there were no real riches, or values susceptible of being qualified as wealth, except those which labor had succeeded in embodying in material objects. Smith sees scarcely any wealth save in things palpable. Say starts by designating by the name of wealth, lands, metals, moneys, grain, dry goods, etc., without adding to that enumeration any class of values not realized in matter. Whenever, according to Malthus, wealth is in question, our attention is drawn almost exclusively to material objects. The only kinds of labor, according to Rossi, with which the science of wealth is concerned, are those which enter into the struggle with matter to adapt it to our needs. Sismondi does not recognize as wealth products which industry has not clothed with a material form. Riches, according to Droz, are all the material goods which serve to satisfy our wants. "The opinion most true," he adds, "is that we should see it [*i. e.*, wealth] in all the material things which serve men." Finally, the writer of these lines can not forget that he had to maintain, only a few months ago [probably written in 1863 or 1864.—*Translator*], a long debate with several economists, his colleagues in the academy of moral sciences, without succeeding in persuading them that there are other riches than those which are so improperly called *material*. — Not only do economists recognize as wealth only values realized in material objects, but they declare unproductive the arts which are not exercised on matter, mentioning by name those which act directly upon man. Smith, after having enumerated them, presents them all, from the noblest to the meanest, as leaving nothing with which one could afterward purchase an equal quantity of labor. "Their work," he adds, "perishes the very instant of its production." ("Wealth of Nations," book ii., chap. 3.) We have elsewhere cited the opinions of a list of well-known economists, who all say the same thing. Tracy, Malthus, Sismondi, and James Mill, in speaking of the labor of magistrates, instructors, priests, savants, artists, etc., say of their services that they are productive only at the moment when they are rendered, and that there remains nothing of them, or that there remain only intellectual or moral results, and that people do not store up that which appertains only to the soul. Droz, whom we did not mention, after having represented the arts which act on matter as the only ones which produce wealth, elsewhere considers those who work on the mind as not creating. J. B. Say, who essays an innovation on this point, represents as productive all the long category of kinds of labor performed directly on man; but, from a misapprehension which prevents him from arriving at the truth, he sees the products of these labors in the works themselves, instead of seeing them where they are, that is to say, in the useful and lasting results they leave behind them; and, while qualifying them as productive, he is led to say of them all that the others say to prove that they are not so, namely, that their products are attached to nothing, that they perish as fast as they are created, that it is impossible to accumulate them, that they add nothing to the wealth of society, that there are even disadvantages in multiplying them, and that the expense incurred to obtain them is unproductive. — It is very singular, that, while thus in accord in declaring the arts unproductive which act directly on the human race, these economists are unanimous in finding them productive when they consider them in their consequences, that is to say, in the utilities, the faculties, the values, which they finally succeed in realizing in man. Thus, Adam Smith, after having said, in certain passages in his book, that literary people, *savants*, and other workers in the same category, are workmen whose labor produces nothing, expressly says elsewhere that "the useful abilities acquired

* By *high arts*, M. Dunoyer here refers to such arts as that of the orator, the actor, the musician, the sculptor, etc.—E. J. L.

† This, however true it may have been when M. Dunoyer wrote, is, we are happy to say, no longer so, as witness Macleod's interesting exposition of the nature of incorporeal property, and the writings of Whateley, Senior, and others. —E. J. L.

by members of society" (abilities which could have been acquired only by the aid of these men whom he calls unproductive) "are a capital fixed and realized, as it were, in the persons who possess them, and constitute an essential part of the general funds of society—a part of its fixed capital." ("Wealth of Nations," book ii., chap. 1.) Thus, also, J. B. Say, who says of the same classes of workers, that their products are are not susceptible of accumulation, and that they add nothing to the wealth of society, formally pronounces, on the other hand, that the talent of a public functionary, and that the business of a mechanic (evidently creations of these men whose products can not be accumulated), form an accumulated capital. Thus, M. Sismondi, who, on the one hand, declares the labors of instructors, etc., unproductive, affirms positively, on the other hand, that literary men and artists* (the incontestable work of these instructors) constitute a part of the national wealth. Similarly M. Droz, who somewhere makes the observation that it would be absurd to consider virtue as wealth, properly so called, terminates his book by saying it would be falling into a disgraceful error to regard the magistracy which makes justice rule, the savant who diffuses intelligence, etc., as producing nothing. It is, however, obvious that the same labor can not be at once *productive* and *non-productive*, result in products which at the same time *perish* and *become permanent*, which *vanish as fast as they are created*, and *which accumulate in proportion as they are created;* and seeing to what contradictions the founders of the science are brought on this capital point, it is easy to recognize that the question needs a more satisfactory explanation than that which they have given of it. This explanation we have elsewhere produced, and we think it will compel assent. It arises obviously from the quite natural distinction to be made between *labor* and *its results*. — It was, as we have said, because of not having distinguished labor from its results, that Smith and his principal successors fell into the contradictions which we have just pointed out, and that they so badly resolved the question whether or not the arts, which act directly on man, should be considered productive. All the useful occupations, whatever they may be, those which work upon things as well as those which operate on men, perform labor which vanishes as fast as performed, and they all create utility which is accumulated as fast as it is obtained. It is not necessary to say, with Smith, that wealth is *accumulated labor;* we should say that it is *accumulated utility*. It is not labor that one accumulates, it is the utility which labor produces. The labor passes away as fast as performed; the utility it produces remains. — To be sure, the lesson which a professor gives is consumed while being produced, the same as the manual labor expended by the potter on the clay he holds in his hands; but the ideas inculcated by the professor in the minds of the men who listen to him, the shape given to their intelligence, the salutary impression wrought on their susceptible faculties, are products which remain, quite as much as the form impressed on the clay by the potter. A physician gives advice, a judge pronounces a sentence, an orator delivers a discourse, an *artiste* sings a song or recites a tirade; this is their labor; it is consumed as fast as produced, like all possible kinds of labor: but it is not their product, as J. B. Say erroneously claims: their product, like that of every kind of producers, is in the result of their labor, in the useful and durable modifications that both kinds have wrought on the men upon whom they have acted, in the health the physician has restored to his patient, in the morality, the instruction, the taste, which the judge, the professor, and the *artiste* have spread. Now, these products remain, they are susceptible of preservation and increase, of accumulation; and we can acquire more or less virtue and knowledge, just as we can impress upon any portion of matter some of the utilities which are of a nature to become fixed in things, and which give them more or less value. — It is true, that instruction, taste, talents, are *immaterial products;* but do we ever create any other kind? and is it not surprising to see J. B. Say distinguish between material and immaterial, he who has so judiciously remarked that we can not create matter any more than we can annihilate it, and that in all things we only produce utilities, values? The form, the figure, the color, that an artisan gives to rough bodies, are things just as immaterial as the knowledge that a professor communicates to intelligent beings: both only produce utilities, and the only real difference that can be observed between their industries, is that the one aims to modify things, and the other to modify men. — It can not be said that the labor of the professor, the judge, the comedian, the singer, *is attached to nothing*, nor that *nothing remains of it:* it is attached to the men upon whom it operates, and there remain from it the useful and lasting modifications which it has wrought in them; just as the labor of the spinner, the weaver, and the dyer, is realized in the things which receive it, and leaves upon them the forms, the figure and the colors which it has impressed on them. — It can not be said that the values realized in men, the capacity, industry and talents that have been communicated to them, *are not susceptible of sale*. What are not sold, at least in countries civilized enough to have no more slaves, are the men in whom human industry has developed these qualities; but, as to the talents which these men possess, they are quite susceptible of sale, and are, in fact, continually being sold; not, I readily admit, in kind and in themselves, but under the form of the services, the labor, and the instruction which is commonly employed to communicate them to others. — No more can we say that the values which labor succeeds in impressing upon men *are not of a nature to be accumulated:* it is as easy to multiply in ourselves the useful mod-

* M. Dunoyer includes actors, musicians, etc., among artists.—E. J. L.

ifications of which we are susceptible, as to multiply, in the things which surround us, the useful modifications they can receive. — Nor can it any more be said that *there is disadvantage in multiplying them.* What can not be multiplied without disadvantage, are the expenses necessary in order to obtain any kind of products whatever; but, as to the products themselves, it can not surely be said that there is any disadvantage in increasing them. We do not hear men complain of having too much industry, taste, imagination, skill or any good quality, any more than we hear them complain of possessing too many utilities of any other kind. — It can not be said that *the expense incurred to obtain these products is unproductive.* What would be unproductive, would be the incurring of needless expense in creating them: but as to the necessary outlay for that purpose, it is not unproductive, since it may result in actual wealth, and in wealth greater than the expense of producing it. It is surely not rarely that acquired talents are worth more than the expense incurred to acquire them: it is not impossible that a government should give rise, by an active and firm administration, enlightened by justice, to a value infinitely superior to the expense required to obtain so valuable a result. — It can not, in short, be said that these products add nothing to the national capital: they augment it as really as products of any other kind could do. A capital of mental acquirements or of good habits is worth no less than a capital of money or of any other kind of values. A nation has not alone physical wants to be satisfied; it naturally experiences many intellectual and moral wants; and, however little culture it may have, it will place virtue, instruction and taste in the category of its most real and most valuable riches. These things, then, which are in themselves true wealth, on account of the pure and elevated pleasures they procure, are, besides, absolutely indispensable means for obtaining that other species of values which we succeed in embodying in material objects. It is not sufficient, in fact, in order to create these latter values, to possess workshops, tools, machines, provisions, moneys: there must be strength, health, knowledge, taste, imagination, good private and social habits; and the men who work to create and bring to perfection these products may justly be considered producers of the wealth called material, just as much as those who work directly to create it. It is obvious, in a word, that if a nation increases its capital by extending its area of cultivation, improving its lands, perfecting its workshops, its implements, and its cattle, still more does it increase it by perfecting itself, that which is preeminently *the* force, the force which directs and gives value to all the others. — Will some one be kind enough to tell us how it is, that, after all this, any one can maintain that the men whose efforts are exerted directly in the cultivation of their fellow-creatures, create products which *vanish in being produced?* The truth in regard to these laborers, as well as to all, is, that in the work of production it is only their labor which vanishes, and that, as to their products, they are as real as those those of the classes most manifestly productive. What better, in fact, can be done to increase the capital of a nation, than to multiply the number of men, vigorous, skillful, educated, virtuous men, trained to act well and live well? What wealth, even if we took into account merely the question of deriving profit from the material world, could appear superior to this? What wealth is more capable of giving rise to other kinds? Now, this is exactly what all classes of laborers who act directly upon man, produce, different from those who work for him only by acting on things. A government, when it is what it ought to be, is a producer of men subject to public order, and trained to the practice of justice; a true moralist is a producer of moral men; a good instructor is a producer of instructed and enlightened men; an *artiste* worthy of the name is the producer of men of taste and of soul, of men trained to sensibility to all that is good and beautiful; a teacher of fencing, horsemanship or gymnastics, is a producer of bold, agile, vigorous men; a physician is the producer of well men. Or, if we choose, these various laborers are, according to the nature of the art they practice, producers of health, strength, agility, courage, instruction, taste, morality, sociability—all things which people count upon acquiring when they consent to pay for the services designed to produce them, and all services whose price is, so to speak, quoted, having consequently a sale value, and forming the most valuable and most fecund portion of the productive forces of society. — These opinions were published by the author of this article, a number of years ago (in 1827, in the April number of the *Revue Encyclopédique*); and he confesses that it was not without great surprise, that, referring lately, at a meeting of the *Institute*, to these former remarks, he beheld *savants* who were his colleagues, and, among the number, able professors of political economy, combat propositions so evidently correct, and seriously deny that economic science could concern itself with the arts which act upon man; relying, to justify their opinion in that regard, on these two reasons, among others, viz., that it could not take notice of them without exceeding its just limits; and that, on the other hand, it was not possible to make, from the product of these arts, an article of exchange or of commerce.—But (to pass immediately on the merits of the first of these allegations), how, pray, is the science of political economy naturally limited? Is it by the nature of the arts alone which they would have it investigate, or by the general manner in which it regards all kinds of labor? Does it treat directly and exclusively of certain arts, for example, of those which act on the material world, of extractive industry, of that of transportation, of manufacture, or of agriculture? It has to deal with questions which are peculiar to no art, to which all arts equally give rise, and which are the special object of its study: it investigates how

all kinds contribute to production, what part is played by the labor of the various orders of means on which the power of all labor rests, the separation of occupations, the perfecting of the instruments employed, the scientific notions, the talent for applying them, and a number of others which we refrain from enumerating here: it also investigates the manner in which the products resulting from the co-operation of all the social activities are distributed among all, by the contrivance of exchanges and the aid of everything that can facilitate them. Now, these questions, wholly economic, and which it is thought natural it should discuss relative to the arts exercised on things, it is obvious it may enter upon, without departing any more from its object, in reference to the arts which act directly on man; and if political economy does not encroach on the instruction of the technologist or the agronomist when it explains how the manufacturer or the agriculturist adds to the value of the materials he transforms, it is evident that it no more encroaches on the labors of the *savant*, the *artiste*, or the magistrate, when it attempts to show how these particular orders of workers contribute to the improvement of the people on whom their influence is exercised. Certainly, to tell what part a good division of labor, or the employment of improved instruments, plays in the teaching of the sciences, is not to devote one's self to teaching the sciences. Certainly, too, to say the *artiste*, the priest, the instructor, can no more do without security and liberty, than the man who plows his field or who keeps his workshops in operation, is neither to be a professor of æsthetics, of morals, or of pedagogy. Finally, it is manifest, that to raise an economic question in relation to the arts which act upon man, is no more to go outside of the bounds of political economy, than it is going outside to treat that question in its relation to the arts whose activity is expended on matter. — And not only does the economist no more go out from his domain when he concerns himself, from an economic point of view, with the arts whose activity is devoted to the education of the human race, than he goes out of it when he gives his attention to those which act on things; but we must say, that, to completely fill his *rôle*, he must concern himself with all, without distinction. There is not one, in fact, which does not indispensably need the co-operation of all the others; and the economist would have only a very incomplete idea of the phenomenon of production, and of all the means on which the powers of production are based, if he did not know how every kind of labor that the economy of society comprises, participates in it. The economist, in a word, must necessarily be instructed in two things: the first is, that man can not be developed in one respect alone; that he can not become rich exclusively; that, in order to become rich, he must also become skillful, trained, enlightened, polished, moral, social; and the second is, that there is not one of these happy qualities which is not a direct source of wealth to the arts which procure them for him; that the *savant*, the *artiste*, the magistrate and the moralist enrich themselves while laboring for his education, just as the mechanic and the agriculturist do while adjusting material nature to his wants. — But, they say (and this is the second objection brought against us), political economy treats essentially of *exchangeable* wealth; and, for it to concern itself with the high arts which labor for the education of man, they should give rise to products which could be a current article of exchange. Now, what do, in fact, come from them, even on the supposition that they succeed in forming men who are well taught, able, honest, capable of rendering services in all respects excellent? and where are the products susceptible of being exchanged, in which their labor is realized? The answer naturally arises from the question. These products are in the very aptitudes they give the men on whom their labor is expended, and in the services these aptitudes permit them to render. These services are not palpable products, it is true; but have the only arts with which some persons think political economy should concern itself, the arts which act on the material world, only this kind of products to offer? Do not these people know that the larger part of their agents present themselves on the market with only labor, that they have only services to offer? And if one will please consider that labor, industry and human services are a current article, a constant article, a universal article, of exchange, will he deny that the arts, whose mission is to form men adapted to render services, contribute as much as those of any other class to bring exchangeable products into market? Do not the whole world know that there is a trade in services going on, as considerable as that in material things adapted to serve? And do they not also know that the most material of products have been acquired only in view of the services they can render, and that in reality it is only services which are bought and sold? — This surely is undeniable; and if political economy can justly be reproached with not having made a sufficiently exact and complete classification of the kinds of labor acting on material nature, which contribute to production, it may still more justly be reproached with not having also been able to admit into the number of productive arts the classes of labor, so important and so numerous, whose united activity is devoted to the cultivation of the human race. It is certain, that, in order to have a sufficient idea of the phenomenon of production, it should embrace them all and investigate both without distinction. There may indeed be something in this enlargement of the domain of the science of political economy, to disconcert a little those who cultivate its acquaintance; and we can understand, that, after having made the products clothed with material forms and the kinds of labor which create that sort of products the exclusive object, thus far, of their investigations, it costs them somewhat to extend their at-

tention to the more complicated arts, which concern man and products so different, which are put into circulation under the form of services; but it is nevertheless true, that, to well comprehend the phenomenon of *production*, they must particularly investigate this class of products and of labors, and there is likewise an additional reason for making them the subject of especial investigation, in the little attention they have hitherto accorded them. — We will add, that, if it is necessary to investigate equally all the kinds of labor embraced in the economy of society, in order to have an adequate conception of the phenomenon in question, it is not less so to have accurate and complete knowledge upon the co-operation of what means the power of labor naturally depends; and that on this second point, as we showed at the commencement of this article, the economists have not yet succeeded in coming to an agreement any more than on the first. If they have not made it sufficiently appear what all the trades and professions are which it is essential for political economy to investigate, neither have they sufficiently shown, at least as it seems to us, by what means the various kinds of business produce, and in the combination of what causes lies the potency of their action. That illustrious man, J. B. Say, the one of these writers, who, in our opinion, has made the most learned exposition, the most detailed and most extended analysis, of the general means of industry, appears to us, nevertheless, to have fallen far short of having made a complete list of them, or even, in many respects, an accurate list. — To begin with, before entering upon an examination of that analysis, we will express our regret, in common with some other economists, that J. B. Say should have assigned several causes as the origin of production, and represented that man was indebted for the acquisitions he has made, not alone to his efforts, without which, however, the forces of nature, beginning with his own faculties, would have been of no value to him, but to his efforts simultaneously with the co-operation of nature and of capital, which, according to J. B. Say, have labored for his progress conjointly with himself. "There exists something else than human labor in the work of production," he says. * * Industry, left to itself, could not give value to things; it must possess products already existing, without which, however skillful we may suppose it to be, it would remain inactive: it is necessary, besides, that nature should combine her labor with it and with its instruments." Human industry, according to J. B. Say, never figures as more than one-third in the act of production. In every product a part of the result obtained comes from nature, and another part from capital. — We fear, as we have already said elsewhere, that in thus assigning to production several primordial causes, J. B. Say has brought confusion where he desired to introduce greater order, and that, far from throwing light on the subject, he has made the primitive source of all our progress more obscure. We think, with Adam Smith, and particularly with M. de Tracy, who on this subject was still more clear than Smith, that labor has been the only generating cause. — To be sure, human activity is not the only force there is in nature. Outside of that, there exists a multitude of others, which man has no more created than he has created his own faculties, and which he could no more annihilate, and whose existence is wholly distinct from and independent of his. There are dead forces, and there are living ones. The hardness, the strength, the ductility of certain metals, are inert forces. The sun, water, fire, wind, gravitation, magnetism, electricity, the vegetative force of the soil, the vital force of animals, are active forces. But if such forces exist, external to man, there is nothing in them which announces that they exist for him; and, left to themselves, they would show themselves perfectly indifferent to his happiness. For them to serve him, he must bend them to his service; for them to produce, he must force them to produce. To be sure, man does not create them; but he creates the utility that they are to him: he creates them as agents of production, as productive forces. It is also true that he has to take more or less trouble for that: every kind of steel is not equally suitable to make a file; every kind of soil can not be rendered equally adapted to vegetation; but he must put his hand to all things, and nothing is arranged by nature to serve him. How could the qualities of iron have been of service to production, if industry had not been able to separate the metal from the ore, and impress upon it the form suited to render its qualities useful? How could the wind have served to turn a millstone without the fans of the mill? How could the magnetic fluid have served to direct navigators, without the invention of the mariner's compass? How would the rain and the sun make plants germinate, without the previous labor which presents to the dew of heaven and the warmth of the solar rays a plat of land suitably plowed, manured, prepared and sown? These agents and many others, in short, are equally at the disposal of all men: of what use are they to the savage who has not learned how to derive advantage from them? Yet again, the forces of nature exist independently of human labor; but relatively to man, and as agents of production, they exist only in human industry, and in the instruments by means of which industry has taken hold of them. This it is which has created these instruments and directs their use; this is the only source from which have sprung, not things, nor the properties of things, but all the utility which man derives from things and from their properties. — J. B. Say is then wrong, we think, in saying that wealth originally came from the combination of three forces, industry, capital and natural agents, among which he gives land an important place. Industry, he says, would have remained inactive, without the aid of pre-existing capital. But, if this is so, it is no longer conceivable how it was able

to begin to act; for it is very evident that the existence of capital could not precede the labor which gave rise to it. To appropriate things to his use, man had at first only his native faculties, his instincts, his intelligence and his hands. Soon, by the aid of these levers he procured others: he put tools in his fingers; he substituted machines for tools; he added to his forces those of animals, metals, water, fire and wind. By degrees all the powers of nature, some being subjugated by others, under the intelligent direction he gave them, entered his service without disturbance, and began to work for him. The capital thus composed of the combined forces which he added to the little he had on coming from the hands of nature, and including, of course, the successive developments of his own faculties, is of human creation. A piece of land is, as M. Tracy well observes, like a block of marble or a mass of mineral, only a certain portion of matter, endowed with certain properties, and which man may dispose of, and has disposed of, as with a multitude of other things, so as to render its properties useful. Man does not create this matter, nor the properties it has, any more than he creates matter or the properties of matter, from which are formed a hundred other kinds of capital; but he creates, by his successive efforts, the power to derive advantage from both: he creates them as instruments of production, and these forces which J. B. Say represents as acting from the beginning conjointly with human industry, are themselves, at least as instruments of production, creations of industry, and ought to be included in the list of means which it has given itself, and of agents which it has made for itself, while it has developed its own forces. Consequently, and let us note well the fact, it is not necessary to go outside of human activity, to find the origin of the powers which human labor possesses. It is from this that everything visibly proceeds, and no other force is perceptible at the beginning. In other words, man has created all his powers, beginning with those he has derived from himself and from the marvelous faculties whose germ Heaven placed within him. He has created, I repeat, neither these faculties nor the forces throughout nature; but all the power that he has of deriving from both, he has, I say, given himself. — Then, after having thus referred the forces which J. B. Say represents as acting from the beginning conjointly with man, to a place among the general means of production that man has created, we will repeat that M. Say has made, and others after him will continue to make, following his example, an analysis of these means which appears to us neither sufficiently complete nor even sufficiently accurate. — We will observe, in the first place, that the author of the *Traité d'Economie Politique* excludes from the mass of its productive funds, as the author of the "Wealth of Nations" had done, all that part of the general fund of society which is employed in satisfying public or private, particular or general, wants. This is the natural consequence of the error which makes them consider the arts which act on man unproductive. Thus all that portion of the social fund which individuals employ in maintaining their physical strength, increasing their intellectual faculties, improving their moral habits, bringing up children who will some day be of help to them, would, according to J. B. Say, constitute no part of their means of production. And, in like manner, all that part of the same fund employed in satisfying public wants, as for example, maintaining order in the community, creating habitual respect among its members for personal and property rights, procuring instruction for classes which would not naturally receive it, would also not constitute any part of the productive forces of society. All these would serve to satisfy demands, to be sure, and very imperious demands; all these would be productive of utility and gratification, but not of wealth: the service people made of them would add nothing to the wealth and forces of society. — This affects us, we acknowledge, as one of the most obvious of errors. It is absolutely impossible for us to admit that the portion of his means that a manufacturer employs in keeping his manufactory in repair, constitutes a part of his productive capital; and that that which he employs in maintaining himself, the head of the manufactory and the prime agent of manufacturing production, constitutes no part of it. It is impossible for us to admit that the buildings and the food which an agronomist employs for the preservation of his beasts of burden should constitute a part of his productive capital; and that his dwelling house, his furniture, his clothing, his food, and all that part of his wealth which is employed to keep *him*, and he himself, the head and the prime agent of agricultural production, constitute no part of it. There are, quite probably, a certain number of men in society incurably worthless, either absolute do-nothings, or employing the little activity they have, in preserving their existence, seeking enjoyment, and procuring for themselves agreeable sensations. We are quite willing that all that part of the capital of society which is employed in maintaining such beings should be struck off from its productive funds. But if there are many people in the world who live only for pleasure, happily a still greater number live to act, and make their happiness consist in some profitable employment of their powers; and who, in fact, habitually use them in a way that really benefits humanity. Now, we can not comprehend, we say, how any one can strike out from the productive capital of society the part of its funds it employs in suitably maintaining these men, these who are assuredly the most valuable, the most noble, the most fruitful of all its products, the one without which no other would exist. Everything that a worthless man expends for the satisfaction of his wants is lost: nothing results from it but the maintenance of a useless man. Everything that a useful man gives to his pleas-

ures, without any advantage to the increase or preservation of his faculties, is equally lost: nothing remains of that expense. But what the same individual devotes to the maintenance or the increase of his powers, however little the forces preserved or acquired may be worth above the outlay in preserving or acquiring them, is reproductively employed, and constitutes part of his means of production: of this there can be no doubt. — In this mass of means of every kind, of which the general productive fund of society is composed, Smith had already discerned a great number of means and of forces: he had seen those prime materials more or less raw, and those more or less worked; tools and machines of every sort designed to shorten or to facilitate labor; buildings devoted to every kind of labor; lands brought into the condition most suited for cultivation and tillage; a great number of talents and much useful knowledge acquired by the members of society; a certain total of moneys designed to facilitate exchanges, etc.; and, of all these means, he had composed two classes of capital, fixed capital and circulating capital, both designed to maintain that fund for consumption from which men derive all the means of preserving and improving their existence. — J. B. Say has gone farther than Smith, and done better in some respects. He first divides the productive funds of society into two great divisions, one of which is composed of the industrial faculties of the laborers, and the other of their implements. Then he distinguishes, among the industrial faculties, that of the *savants*, that of business managers, that of workmen: and, among the instruments, the natural agents not appropriated, such as the sea, the atmosphere, the heat of the sun, and all the powers of physical nature; the appropriated natural agents, such as cultivable lands, regular watercourses, mines in the way of exploitation, etc.; and the different kinds of capital, among which he distinguishes unproductive capital, capital productive of utility and of gratification, and capital truly productive; dividing again the latter into *fixed* and *circulating*, and giving particular attention to capital which exists in the form of *machines*, and that which exists in the form of *moneys;* while Smith only describes the functions of money, and does not speak of the influence of machines. Such is the analysis of J. B. Say. — It is surely having made progress in analyzing this vast mass of levers and forces of every kind of which the general productive funds of society is composed, to have distinguished the *industrial faculties* themselves from the *industrial implements*. But, while firmly maintaining that essential and excellent distinction between industry and its implements, or, rather, while forming two well-separated classes of the natural and acquired powers which man possesses in himself, and of those which he has appropriated to himself from all nature, and that it depends upon him to add to those he draws from his own resources, we think there is a better analysis to be made of both. Let us speak first of those which exist in man himself. — J. B. Say only remarks here a fund of industrial faculties. We shall soon see that there is in him something else than industry, and something, too, which, in the interest of production, it is important to observe. But we will first investigate the industrial funds. J. B. Say only distinguishes among industrial funds the three classes of talents of the *savant*, the business manager and the workman, or, rather, of *theory*, *administration* and *execution*. The first observation that occurs to the mind, is, that he here confounds two very distinct orders of faculties, which it was essential to keep as separate as possible, viz., those which pertain to the understanding and management of affairs, and those which relate to the execution and the art. — The talent for affairs is composed of several sorts of important faculties which J. B. Say has not described, or even designated, and of which it was, nevertheless, essential to speak; for they occupy a high rank and play a very important part in all kinds of labor, without exception, which the economy of society embraces. This is a considerable omission. The order which J. B. Say assigns to science, in the faculties which pertain to art, is not, I think, the true one: things, in this world, did not begin by *theory;* a certain practical acquaintance with a trade preceded scientific instruction. People began by acting *empirically;* then came *theoretical* knowledge; then the talent for *applications*, which J. B. Say places among the attributes of the business man, and which is much more in the domain of art; finally, the *execution* has followed the thought, and has been more or less skillful, according as the thought itself has become more elaborated, and as it has become more natural and more familiar. In all this, as we can see, whether it is a question of *business* or of *art*, the only things concerned are address, skill, knowledge and capacity. — But how is this! are these, then, all there is in man? or does he need no other faculties in order for production? Is he not quite as susceptible of morality as of knowledge? And should we not regard as indispensable that his good abilities should be aided by good breeding, if it is permissible to designate by the familiar phrases, good abilities and good breeding, the whole of the intellectual and moral means of which the powers of the human race are composed? Is a fund of good moral habits any less necessary to the work of production than a fund of industrial faculties? Here again, we say, there seems to us an important and much-to-be regretted omission in the analysis which Smith, J. B. Say, and their successors have made of the general means of production. One can already perceive how much this analysis leaves to be desired in what touches upon the social fund, that which is composed of all the forces which laborers have developed in themselves. Let us pass on to the account of those which they have fixed and accumulated in things. — We have said that here J. B. Say distinguished unappropriated natural agents, appropriated natural agents, and capitals. We will here, to confirm our first remarks, call

attention to the fact that the forces which he designates by the term unappropriated natural agents, such as all the laws of physical nature, could not be considered as instruments of industry, so long as man could not get hold of their power. These agents really exist for him only in the labors, the works, the machines, by means of which he has succeeded in getting hold of them and applying them to his ends. We think we have already rendered this truth palpable. From the moment it is perceived that there are no natural agents for man, except those he has himself got hold of, that he has succeeded in imprisoning in his sails, his gearing, his ingenious and innumerable mechanisms, and which he has made his own by previous and adequate labors of appropriation, it is clear that no such distinction is to be made as unappropriated and appropriated agents. To human industry, only appropriated agents really exist. — In the list of appropriated agents, we discover absolutely no reason for making two separate classes of capitals and land. Nothing, in fact, seems to distinguish the vegetable or mineral land from the other objects in nature of which man has taken possession, which he has put to his service, in which he has accumulated and capitalized more or less of values; and we can see no more reason for investigating, as J. B. Say has done, how capital and land unite to produce industry, than to call attention to the manner in which industry, capital and currents of air or currents of water, or vapor, or the sun, or any other such agent of nature which man has been able to associate with his labor in any manner whatever, combine for the same object. The special distinction of *land*, in the number of appropriated agents, should then be put aside. — In the mass of forces within and without himself which man has appropriated to his service, or, to employ language which designates all these forces by one single word, in the mass of *capitals*, J. B. Say distinguishes unproductive; productive of utility and gratification; and productive of wealth, or, simply, productive. *Unproductive* capitals (and by these J. B. Say means all buried treasure and unemployed capital), *unproductive* capitals, we say, scarcely merit figuring in an analysis of the instruments of *production*. They are, it is true, a potential force: they are capable of being employed; but so long as they remain inactive, they are as if they did not exist, and can hardly be included in an analysis of the social forces. All that part of capitals *productive of utility and gratification*, which is employed in frivolous or harmful expenses, merits still less being included in the mass of instruments of industry. All that which, on the contrary, serves to bring up useful men, to preserve, extend and improve their faculties, is, as we have explained above, eminently productive, and demands to be ranked among the most valuable and the most effective means of production. There remain, then, simply, *productive* capitals, which Say distinguishes from natural agents, in which he includes neither land, mines nor water courses, and among which he ranks neither the material of public administration nor the dwelling houses of private citizens, nor their furniture, their clothing, their books, or anything that serves directly for the education of the human race, and in the naming of which, on the contrary, we need not hesitate to combine all the material elements of human industry, all the external forces that it has employed, all the means of action, outside of itself, which it has learned to draw upon and appropriate to its ends, and to which it has been able to give a useful direction. — We will only remark, that, even in comprehending thus under the term *capital* all the external instruments of industry, we would still be giving to that appellation too restricted an application, and that it is proper to combine under this word all the forces whatsoever that man has accumulated and that he can employ in acquiring new ones: that a nation's capital is composed of the forces it has accumulated within itself, quite as much as of those which it has put itself in a position to derive from things; that we may say, and we must say, a capital of knowledge and of good habits, just as we say a capital in money, and that J. B. Say should have been the less averse to this language, because he calls man an *accumulated capital*, and applies the term *accumulated capital* to the talent of a workman, an administrator, or an officer. Consequently, man and the world being given, such as they were at the beginning, it is necessary, starting with the active intelligence of the human race as the primordial cause from which all our resources have sprung, to consider as capital, not any particular instruments which man has appropriated, rather than certain others, but all the useful forces of every kind, which he has succeeded in developing either in himself or in the things by which he is surrounded, or which he has converted to his use. This being stated, and these various remarks made, here are what seem to us to be the composition of the capital or general productive funds of society, what the various orders of means we discover in it, and the total of the causes with which, in our opinion, the productive power of all kinds of labor is connected. — In the first place, the social fund or capital is divided, we think, into two great classes of forces: that which labor has developed in men, and that which it has realized in things. The effective power of all kinds of labor comes from the combination of the two classes. In the number of powers which men have succeeded in developing in themselves, the first which strikes us, that which naturally takes a place at the head of all the others, that which is most indispensable to the success of all enterprises and the well-directed action of all the arts, is the *genius for affairs*, a talent in which we discover several very distinct faculties, such as capacity for judging of the state of demand or knowing the wants of society; that of judging of the state of supply, or estimating the existing means of satisfying these demands; that of administering with ability enterprises wisely

conceived; and finally, that of verifying, by regular accounts, intelligently kept, the previsions of speculation. After this list of faculties relating to the conception and the conduct of enterprises, and of which the genius for affairs is composed, those which are needed for execution, and from which is formed the *genius for art*, next present themselves. Such are a practical knowledge of a trade, theoretical notions, a talent for applications, and skill in workmanship. — All these faculties are industrial. But, again, are these all? No, certainly not; and if, in the fund of the personal faculties of workmen, we discover a great variety of *industrial* forces, we also remark there a great number of *moral* qualities. We distinguish in them all that series of habits which guide them in their conduct in regard to themselves, and which concern in some sort only the individual. We also distinguish there all that series of habits of another order, which govern relations and which interest society more particularly. The effective power and the free action of all branches of business depend in the highest degree, as might easily be shown, on the perfection of both. We could not take too much pains to note and call attention to the happy influence exerted in all kinds of labor, by good private morals in laborers and the improvement of their habits as citizens.— Finally, outside of these various orders of faculties to which labor has given rise in men, and which form, in some sort, the intellectual and moral capital of society, its fund of personal faculties, we perceive a multitude of utilities, forces, levers, powers, which it has succeeded in fixing in things, and which form, if one chooses so to call it, its real or material capital. In this part of its general funds we perceive, under countless aspects, lands cleared, plowed and planted, regular watercourses, canals, routes, enclosures, constructions, buildings, machines, tools, raw products, provisions, moneys, wages, and an infinite variety of instruments and means of action of every kind. All these, variously brought together, form multitudes of establishments, workshops for labor; and if we very attentively observe these workshops, we notice that, however truly appropriated they may be to their object, it is essential that they be well situated, well organized, that labor in them be skillfully distributed, and that they be provided with a sufficient quantity of well-selected tools, materials, and supplies of various sorts. — Such is the analysis of which this general fund of society, where are found in deposit all our faculties and all our resources, seems to us susceptible; and such are the various elements of power which we there discover. It would now be necessary, in order to complete the exposition of the important phenomenon which this article aims to describe, to show what particular influence each of the means we have just pointed out, exerts in production. This is a task which we have performed in our work on "Freedom of Labor," from which we have taken almost literally a considerable portion of the remarks that have just been read, and nearly two volumes of which are devoted to explaining either the part which these means play in labor in general, or the diversity of the applications that are made of them in the various kinds of labor that social economy embraces; and it would be impossible for us to give here, even in a summary, any adequate idea of that analysis. We can only refer the reader to that book. — It has been remarked, that, in so extended an analysis as this of the means of labor, we had omitted to speak of the most considerable of all, namely, capital. As if, beginning as we did, with the natural faculties of man, and enumerating the various orders of forces that he had developed in himself, or had appropriated from without, we could have spoken, and did in fact speak, of anything else! As if, under their own names, the various orders of intellectual, moral or material means that we had pointed out, could be and were anything but different portions of the capital of society! As if, in short, after having spoken successively of all, one particular class of forces or of resources could remain to be treated of, under the name of capital, especially when we had said, in terms so explicit, that this term *capital* did not apply to any one kind particularly, and that it embraced without distinction all the means of production that man had accumulated around him and within himself! — No; our error, if such it is, consists in having discarded, at the outset, that trinity of *land, labor* and *capital*, which the school makes assist simultaneously in the beginning of all our acquisitions of wealth and of forces; which appeared to us to be a cause of trouble and confusion in the exposition of the science; which, while leading to useless explanations, had in our eyes the error of being at the same time incorrect and inadequate, and, taking man and the world in their primordial state, of having made everything arise from the activity of the human race acting at the same time on things and on itself. But, taking thus our starting point in the activity of man, we have the consciousness of having omitted none of the great categories of productive forces that he has developed in the external world and in himself, no portion of the social capital; and we think we have made a more complete and true analysis of the general instruments of labor, as well as of the kinds of labor which social economy embraces, than we had found in the best books on the science. — We will only say, in closing, that production does not alone derive its forces from the various categories of personal faculties and material means which have just been enumerated, but also from all the great orders of labor which society contains; that there is not one of them which is not indispensable to the activity of all the others, and that, to make the phenomenon of production fully comprehended, one would have to designate the place that each of these kinds of labor occupies in society, the part it performs there, the mutual assistance they render one another, etc. This is what we endeavored to do in the work on "Freedom of Labor," which we have already

mentioned, and to which we are obliged again to refer the reader.

E. J. L., *Tr.* CH. DUNOYER.

PRODUCTS ON PAPER.* A curious offshoot of the growth of this century is found in the multiplication of so-called "exchanges." The original idea of an "exchange" was a mart where a man with some definite commodity to sell could always find a buyer at some price, and where a man wanting to buy some definite commodity could always find a seller at some price. Thus, in their origin, "exchanges" were economic blessings, for they brought about between buyer and seller a maximum of nearness, with a minimum of friction. As "exchanges" grew, their original object pretty nearly vanished, and, instead of being marts, where commodities are exchanged, they have become places where bets on prices may be made, recorded and paid. — In exchange jargon the only term now used, which indicates the original object of "exchanges," is "cash sales;" the rest savor of their degeneration, or, at least, of their change. "Shorts," "longs," "puts," "calls," "straddles," "spreads," "options," "privileges," and the like, are not indicative of commerce, but of speculation pure and simple. — Taking the annual reports of the leading exchanges of the country, it is manifest that the majority of transactions are only bets; because far greater quantities of cotton, corn, wheat, petroleum; etc., are annually sold than the soil produces. It follows, then, that in our so-called "exchanges," the business of members is not so much to exchange commodities, either for themselves or their constituents, as to exchange opinions, and to fix a pecuniary penalty on the party who happens to be wrong, making it payable to the party who happens to be right. Dealing in these opinions may be very accurately called "trading in products on paper." If the word speculation be preferred, it means, in its nakedness, giving the producer of food, clothing, shelter, etc., the least possible for what he produces, and in making the consumer pay the most possible for what he eats, wears, builds, etc. Speculation produces nothing by itself, neither does it consume anything by itself: hence, the most flattering term we can give it, is to call it the middlemanism of trade. Speculation has never, and can never, benefit any country; the more rampant it has been, is, or may be, the worse its effects. Historically, look at the "South sea bubble," the craze for French assignats, the mania for Dutch tulips, etc., etc. — Commerce is the exchange of facts; speculation is a chase of phantoms. It follows that the more time people devote to phantom-chasing, the less they have for the securing of facts. Suppose every man, woman and child in this country should to-day turn speculator, or dealer in products on paper, how much corn, wheat, cotton, pork, etc., would be produced? To-day's stock would be the maximum supply, and it would dwindle shortly to the zero point. Reverse the position, and assume that all dealers in products on paper should engage in producing or distributing the products of the soil, would there be any fewer mouths to feed, or backs to clothe? Would we have a bale less cotton, or a bushel less wheat? — The flimsy argument that speculation affords labor a certain market hardly needs refuting. What sort of a market does speculation cause to exist? It is bound, by the nature of things, to injure labor either in its so-called producing or consuming phase. Has any system of trading any excuse for existence, when the best that can be said of it is, that it necessarily does something bad? The moral effect of dealing in products on paper it always debasing; for such dealings lead to idleness, and the road from idleness to vice is an air-line with a single steel-laid track. — "Quick come, quick go," is a truth as old as the stars; and the winnings made by dealing in products on paper are far more apt to be dissipated than the slower returns of legitimate ventures. A more practical way of regarding trading in products on paper is to examine how the business is done. In a majority of cases the man who promises to deliver

* With the principles, moral and politico-economical, which this article implies, no one will disagree. Yet, while there is much that is only too true in the views of the writer, more than enough to warrant its publication in a strictly scientific work, there are some things in which no economist can agree with him. The two exaggerations into which the writer has fallen, are, first, his apparently wholesale condemnation of "exchanges"; and, then, his seemingly equally wholesale condemnation of speculation. He plainly confounds the *use* of both with their *abuse*. "Exchanges," though abused, are far from having departed entirely from their original purpose. They are still real markets, with some who deal in them, like all other markets; with this difference, however, that commodities are not carried thither in kind, and that transactions are closed in them, for goods previously examined or supposed to have been examined or represented by samples. — It is by means of "exchanges" that brokers are enabled to bring buyers and sellers together, which, after all, constitutes the whole of business. The utility of these meetings can not be denied, spite of the abuses with which they are almost inevitably connected; They enable merchants to save the time which they would otherwise have to employ in journeys, to and fro, to meet each other. Then, they obviate, in certain cases, for the buyer or seller, the disadvantage it might be to him, to be the first to take steps to meet the other. Business men will appreciate this practically; better, perhaps, than political economists, theoretically. And so with speculation. A speculator, in the non-abused sense of the term, is nothing more or less than a person who buys commodities or other exchangeable things, when he thinks that their prices have fallen below their real value, and has reason to believe that at a future time he will be able to sell them at a higher rate than that at which he bought them. The difference between the price which he buys them at, and the price at which he sells them again, should cover the interest on the sum invested, the costs of storage, etc.; it should, further, cover the risk incurred in the purchase, and pay a just compensation for the personal labor of the man making the operation. When this care is taken, speculation is entirely legitimate; but in all cases of speculation, there should be, to render it legitimate, an actual and not an entirely fictitious investment of capital. Speculation acts like the governor in a steam engine; it prevents the too great fluctuation of prices, in which respect it serves both producers and consumers. It intervenes in favor of producers by increasing the demand, when prices go below the cost of production; in favor of consumers, it prevents too great a rise in prices by throwing the products of producers on the market when there is a scarcity of them. (See EXCHANGE, AN; SPECULATION.)—ED.

what he does not possess, deposits in the hands of a third party some valuable thing, that is, some product of labor, as a guarantee of his sincerity. In exchange jargon this is called a "margin," and is but a fraction of the valuable things he has promised to deliver. Against this deposit, the man who promises to receive what he does not want, deposits a similar "margin." What mean these so-called "margins"? Are they not practically the same as the "stakes" wagered on a horse-race or a cock-fight? The conclusion, then, is forced upon us, that trading in products on paper amounts to gambling, more or less refined, and is as far removed from legitimate commerce as the equator from either pole. By promising to buy and receive that which he does not want, a speculator may make higher prices for producers; so much the worse for consumers. By promising to sell and deliver what he has not, he may make lower prices for consumers; so much the worse for producers. — All production is the result of labor, capital, and some natural agent. Consumption is the same, for nothing can be consumed unless something equal be produced. Denying this, we must deny the indestructibility of matter. The equation of exchange, then, is P (or production) = C (or consumption): now, if we add or subtract products on paper from either side of the equation, we get $P \pm S = C$, or $C \pm S = P$, either of which is absurd; for two things equal to one another can not remain equal to one another when either be increased or diminished, while the other remains unchanged. Reducing one and increasing the other makes the equation of exchange still more absurd. Unless it be claimed that production can exist without consumption, or consumption without production, it follows, mathematically, that speculation must injure labor. — If a man have 100 bushels of wheat, the product of his labor, and I have ten gold eagles, the product of my labor, and we exchange each for each, the equation of exchange is labor = labor; if, however, I bet the man owning the wheat that within sixty days my money will buy 110 bushels of wheat instead of 100, and he bets to the contrary, the only exchange is one of opinion. At the end of the sixty days either I have some of his wheat and have given nothing for it, or he has some of my money and has no return to make. In either case something has been sliced from somebody's labor. Philosophically speaking, then, trading in products on paper benefits labor in no respect. — And now let us see how it affects capital. Many speculators borrow money (which is capital in its most active form), but they borrow it on the products of others' labor, not on labor of their own. If the dealer in products on paper had not "middlemanized," the same amount of labor's product would call for the aid of capital to move it from a point of abundance to one of scarcity. If a thousand bushels of wheat passed through a thousand hands, it would never be but a thousand bushels of wheat. — Speculation has for its *vade mecum* the doctrine of chances. Commerce seeks to actually have those things which people actually want. The hinges of speculation are two ifs; the hinges of commerce are two facts. Speculation is the subjunctive mood of the verb "to trade"; commerce is the indicative. — A lighted lamp during a summer's night draws countless moths and other insects; the brighter it burns, the more there are drawn: so it is with speculation; its lurid light attracts only to destroy, and its most certain victims are those who, in their first flight around it, feel only an exhilarating warmth. The smallest of the hovering unfortunates generally burn first, but, sooner or later, a common cremation furnace is the end of all. — As speculators neither produce anything, nor consume anything, and, like all others, must live, it follows that they must either live on outsiders, or, like fishes, on one another. — The world has no record of a speculator who died happy and respected. All one trader in products on paper wins, another must lose; the grand law of commerce, the law of mutual benefit, can not exist between traders in product on paper; the knife of every one is against the throat of every other; to take all, and give nothing, is the object of all. — If, then, no one can gain without somebody losing in trading in products on paper, it seems fair to conclude that such trading will never add a whit to the wealth of nations. T. T. BRYCE.

PROFITS. The theory of profits, as developed by the leading English economists, has been simple but inadequate. Starting from English agriculture as a type of productive industry, they have divided the returns into rent, wages and profits; have described profits as the surplus remaining after rent and wages are paid; and have analyzed this surplus into the three elements of interest, insurance and wages of superintendence. This treatment has caused several mistakes. It has led men to speak of profits as an element in the cost of production in the same way that wages is an element. It has led them to think that what is here called wages of superintendence is properly classed with ordinary wages. It has been based on a circle in the definitions: for after defining rent as what is left after wages and profits are satisfied, they go on to speak of profits as what is left after rent and wages are satisfied. It was adopted to meet the case of a large body of men doing business on other people's land with their own capital, in the production of staple articles comparatively little subject to speculative change in value. If any of these conditions are changed, the theory needs re-statement. And in the United States to-day nearly all these conditions are changed. In those industries which furnish the most serious problems for a theory of profits, we generally find men doing business on their own land, but depending for their circulating capital upon an exceedingly elastic credit system; dealing in goods and services whose values may change or vanish in a hundred different ways, and are

made the subject of speculation at every turn. — In business as now organized the current expenses may be grouped under three heads: 1, raw materials; 2, insurance and repairs; 3, wages. The first of these elements may take the form of a rent charge, as in certain systems of agriculture and mining, or may fall away almost altogether, as in transportation of certain kinds; the second and third are tolerably constant in their form, though of course not in their importance. Any excess in the value of the product over these expenses may be termed gross profits, and nearly coincides with the definition of profits used by the English economists. But gross profits are received by the capitalists as a return for two distinct services. As owners of capital they receive a reward for their saving in the form of interest; as employers of capital they receive a reward for their business abilities in the form of net profits. Gross profits consist of earnings less current expenses: net profits consist of gross profits less interest on capital invested. — A century ago it was natural to group these two elements together, because these two services were largely rendered by the same men. The employer of capital was then the owner of capital. In many localities and industries the same thing is true to-day; mainly so in the case of handicraft, and partially so in the case of joint stock companies. But it is certain that the tendency of the day is to separate these two functions; for a man of business ability to control far more capital than he really owns, and in some form pay the owners a fixed interest on which he himself takes the chances of loss or of extraordinary gain. There is no room here for a systematic discussion of the causes which affect the rate of interest. We must confine our main attention to the element of net profits, or entrepreneur's profits, as they are called by Gen. Walker, who has done more than any one else to develop this distinction. — The minimum of net profits is roughly determined in the same way as the minimum of wages. The business man, like the workman, must make a living according to his own standards of comfort and decency. But the application of this principle to profits is less simple than its application to wages. In the latter case we have a large body of men ready to work for a certain remuneration, but liable to become a burden on society if the pay sinks below that amount. In business the margin of difference between what will induce men to begin and what will compel them to stop, is far greater. No man will begin business unless he expects to make more as a capitalist than he was previously earning as book-keeper or foreman. But once engaged in business he can not go out of it when he fails to make the expected profit, without sacrificing a great part of his invested capital and losing the chance of ever again doing business on the same terms. He will then hold on as long as he can meet his expenses and sees any chance of making a profit in the future. In hard times he will actually produce at a loss to save his capital and connections, in the hope of a better future. Thus, we have not a fixed but a varying minimum; in times of expanding credit and increasing production on a level with the wages of a superintendent, foreman or head clerk in the same industry; in times of diminished credit and production falling away to nothing, or less than nothing. — Now, the price of goods is approximately determined by the cost of production of those produced at the greatest disadvantage, that is, by men earning this minimum of profits. If any individuals carry on the business on more advantageous terms, so that the cost of production is less, every such advantage means, for the time being, just so much increase in their profits. Cheap raw materials, cheap transportation, cheap labor, will, other things being equal, have the effect either to drive less favored competitors out of the business or to secure the margin of advantage to the capitalist in the form of additional profit. It is to causes like these that local variations in the rate of profit are due. These are not as great as might seem likely, because in the presence of any of these special advantages other things are not often equal. In general, cheap raw material means high interest, cheap transportation means high rent, cheap labor means inefficient labor. It is to the personal qualities of the capitalist rather than to his environment, that extraordinary instances of profit are to be ascribed. Skill in organizing labor, quickness in utilizing improvements, and sagacity in foreseeing high prices, are qualities which give the capitalist the power of raising his own profits almost indefinitely above the minimum. — The effect of skill in organizing labor manifests itself chiefly in capacity for carrying on business on a large scale. A man who can make a given profit by superintending the work of ten men, ought to be able to make nearly twice as much if he can superintend the work of twenty with equal efficiency; or to sell his goods cheaper (in case he must do so to extend his market) without sweeping away all the added profit. Why, then, it may be asked, does not production on a large scale prevail altogether in competing against smaller concerns? It undoubtedly tends to do so. In 1850 the establishments enumerated in the United States census of manufactures employed on an average less than 8 hands, with an average of $4,300 returned capital. In 1860 the averages were 9 hands, and $7,100. In 1870 this advance had received a check; but in 1880 the numbers had risen to 10.7 hands, and about $11,000 capital. But there are two causes which operate to restrain this tendency. In most industries and with most men the efficiency of superintendence rapidly decreases when carried beyond a certain moderate limit. And, on the other hand, a man's power of borrowing capital can not be extended out of all proportion to his own property. Both borrower and lender feel the growing insecurity as the proportion of borrowed capital increases. The former is unwilling to take the risk of bankruptcy for the chance of inordinate gain. The latter indemnifies

himself for the extra risk by a high interest rate, which soon sweeps away the margin of profit. — The matter of utilizing improvements in production requires a word of explanation. The ultimate tendency of any such improvement is to cheapen both the cost of production and the price of the goods. But until the use of this improvement has become widely extended, the price will not fall very rapidly; and those capitalists who first use the new method gain a great temporary advantage during the time of adjustment. In connection with this opportunity of gain, there is an opportunity of loss. The effect of such improvements will render valueless a certain amount of capital already invested. The existence of a new and better machine makes it impossible to run the old machine except at a loss. In many branches of industry these changes are so slow that the expense incurred on their account may fairly be classed under the head of repairs. But there are other branches where the liability to sudden changes of this kind forms a main item of risk and expense; and the impossibility of estimating this risk forms a main difficulty in attempting to draw deductions from the statistics of industry. — The third element increasing profits is the power of foreseeing high prices. It differs from the other two in the fact that the additional profit is made, not by lessening the cost of production, but by knowing when to produce a larger quantity. Apart from this adaptation of the quantity to the market, these changes of price affect, not the margin of extra profit, but the minimum rate; not advancing or depressing the special gains of a few individuals alone, but the general profits of the trade. Unless the business is a virtual monopoly, they thus of necessity cause a reaction. Men of no special business talent are attracted by the high temporary rate for every one; they rush into the business, and cause an over-production, from which they are themselves the first to suffer. A sudden increase in demand, or "boom," in a particular line of business, furnishes one example of these effects; a distinct advance in price from the imposition of a tariff, furnishes another. It is the men who are already on the ground that gain the great benefit from the change; those who follow after them come just in time to suffer from the over-production. — It is these high margins of extra profit of a few individuals, who manage to sell at prices far in excess of what the goods have cost them, that constitute the important fact for us to recognize and explain. It is not enough to treat them as a mere appendage to interest, or to set them aside as wages of superintendence. Nor can we, in general, properly speak of them as insurance against risk. The term is used because in those industries where there is a chance of great gain, there is apt to be a chance of great loss. As long as a capitalist offsets his own losses at one time or place by his own gains at another, the use of the term is legitimate. But when we attempt to offset as insurance one man's gain against another man's loss in the same industry, it is as unwarranted as it would be to apply the term insurance to the gains of a practiced stock operator. The justification of high profits is found in the fact that society can far better afford to pay high rewards for this kind of work than to let any of it go undone. In our present complicated system of industry, production and consumption are so widely separated in time and place that it is easy to make fatal mistakes in adjusting one to the other. We want to do the right thing with the least waste of labor; and as long as a business man helps to secure that end, society can afford to pay him almost any price for so doing. As long as he reaps the advantage of high prices under free competition without securing artificial monopoly, the interests of the capitalist and of society coincide. — We may sum up our conclusions as follows: 1. The minimum of net profits is, in good times, equal to wages of superintendence; in hard times, it will fall away entirely; 2. Any exceptional advantage that an individual has over his competitors raises his profits for the time being just so much above the minimum. This excess is not properly regarded as wages of superintendence, nor, except in a limited degree, as insurance against risk; but as a premium paid by society in order that its working forces may be applied in the way best adapted to meet the economic wants of the community. — Had the figures obtainable been more trustworthy, this explanation might well have been cut short to make more room for statistics concerning the rate of profit in different times, places and industries. But almost every cause combines to prevent our obtaining such statistics. The business men who know the most striking facts have an interest in keeping them secret. The reports of experts are few and fragmentary. The European states make no attempt to give such figures in their census. The United States makes the attempt, but with so little power of enforcing accuracy that the total amount of invested capital may not improbably vary 300 per cent. from the amount returned. ("Compendium of the Census of 1870," p. 798.) The returns of capital are thus all but useless for our purposes. Those of product, wages and materials are much better, and can be studied with advantage. The figures of gross profit obtained from these data will necessarily include more than our definition authorizes, because we have no means of making any deduction for repairs. They mean value of product less materials and wages. — 1. *Variations in Time.* Much has been said of the tendency of profits to fall as a nation advances. The reasons given are such as affect interest rather than net profits. Even for interest the figures do not show this tendency as markedly as we might expect. Perhaps the most careful investigation of the facts, though based only on English data, is given by Farr. ("On the Valuation of Railways, Telegraphs, Banks, etc.," Journal of the Statist. Soc., xxxix., 465.) There is no *a priori* reason why net profits should show this tendency. They are kept above the minimum by

complex organization, new improvements, new wants. These are to-day increasing faster than ever before. Compare the figures of four successive censuses.

YEARS.	Number of Establishments.	Product.	Gross Profit.	Av. Gross Profit of each Establishment.
1850	123,025	$1,019,107,000	$ 227,228,000	$1,800
1860	140,433	1,885,862,000	475,376,000	3,400
1870	252,148	4,232,325,000	968,314,000	3,800
1880	253,852	5,369,579,000	1,094,801,000	4,000

The values for 1870 should be reduced one-fifth, on account of the gold premium. Compare, also, figures cited above as to hands employed and capital invested. — 2. *Variations in Place.* Here again the variation of interest has been studied instead of that of net profit, and the attempt has been made to value the disinclination of capital to emigrate. The variations in profit do not seem as great as we should expect. In these comparisons we may make a guarded use of the returns of invested capital, since the causes which give rise to an underestimate in one locality may be assumed to operate in the same way in another.

STATES.	Number of Establishments.	Product.	Gross Profit.	Av. Gross Profit of each Establishment.	Profit on Invested Capital.
					Per cent.
California	5,885	$ 116,219,000	$ 22,545,000	$3,800	37
Georgia	3,593	36,441,000	7,661,000	2,000	34
Massachusetts	14,352	631,135,000	115,847,000	8,100	38
Michigan	8,873	150,715,000	32,501,000	3,700	35
Missouri	8,592	165,386,000	30,278,000	3,500	42
New York	42,739	1,080,697,000	202,450,000	4,700	40
Pennsylvania	31,232	744,818,000	145,742,000	4,700	31

The average rate per cent. on reported capital for the whole country is 36¾. While these figures warrant us in no positive conclusions except as to concentration of industry, we are put on our guard against the danger of assuming too great difference in rates as due to locality. — 3. *Variations in Different Industries.* The figures below are presented as a summary of the facts in the leading manufacturing industries in the United States, rather than as a basis for generalizations. Agriculture could not be included, on account of inadequate wage returns. Mining, transportation and mercantile business were, on various accounts, unavailable for direct comparison.

INDUSTRIES.	Number of Establishments.	Product.	Gross Profit.	Av. Gross Profit of each Establishment.
Agricultural implements	1,943	$ 68,640,000	$21,749,000	$11,200
Boots and shoes (factory)	1,959	166,050,000	20,607,000	10,500
Boots and shoes (wholesale)	17,972	196,920,000	30,958,000	1,700
Brick and tile	5,631	32,834,000	9,615,000	1,700
Carriages	3,841	64,952,000	15,366,000	4,000
Clothing	6,166	209,548,000	32,245,000	5,200
Cotton goods	1,005	210,950,000	51,570,000	51,300
Flour	24,338	505,186,000	46,219,000	1,900
Foundry	4,958	214,378,000	45,051,000	9,100
Furniture	4,843	68,088,000	16,237,000	3,400
Iron and steel	1,005	296,558,000	49,810,000	49,600
Leather	3,105	113,348,000	18,795,000	6,100
Malt liquors	2,191	101,058,000	32,023,000	14,600
Lumber	25,708	283,269,000	55,268,000	2,100
Mixed textiles	470	66,222,000	15,677,000	33,400
Paper	692	55,110,000	12,633,000	18,300
Printing	3,467	90,789,000	27,797,000	8,000
Slaughtering	872	303,562,000	25,315,000	29,000
Sugar and molasses	49	155,485,000	7,912,000	16,100
Woolen goods	1,990	160,607,000	33,925,000	17,000

It is worthy of mention, that the two industries showing decidedly the largest gross profit per establishment—cotton and iron—also show decidedly the lowest percentage of gross profit to capital invested, namely, 24 and 22. This fact may easily be a mere accident of the returns. The other percentage results have no special interest to justify their insertion. — This article has been based on the facts of manufacturing industry, as furnishing, on the whole, the best type for treatment. It has not seemed necessary to show how all the individual points would have to be modified in applying the same explanation to business of other kinds. ARTHUR T. HADLEY.

PROHIBITION (IN U. S. HISTORY) has been an issue in purely state politics, but only in some of the states since about 1850. There have been occasional nominations for the presidency by prohibitionists; but they have met no attention, and

it is difficult to see their exact object, for prohibition is as yet altogether outside of the domain of the national government. — In state politics the object of the prohibitionists is well defined: they aim to prohibit by law the manufacture and sale of intoxicating liquors, except for use in medicine and in the arts. The arguments which they offer seem to be as follows, as far as a summary can give them fairly: 1. The most moderate estimate of the annual sales of liquors in the United States is that of Edward Young, chief of the bureau of statistics in 1871: he puts it at $600,000,000, more than the combined manufactures of cotton goods, woolen goods, boots and shoes, molasses and sugars, and nearly equal to the annual wages of all the manufactories. Whether this item be one of $600,000,000 a year or more, it is waste. 2. Manufacturers generally estimate the loss of productive power, due to drunkenness and the inefficiency arising from drunkenness, at 8 to 12 per cent. of total wages. As the census of 1880 puts the total annual wages of the United States at $947,953,795, this per cent. of waste must be a large amount. 3. Pauperism is, to a large but doubtful extent, the product of drunkenness, and the expense of the maintenance of paupers by the state is, to that extent, chargeable to the sale of liquors, since open sale is the common inducement to drunkenness. 4. The connection between crime and drunkenness must be largely a matter of estimate; but the authorities competent to estimate are practically unanimous in stating that over 60 per cent. of the crime of the country is due to drunkenness. From Sir Matthew Hale, in 1670, who put the proportion at 80 per cent., down to the various state boards of charities, prison associations, and prison inspectors of our own day, no one who has studied the subject carefully, and has become familiar with it, puts the proportion of drunkenness to crime at less than 60 per cent.; and most of them make it larger. Even if their figures are only estimates, they can not be successfully impeached by the naked contradictions of men who profess to know nothing of the subject. If they remain unimpeached, a large part of the state's expenditure for police, criminal courts and prisons, must go to the account of the sale of liquor. 5. The sale of liquor tempts men to habits which ruin their health and unfit them for the physical defense of the state, when that is necessary. 6. Drunkenness bears heavily upon the defenseless classes, upon women and children, upon the wives and families of drunkards, of drunken paupers, of drunken criminals, and of the victims of drunken crime. These have a right to look to the state for active protection, instead of being continually oppressed by the state's permission for the further sale of liquors. A single case of rape or murder, due to the state's permission for the sale of liquor, may entail indirect distress for which the state can make no money satisfaction. — On such a showing, that the open sale of intoxicating liquors is hostile to the productive energy of the state, to its moral power, to its physical force, and to its families, the prohibitionist claims a hearing. Of his five classes of arguments, the third and fourth are disputed; it is claimed that drunkenness, the accompaniment of pauperism and crime, is mistaken for their cause; and, as to all of them, it is asserted that prohibition will not prohibit them, and that a high license system will be more efficient than prohibition in controlling an evil which can never be wholly removed. The prohibitionist answers that prohibition is not expected to entirely stop the sale of liquors, any more than laws against stealing will entirely stop stealing; but that, in either case, prohibition will be more efficient than any license system. The issue thus made seems to be one which can only be decided by experience. — In *Massachusetts*, of which Maine was a part until 1820, the license system was in force until 1885. Power to grant or refuse licenses was then given to the county commissioners, and they were made elective, so that "local option" was practically put in force. In three years this had become prohibition in nearly all the counties, and the "fifteen gallon law" was passed in 1888. It prohibited the sale of less than fifteen gallons of liquors at one time; but it was repealed the next year. In 1852 a prohibitory law was passed, and remained in force, with many amendments, until 1875, except that a license law took its place for a year in 1868. In 1875 a license law was passed, and has since remained in force, in spite of annual efforts to renew prohibition. — In *Maine* the "act to prohibit drinking houses and tippling shops," the so-called "Maine law," was passed in 1851, and has since been the law of the state, except for the two years, 1856–7, when a very stringent license law took its place. *Vermont* passed the Maine law in 1852, and has since retained and enforced it. *New Hampshire* passed it in 1855, and has since retained it without enforcing it thoroughly. *Rhode Island* passed it in 1852, substituted license and local option in 1863–5, passed the Maine law again in 1874, and returned to license the next year. *Connecticut* passed the Maine law in 1854, never enforced it, and repealed it in 1872. *New York* passed the Maine law in 1855, and repealed it in 1857. The *Ohio* constitution forbids the passage of any license law by the legislature: that is, the sale of liquor must be free or prohibited. In 1882 the republicans adopted the policy of taxing the sale by the "Pond law"; but the supreme court of the state pronounced it unconstitutional. The dominant party then proposed a prohibitory amendment to the state constitution, which has not yet (1883) been ratified. As a substitute, the "Scott law," for taxing sales of liquor, was passed and pronounced constitutional in 1882–3. (See OHIO.) In *Michigan* the constitution of 1850 forbade license laws. The Maine law was passed in 1855, and repealed in 1875; and in 1876 the no-license clause of the constitution was repealed. *Iowa* passed the Maine law in 1855; and in 1882 a prohibitory amendment to the state constitution, hav-

ing been passed by two legislatures, was ratified by a remarkably large popular majority. The state courts, however, declared it void on account of informalities in its passage. *Kansas* adopted a prohibitory amendment in 1880, and in 1881 the legislature passed a stringent act to enforce it. In 1882, Gov. St. John, the leader of the prohibitionists, was renominated by the republicans; but about 16,000 of his party voted against him, and he was the only republican candidate defeated. In 1881 a prohibitory law, proposed for popular ratification by the legislature of *North Carolina*, was defeated by a vote of 166,325 to 48,370.—Nothing is certain in prospective American politics, and very few things are even probable. But there are some indications that this question of prohibition is to take a larger place in political conflict than heretofore. The only probable alternative, a high and almost prohibitory license, is now under trial in Nebraska; and much will depend on the result there and in the other states which may take the same course. In any event, the opposition to prohibition will be as sincere and hearty as its support, and will arise mainly from a dislike to that infringement of personal liberty to buy and sell which is necessarily implied in prohibition.—The views of prohibitionists may be found in Hargreaves' *Our Wasted Resources;* Pitman's *Alcohol and the State;* Lees' *Text Book of Temperance; Prohibitionist's Text Book.*

ALEXANDER JOHNSTON.

PROMOTION, in the political sense, is the advancing of a person in official service to a higher grade, and generally to a higher salary. In the departments there is a nomination for promotion, as for an original appointment, and each promotion is in law an appointment. The authority for promotion is, in fact, a part of the appointing power, and should be exercised with a sense of the same moral and legal obligations which attend any other exercise of that power. But, on the part of those who exercise it and of those who are affected by it, it is not infrequently regarded as a mere matter of official favor. Yet every conscientious public official possessing it must, on reflection, feel it to be a high trust, in the performance of which no other considerations should have influence except the interests of the public and the merits of the applicant. Every omission to promote the most worthy, hardly less than every promotion of the unworthy, is a breach of that trust; the first being a special injustice to the meritorious officer, and the act and the omission alike being a wrong to the whole people.—The authority to make promotions is also an important part of the means of discipline and subordination in the great offices. Indeed, the incidental effects of the enforcement of just rules of promotion upon discipline, and all the conditions of order and efficiency on the part of numerous officials serving together in the same office, are so great that these effects, as well as the character and capacity of the individual seeking advancement, should be taken into account in the regulation and ordering of all promotions. If within certain limits, promotions should be based solely upon personal worth and efficiency, yet a wise system for promotions, especially for large offices, must look beyond the individual promoted, to the effect of the principle governing them upon the subordinates as a body. It is of great advantage to the public service, that those who have become most expert and accurate through experience in doing the public business, though not the most talented of officials, should be encouraged to remain. In order to give that encouragement, it may often be a gain to the public service to promote a man of long experience even in preference to a man of more natural capacity who is new to the service. The belief that long tried fidelity, united with fair capacity, is considered in making promotions may even enable the government to secure competent service at lower salaries than would be accepted were promotions hopeless or but accidental, except on the part of the brightest minds in its ranks. And experience has amply shown, in the older countries, that the same persuasion is sufficient to induce a better class of young men and women to enter, than could be secured without such reasonable assurance of the higher honors and salaries being awarded with some reference to seniority or long experience. It is easy, on the other hand, to go to an extreme in favoring mere seniority. Superannuated officials and dullards may be kept too long. The bright and aspiring, having talents to lead and direct, may be thus prevented from entering, or they may withdraw in disgust, by reason of such obstacles in the way of their promotion. It requires great wisdom to avoid both extremes.—It needs no argument or experience to make it plain that the public service must seem far more honest and respectable, and hence far more attractive, to all worthy young men or women, when its higher grades and salaries are presented as so many rewards to be secured either by fidelity or competency alone, or by good character united with mental superiority, than when they are known to be the good luck of favorites, the recompense of subserviency, or the bribes of partisan influence.—But exactly in what degree either of those meritorious claims should prevail; how seniority should be weighed against ability, and experience against quickness of mind—when good character is in both scales—is not easy to decide. It should be made a fundamental rule, however, from which there should be very few exceptions, that the higher places and salaries in every bureau; office and department, are to be bestowed as the honors and rewards for which every subordinate, with a confidence proportioned to his just claims, may justly aspire, and which, in conformity to a sound principle, his superior merits may surely gain. Thus hope is kept alive; an honorable ambition is aroused; and constant fidelity and studious preparations for higher functions are stimulated and rewarded.—Every worthy subordinate justly feels insulted and wronged,

every useful quality in the public service is discouraged, and the public interests are grossly disregarded, whenever a favorite of a great official or politician—perhaps ignorant of the duties he is to perform—is arbitrarily appointed or promoted, over those who have been continually faithful and efficient, to the head of an office. Nothing on the part of those relying on their own merits in the public service can be more discouraging or debasing than the conviction that years of faithful performance of duty and of studious preparation for higher functions are unavailing as against those who have the favor of great officials or the influence of party chieftains to advance them. Toiling on hopelessly, and seeing fortunate dunces and favorite flunkies of party lords and great officers take the higher places and salaries, the faithful veteran in the public service feels a natural resentment, if not a spirit of retaliation, against a government which allows such injustice, and cares not to honor those who worthily serve it. Why should he make any special effort for economy or efficiency in the public service, when he sees the government neglect those most competent for securing such results, making them the underlings of novices and favorites? Certainly, the government which allows such injustice and folly does not deserve, and is not likely to secure, the most worthy which its salaries, under wise and just regulations, might be made to draw into its service. To deny or defeat in practice the claim of the most meritorious to promotion, is as disastrous to the people as it is offensive to the common sense of right and duty on the part of all fair-minded men. — In framing a system of promotion, few points have been found more perplexing than the claims of seniority. In some positions, plodding fidelity and accuracy are the highest merit; in others, prompt conceptions, tact for business, and genius for leadership. In the practical exercise of the power of promotion, those diverse claims have not been less embarrassing than they are in theory. — It is one of the difficult problems of administration to so regulate promotions that the hope of them shall be a salutary stimulant of all subordinates, while the government is left free to select those for the higher places who are the most competent to lead and to command. Nor is this the whole problem; for, in some cases, as, for example, where capacity is lacking in the lower grades, or a vicious method has become chronic in a bureau, the government must be allowed to seek the suitable person outside the bureau or department, or even outside public service altogether. But this necessity, always humiliating to subordinates, would be greatly diminished, if not well-nigh excluded, by establishing adequate tests of merit (of which the best are competitive examinations) for original entry to the service. — These observations have no reference to the selection of heads of departments, who, being in a sense political officers, and the constitutional advisers of the president should, for that reason, be selected with due reference to their political opinions. They are members of the political household of the president, whose advice he takes upon important questions of policy. — In aristocratic and despotic countries, it was almost a matter of course that promotions would be very generally made by reason of birth, wealth and influence, rather than by reason of superior capacity and character. In fact, a monarchy or aristocracy may be in part described as a form of government under which the higher offices and salaries, as well as pensions, titles and decorations, are by intention bestowed on the basis of birth, favor and influence; and a republic as a form of government in the spirit of which all appointments and promotions alike should be made by reason of merit alone. How great in later years has been the departure from intrinsic theory in the practice of each, has been noticed under the head of REMOVALS. — It has been found possible under republics for partisan influence and the politician class to secure a monopoly and enforce a proscription, in the matter of promotions as well as removals, almost as complete as were ever developed in feudal times under an aristocracy; while, on the other hand, some of the leading monarchies now base their promotions almost wholly upon merit alone. — In the military and naval services of the leading states of Europe, if in practice favors are still accorded to the aristocratic class, yet, in general, merit is quite as much tested by rigid examinations, and is quite as surely honored and encouraged by promotions, as in our army and navy; for, with us, mere political influence is more potential than in those states. The influence of promotions based on merit, and the high capacity thus secured, have greatly contributed to the efficiency of European armies and navies in later years. — It is nearly a century since (in an act of 1784 relating to British India) the government of Great Britain found it needful to make laws in aid of promoting the most worthy in her civil service. To defeat favoritism and corrupt bargains, that statute gave great consideration to seniority, and required records and public reports concerning the grounds of promotions. In 1820 Lord Liverpool, at the head of the treasury, with a view of arresting the pernicious patronage of members of parliament, laid down and enforced the principle that "all superior officers in the customs service should be supplied by promotions from the inferior ranks." In 1830 the rule was formally reaffirmed by Lord Grey, and it has been enforced in Great Britain ever since. Promotions in her customs service, as in nearly every part of her administration, are now made on the basis of experience and merit alone. Mere patronage, favor or partisan influence in making promotions, are thus almost excluded. To a considerable extent, merit, as the ground of promotions, is tested by competitive comparisons. And everywhere careful records are kept, which show the fidelity and efficiency of candidates. Even in the act for creating the metropolitan police force, Sir Robert Peel caused a provision to be inserted that "no

one should be an inspector or superintendent who had not been trained by actual service in each subordinate rank." (See "Eaton on Civil Service in Great Britain," pp. 140, 156, 301, 302, 382, 383, 446.) These conditions of promotion all British statesmen, and the British people as well, now recognize as not only just and invaluable in their practical effects upon the public servants, but as having largely contributed to the economy, purity and vigor of every branch of the administration. The placing of mere politicians or manipulators, or, indeed, of any person not experienced for its administration, at the head of a revenue office or a large postoffice, in Great Britain, would be as impossible, without serious damage to a party, as it is disastrous in practice and absurd in point of theory and principle. We tolerate such pernicious trifling with the public interests only because we have been blinded by long familiarity with partisan theories and usages. — Not even a trained subordinate is promoted to the head of the larger British custom houses, unless he has had charge of *every branch* of the customs service at a port of entry. All recommendations for promotion by outsiders are interdicted; and when made, they are treated, until the contrary is proved, as having originated with the person recommended. It is the enforcement of these principles for promotion, which, united with competitive examinations of merit for original appointment, have so effectually excluded party politics and official favoritism from British administration. — In the British service, much attention has been given to the relative advantages of awarding promotions largely on the basis of competitive examinations, or solely on that of carefully kept records of work done. There are advantages in both forms of tests. If competition for promotion be made exclusive and supreme, there is danger that discipline may be impaired and mere memory and attainments may be too much regarded. The best administrative capacity may not be secured. Sufficient authority and discretion may not be allowed to the superior officer. The result has been that, in one office, the rule has been established that one-half the promotions are to be made upon each basis: that of competitive examinations alone, and that of records of efficiency and good conduct alone. That competitive examinations for promotion under suitable restrictions are of great advantage to some parts of the public service, has been shown in that service, as it has been also in the limited trials of them in the public service of the United States; but it is by no means clear that they should be the sole tests for promotion.— Soon after the adoption of the civil service rules under President Grant, treasury regulations were promulgated (in 1874), under which, (articles 1036 to 1038), promotions in the customs service were, in general terms, required to be made on the basis of merit, length of service, however, being taken into account. No examinations were provided for in the regulations, though the president's civil service rules required them for promotions. — These regulations, feebly as they were generally enforced, unquestionably in some degree, within their limited range, secured justice and higher qualifications in making promotions. But the refusal of congress to make any appropriation, in 1875, for the enforcement of the civil service rules, caused the rules and regulations alike to be disregarded. — Promotions, with some marked exceptions (especially in the New York naval office, custom house and postoffice, and in the interior department under Secretary Schurz), like original appointments, have since very generally been affected by favoritism, patronage and influence. (See CIVIL SERVICE REFORM, REMOVALS.) — The importance of making promotions in the civil service in the public interest has yet received but the slightest attention from congress or the writers of text books. An act of 1879 provides that promotions from the lower to the higher grade of letter carriers shall be made on the basis of "the efficiency and faithfulness of the candidate during the preceding year." Beyond this, congress has made no provision (except in the civil service act passed Jan. 16, 1883) for promoting the civil servants of the people by reason of their merits. Congressmen boldly push their favorites for the higher places and salaries; and executive officers stand against them and for the public interests and common justice at the peril of calling down upon themselves the revenge of all patronage-mongering legislators.—The regulations of the postoffice department provide that promotions in the railway mail service shall be based on "good conduct, faithful service and efficiency," and this requirement has doubtless much improved that branch of the postal service. The civil service rules promulgated by the president in 1883, declare that there shall be competitive examinations for promotion, but reserve the preparation of special rules on the subject for the future. These meagre provisions, confined to such narrow limits — in aid of a better system for promotion — but make the more conspicuous the facts that the legislators and administrators of other enlightened states have been more disinterested and sagacious than our own in dealing with the subject, and their experience, rich and abundant, is now open and plain before us. It will certainly require some self-denial on the part of our congressmen and politicians, as it did many years ago on the part of British legislators and noblemen, to enforce a just and wise system of promotions, which does not allow members, by pleading, promising and bullying in the departments, to advance their favorites and henchmen over the heads of the most meritorious of those who serve the people. "Senators and representatives," said the late President Garfield in a speech in 1870, "throng the offices and bureaus until the public business is obstructed and the patience of officers is worn out; * * they at last give way and appoint, not because the applicant is fit, but because we ask it." — For the army and navy of

the United States a system of promotions has been established far more extensively based upon character, capacity and seniority than any enforced in the civil administration. Cadets, after passing successfully the rigid tests of the military academy at West Point, are promoted (by appointment) to be second lieutenants in the regular army. Any vacancies left, after exhausting such graduates, are filled by promoting those shown to be sufficiently meritorious from among the non-commissioned officers of the army; and if there are still vacancies unfilled, appointments to them may be made from civil life. But neither the promotion nor appointment last named can be made until after detailed reports as to merits and an examination of the qualifications of the candidates by a board of five officers. The age of the candidate must be between twenty and thirty years. No officer of the corps of engineers, below the grade of field officer, can be promoted until he shall have been examined and approved by a board of three engineers, senior to him in rank; and very nearly the same rule of promotion prevails in the ordnance department. — Promotions to the rank of captain are made regimentally on the basis of seniority. Promotions in established regiments and corps are also made according to seniority. But seniority does not prevail in the selection of a brigadier general or of any officer above that grade. And when, anywhere in the army, an officer in the line of promotion is retired, the next officer in rank must be promoted to his place, according to the rules of the service. Promotions from the army to be an ordnance officer are based on examinations.— General officers appoint their own *aides de camp;* and here, therefore, is a kind of promotion hardly otherwise regulated than by the discretion of the general making it. Vacancies in the places of commissioned officers are filled by promotion through a nomination by the president in his discretion, subject to confirmation by the senate. Promotions in the navy stand upon principles closely analogous to those enforced in the army. Appointments to active service are made from the naval cadets graduated from the academy at Annapolis. No naval officer can be promoted to a higher grade, in the active list, until he has been examined by a board of naval surgeons and found physically qualified; and no line officer below the grade of commodore, and no officer not of the line, can be promoted on the active list until his mental, moral and professional fitness to perform all his duties at sea have been established to the satisfaction of a board of examining officers of not less than three senior officers appointed by the president. In time of peace the condition of a satisfactory examination applies even to a commodore seeking promotion to the grade of admiral on the active list. The examining board is authorized to take testimony under oath, and to examine the files and records of the navy department. These, with other provisions for which we have not space, seem to require in some particulars a more rigid test of merit for promotion in the navy than is required in the army. — Our limits will not allow us to set forth the rigid tests of promotion enforced in the naval and military services of the European states. — There can be no doubt that the higher public respect and social position enjoyed by officers of the army and navy, and warranted by their superior qualifications, and the infrequency of their misconduct, as compared with the civil servants of the government, are largely a consequence of such wise and just conditions of appointment and promotion. Every advance in the official scale thus made proclaims, not a triumph of political influence, but a manly victory won in one of those examinations, in which the official record and the personal merits of the candidate are investigated and adjudged. That the effects of the vicious methods and the selfish and partisan influences which have so largely prevailed in making promotions in the civil service, have made themselves felt to a considerable degree in the execution of the army and navy systems for promotions—causing pernicious exceptions and evasions in their enforcement — can hardly be doubted. To arrest those influences, to remove political forces and favoritism more completely, as the means of securing promotions and privileges in the army and navy, are duties which congress can not too promptly perform. Every meritorious officer would welcome such a reform, and all others would hope for less advantage from neglecting their duties and studies in order to secure political influence and the interposition of congressmen and politicians in their favor.

DORMAN B. EATON.

PROPERTY. I. *Right of Property.* Political economy inquires into the principles which preside over the formation and distribution of wealth. It takes for granted the existence of property, which is its starting point; it considers it as one of those primary truths which manifest themselves at the origin of society, which are everywhere found impressed with the seal of universal consent, and are accepted as necessities of the civil order and of human nature, without even dreaming of discussing them. — Read the fathers of economic science: they are almost uniformly silent on this great question. The chief and oracle of the physiocrates, Quesnay, who understood and enlarged upon the social importance of property, does not take the trouble to define it, except in a treatise on natural law. Turgot, the statesman, philosopher and economist, Turgot, who in his work on the distribution of wealth, has thrown brilliant light on the origin, has nothing to say on the principle, the right or the form of property. The master of masters, the author of the "Wealth of Nations," Adam Smith, scarcely makes mention of it, without doubt because he saw in it no subject for discussion. J. B. Say decides debate on this subject to be futile, and undeserving the consideration of the science. "The speculative philosopher," he says, in the fourteenth chapter of his book, "may busy himself in finding out

the real foundations of the right of property; the jurisconsult may lay down the laws which govern the transmission of things possessed; political science may show what are the surest guarantees of this right; but so far as political economy is concerned, it considers property simply as the strongest incentive to the production of wealth, and pays little attention to what establishes and guarantees it." In another place (vol. ii., chap. iv.) he says: "It is not necessary, in order to study the nature and progress of social wealth, to know the origin of property or its legitimateness. Whether the actual possessor of landed property, or the person by whom it was transmitted to him, obtained it by occupation, by violence, or by fraud, the result, as regards the revenue accruing from that property, is the same." — At the time when J. B. Say wrote, the problem which absorbed and agitated men's minds was the production of wealth. The European world felt itself poor; it began to understand the productiveness of labor, and craved wealth. Credit extended its operations; commerce spread in spite of war; and manufacturing industry, developing rapidly, presaged already the marvels which have since marked its course. Production in its different forms was the great business of the time. This rising tide carried all with it, population, labor, resources. All had a clear road to travel with their goal before their eyes, nor did they stop to revert to their own situation or that of others. Property seemed then a sort of common stock from which all, with a little effort, might draw in abundance, and which would reproduce itself unceasingly. No one dreamed of calling the right to it in question. The silence of economists is but a translation of the rational indifference of public opinion on the subject. — At a later period, population having increased in all the states of Europe, the value of land and the rate of wages having generally risen, personal property, thanks to the progress of commerce and industry, equaling or nearly equaling immovable property, and competition, which affected every kind of work and all investments, reducing profits as well as the outlets for human activity, the problem of the distribution of wealth came to the front. The number of poor persons seemed to increase with the number of the rich. It was even believed, for a time, that industrial civilization tended to increase the inequality which naturally exists among men. In this transition period, which still continues, sects were formed to preach to those discontented with the social order, we know not what sort of a future, the first step to which was the abolition or transformation of property. — Favored political revolutions, those fatal doctrines which at first held subterranean sway in some sort until they had hardened the hearts and corrupted the minds of the people, broke loose in the streets of France; the arguments used against society served to load the muskets and point the bayonets of revolt. At first it was necessary to defend social order by armed force; and now, whether we be economists, philosophers or jurisconsults, we all understand that our duty is to point out in such a way as shall convince the most incredulous, that society, having force on its side, has also reason and right in its favor. — It was in the light of events that the programme of political economy was extended. A place has now been assigned it in the discussion of the origin and right to property. It must base its intervention here on observation of facts, just as philosophy does, in expounding and commenting on principles. Socialism, by attacking the foundation of social order, compels all the sciences to contribute, each its share, to its defense. — II. *Opinions of Philosophers and Jurisconsults on Property.* Until our time the question of property had been abandoned to philosophers and jurisconsults. The usefulness of their labors is incontestable; they prepared the ground and paved the way for political economy. If they did not always completely observe and demonstrate the nature of things, they had at least had glimpses of it. It was Cicero who showed that the earth became the patrimony of all by labor, and proved that the person who attacked this right of appropriation violated the laws of human society. After him Seneca, although he exaggerated, in accordance with the ideas of his time, the rights of sovereignty, yet recognized that property was an individual right. *Ad reges, potestas omnium pertinet, ad singulos proprietas.* — Nevertheless the person would wander from his road who sought to find in the writings of philosophers or jurisconsults, either a complete theory of property, or even an exact definition of it. Grotius, who is in the front rank of doctors of natural and international law, has given in a few lines a history of property from which communism might draw its arguments. According to this author, after the creation God conferred on the human race a general right to everything. "This was done," he says, "that each might take for his use whatever he wished, and consume what it was possible for him to consume. * * Matters remained thus until, from the increase in the number of men as well as of animals, the land, which was formerly divided by nations, began to be divided among families; and since wells are a supreme necessity in dry countries, and are not equal to supplying a large number, each appropriated what he was able to seize." — Charles Comte remarks that the publicists of this school, Wolf, Pufendorf and Burlamaqui, confined themselves to paraphrasing the ideas of Grotius. All supposed that, in the origin of societies, men, to satisfy their wants, had only to take what they found ready at hand, that the earth produced without labor, and that appropriation was nothing but occupation or conquest. — Montesquieu did not understand, any better, the part played by labor in the formation of individual property. "Just as men," he says (book xxvi., of the "Spirit of the Laws,") "abandoned their natural independence to live under political laws, they renounced the *natural community of goods* to live

under civil laws. The first laws gave them liberty, the next property." Montesquieu, the only publicist since Aristotle who undertook to base the laws of social order on observation, was nevertheless unable to prove among any people, however primitive, the existence of that supposed community of goods which, according to him, has its origin in nature. The most savage tribes, in ancient as in modern times, had a very definite idea of mine and thine. Property and the family have everywhere served as the foundations of order, and law has only confirmed, by giving expression to them, relations already established. — Blackstone does not go farther than Montesquieu, whose ideas agree with those of J. J. Rousseau, on the state of nature. Bentham himself, the writer who, more than any other, departed from the accepted ideas of his times, declares that property does not exist naturally, and that it is a creation of the law. — There is some consolation for proprietors in Bentham's assurance, that property will perish only with the law. As human society can not exist without law, and since the end of the law would be the end of society, property may safely count on a long lease of life. Besides, Bentham, following the example of Montesquieu, confounded the idea of property with that of the guarantees which property receives from civil and political laws, guarantees fitly represented by taxation. The best refutation of Bentham's theory is to be found in some passages from Charles Comte, which it may be well to reproduce here. "If nations can only exist by means of their property, it is impossible to admit that there is no natural property unless it be admitted that it is unnatural for men to live and to perpetuate themselves." "It is true that there is no image, no painting, no visible feature which can represent property in general; but it can not from this be concluded that property is not material, but metaphysical, and that it belongs entirely to the conception of the mind. There is no visible feature by which a man in general can be represented, because in nature there exist only individuals, and what is true of men is true also of things." "Individuals, families and peoples subsist by means of their property; they could not live on metaphysical relations or conceptions of the mind. There is in property something more real, more substantial, than a basis of expectation. A false, or at least a very incomplete idea is given of it when it is defined as if it were a lottery ticket, which is also a basis of expectation." "According to Montesquieu and Bentham, it is civil laws which give rise to property, and it is clear that both mean by civil laws the decrees of public power which determine the possessions which each one may enjoy and dispose of. It would, perhaps, be more correct to say that it is property which gave birth to civil laws; for it is hard to see what need a tribe of savages, among whom no property of any kind existed, could have of laws or of a government. The guarantee of property is undoubtedly one of the most essential elements of which it is composed; it increases the value of property, and assures its duration. A great mistake would be made, however, were it supposed that this guarantee was all there is of property; the civil law furnishes the guarantee of property, but it is human industry which gives birth to property. Public authority is needed only to protect it and to assure to all the power of enjoying and disposing of it." "Were it true that property exists or is created by decrees and by the protection of public authority, it would follow that the men who in any country were invested with the power of legislation, would also be invested with the power of creating property by their decrees, and could, without committing injury to the right of property, despoil some of it to the advantage of others: they would have no other rules to follow than their own desires or caprices." — The Scotch school, from Locke to Reid and Dugald Stewart, was the first to give a nearly correct definition of the right of property; as the physiocratic school was the only one, previous to 1789, that understood its importance, and brought out into relief the beneficial influence it exercised on the economy of society. But at the time of the French revolution these teachings had not yet corrected the ideas of all; for Mirabeau said to the constituent assembly that "private property is goods acquired by virtue of the laws. *The law alone constitutes property*, because it is only the political will which can effect the renunciation of all, and give a common title, a guarantee to the use of one alone." Tronchet, one of the jurists who contributed most to the drawing up of the civil code, shared at that time this opinion, and declared that "It is only the establishment of society and conventional laws which are the real source of the right of property." — There is not much difference between Mirabeau's statement and that of Robespierre, who wrote, in his declaration of rights, "Property is the right that each citizen has *to the enjoyment of that portion of goods guaranteed to him by the law.*" And Robespierre is not far removed from Babœuf, who desired that the land should be the common property of all, that is, that it should belong to nobody. Mirabeau, who pretends that the legislator confers property, admits, by so doing, that he can take it away; and Robespierre, who expressly reserves the state's right in property, and reduces the proprietor to the position of a mere usufructuary, by refusing him the power of selling or disposing of it by will or otherwise, is the direct and immediate forerunner of communism. — I know that the convention gave, in the declaration of rights which serves as a preamble to the constitution of 1793, a very reassuring and very sound definition of the right of property. Article sixteen reads: "The right of property is the right belonging to every citizen, of using and disposing as he likes, of his goods, his revenues, of the fruit of his labor and his industry." And article nineteen adds a guarantee, which all subsequent French constitutions reproduced: "No one shall be deprived of the least portion of his property without

his consent, except when public necessity, legally proven, evidently demands it, and then only on condition of just compensation previously made." — But, doubtless, the convention reserved the application of those fine maxims, as it did the abolition of capital punishment, for times of peace. No government ever committed more flagrant outrages on the right of property. Confiscations and maximum laws, to say nothing of the inflation of assignats and bankruptcy, marked its savage sway, and if it made France victorious and terrible abroad, it ruined and impoverished her at home. The convention evidently thought, with Saint-Just, that "The man who has shown himself the enemy of his country, can not be a proprietor in it." It treated the nobles and priests as Louis XIV. had treated Protestant refugees after the revocation of the edict of Nantes. It adopted, in the interests of the republican state, the theory of feudal origin, that the sovereign, the king, had direct and supreme dominion over the goods of his subjects. — M. Troplong called attention to the concordance of the demagogical doctrine of property with the maxims of despotism: "All that exists throughout the length and breadth of our states," said Louis XIV. in his instructions to the Dauphin, "whatever be its nature, belongs to us by the same title; you must be fully persuaded that kings are the absolute lords, and have naturally the full and free disposition of all the goods possessed both by church people and by laymen, that they may use it in everything; likewise husbandmen." Put this absolute sovereignty into the hands of a socialistic republic, and it will assuredly lead to the measures demanded in the following lines by Gracchus Babœuf: "The land of a state should assure a subsistence to all the members of that state. When, in a state, the minority of its people has succeeded in monopolizing its landed and industrial wealth, and by that means holds the majority under its sceptre, and uses the power it has, to cause that majority to languish in want, it should be known that such encroachment could only occur through the bad institutions of the government; therefore what former governments neglected to do, at the time, to prevent that abuse or to stifle it at the beginning, the actual administration should do to re-establish the equilibrium which should never have been lost, and the authority of the laws ought to operate a reform in the direction of the final maxim of the perfected government under the social contract: '*Let all have enough, and no one too much.*'" — At last the era of the civil code dawned on France and on Europe. Then for the first time the public power laid down and sanctioned the true principles respecting property. M. Portalis expressed himself before the legislative assembly in the following terms: "The principle of the right of property is in ourselves; it is in no way the result of human convention or of positive law. It lies in the very constitution of our being, and in our different relations to the objects which surround us. Some philosophers seem astonished that man should become the proprietor of a portion of the earth which is not his creation, which will outlast him, and which obeys only laws that are not of his making. But does not this astonishment cease when all the marvels of man's handiwork are considered, that is to say, all that human industry can add to the work of nature." Yes, legislators, it is by our industry that we have conquered and reclaimed the land on which we live; by it we have made the earth more habitable, and better fitted to be our abode. Man's task, so to speak, was to complete the great work of creation. * * Let us put no faith in systems which pretend to make the land the property of all, that men may have a pretext for respecting the rights of no one." — The civil code (articles 544, 545), collecting and condensing the principles laid down in previous constitutions, defined property as follows: "The right of using and disposing of things in the most absolute manner, provided that they are not used in a way prohibited by the laws or regulations." Charles Comte has rightly pointed out that this definition applies to the usufruct's right as well as to property. The definition of the civil code sins in another way: it does not limit the power which is given to legislators, or to the administration, of making rules regarding the use of property. On that account, property lacks all guarantees; it is not defended against arbitrary power. The law might forbid a landowner to sow seed, to plant vines or trees, to erect any building on his land, to sell, exchange or give his property away. In a word, the definition of the civil code admits of Egyptian monopoly as well as of French liberty. Fortunately, legislative custom and public morals correct the rashness of the legal text. — The civil code declares property inviolable. Following the examples of the constitutions of 1791, 1793 and 1795, it declared that no one should be compelled to part with his property, unless for the public good, and in consideration of just compensation previously made. But is it absolutely the fact, as M. Troplong thinks it to be, that the state, by these provisions, only reserved to itself the rights attached to political requisition? But did the state by those provisions shelter property from the public power as well as from the usurpation of private persons? This is the weak side of the civil code. Its authors laid down principles, all of whose consequences they had not drawn. While declaring property inviolable, they failed to shield it from sequestration by government, or from confiscation. — The emperor Napoleon said to the council of state, on Sept. 18, 1809: "Property is inviolable. Napoleon himself, with the numerous armies at his disposal, can not take away a single farm. For to violate the right of property in one man is to violate it in all men." Admirable words, to which his acts did not correspond. — III. *Origin, Character and Progress of Property.* Why is it that the great majority of philosophers and jurisconsults have succeeded so ill in defining property?

How does it happen that the origin and nature of an institution which holds so high a place in social order, have been revealed to us with any degree of clearness, only since the end of the last century? How is it that the highest intellects, when brought to bear on this study, have too often evolved only such theories as the humblest of landowners could not reconcile with his every-day practice? It is because the phenomenon which they studied and described has more than once changed character. Property has shared in the general progress of civilization; it has, at the same time, followed a law of development of its own. It has advanced as liberty, as industry and as the arts have done, in the world; it has passed through different and successive stages, each corresponding to a different theory. — The distinction of mine and thine is as old as the human race. From the time that man became aware of his personality, he sought to extend it to things. He appropriated the land and what it produced, animals and their increase, the fruit of his energy and the works of his fellow-men. Property exists among pastoral peoples as well as among those nations which have reached the highest point of agricultural wealth and of industry; but it exists among them under different conditions. The occupation of land was annual before it became lifelong, and it was lifelong, in the person of the tenant, before it became hereditary and in some sort perpetual. It belonged to the tribe before it belonged to the family, and it was the common domain of the family before it took an individual character. Poets, who were the first historians, attest this gradual transformation. — The marked distinction between the ancient and the modern world is, that formerly property was too often acquired by conquest, while now its essential basis is labor. Not only in antiquity and in the middle ages did individuals, as well as peoples, enrich themselves by usurpation, but free men disdained industry, and the earth was tilled by slaves. Armed force, which was the surest title to the possession of land, procured also the instruments of production. How was it possible to sound the nature or take in the full horizon of property at a time when the conqueror arrogated to himself the right, at one time of selling the conquered like beasts of burden, and at another of making serfs of them; when men were treated as though they were goods and chattels; when labor passed first through the ordeal of slavery, and then through that of serfdom, before it became the honor of free men and the wealth of nations? — This is not all. Property, in undergoing a progressive development similar to that of liberty, has extended and increased, and has, so to speak, invaded space. When civilization begins, what man possesses is very trifling: a few herds, some rude implements, a spot of land which produces corn in the middle of a desert waste; as yet he has scarcely appropriated any natural agents. Agricultural peoples, which succeed the pastoral tribes, soon increase ten-fold and a hundred-fold the property which now, little by little, becomes connected with the surface of the earth. But it remains only for nations skilled in industry and commerce to bring property to its highest development. When the land becomes, in some sort, individualized, and each portion falls into the hands of an owner who makes it productive with his capital and by the sweat of his brow, those who find themselves left out in this partition of the land are not, on that account, excluded from property. Capital has its origin in accumulation. Personal property is grafted on landed property. Treasures accessible to all are formed, of which each can have a share, and which he can increase by his labor. A parcel of land which in Algeria is worth perhaps $2, and in the western states of America about $5, sells readily in western Europe for from $100 to $1,000. In spite of the high price which improved agriculture speedily gives to rural property, there is no exaggeration in saying that to-day the personal property of England and France far exceeds the value embodied in the land. — It may be added, that, as civilization advances, each citizen witnesses the increase and extension of the common property which he enjoys equally with all other citizens of the state. Roads, canals, railways, schools, and other public establishments are incomparably more numerous and better administered to-day than they were half a century ago. What would it be, if we were to compare the sum of enjoyments and capacities which society put at the disposal of its members in the republics of Greece and Rome and those enjoyed by them in our day? The humblest of our laborers would not like to find himself exposed to the misery or the humiliations which awaited the proletarian of ancient days in the agora or the forum. It is, then, rightly that M. Thiers, calling to mind that property is a universal fact, affirms, at the same time, that it is a *growing* fact. — Let us listen to Thiers, portraying the origin and the growth of property in historic times: "Among all peoples, however rude they may be, we found property, at first as a fact, and afterward as an idea, an idea more or less clear according to the degree of civilization attained, but invariably settled. Thus, the savage hunter has at least his bow, his arrows and the game which he has killed. The nomad, who is a shepherd, at least owns his tents and his flocks. He has not yet admitted property in land, because he has not yet thought of applying his labor to it. But the Arab who has raised numerous flocks, is satisfied that he is the proprietor of the land, and exchanges its products against the wheat which another Arab, settled on the land, has produced elsewhere. He measures exactly the value of the object which he gives, by that of the object which is given him; he knows that he is the proprietor of the one before the barter, and of the other after it. Immovable property does not yet exist for him. Sometimes only he is seen, during two or three months of the year, to establish himself on land which belongs to no one, to plow it, to sow it with seed, to reap

the harvest, and then to wander off to other places. * * The duration of his property is in proportion to his labor. Little by little, however, the nomad becomes settled and turns agriculturist, for it is an instinct in man to wish to have a place of his own, a home. * * He ends by choosing a tract of land, by dividing it into patrimonies, on which each family establishes itself, and works and cultivates it for itself and its posterity. As man can not allow his heart to wander among all the members of the tribe, and as he longs for a wife of his own, children whom he may love, care for and protect, in whom his hopes, his fears, his very life, may be centred, so he has need of his own parcel of land, which he may cultivate, plant, beautify according to his tastes, fence in, and which he hopes to transmit to his descendants, green with trees which have grown not for him, but for them. Then to the personal property of the nomad, succeeds the landed property of an agricultural people; this second property grows, and with it come laws, complicated, it is true, which time makes more just and more provident, but the principle of which it does not change. Property, at first the result of instinct, becomes a social agreement, for I protect your property that you may protect mine. As man advances, he becomes more attached to what he owns; in a word, more a proprietor. In a barbarous state he is scarcely proprietor at all; civilized, he is one intensely. It has been said that the idea of property was weakening in the world. That is an error of fact. Far from growing weaker, it is being regulated, defined and strengthened. It ceases, for instance, to be applied to what is not capable of being possessed, that is, to man, and from that time slavery is at an end. This is an advance in ideas of justice, but not a weakening of the idea of property. * * Among the ancients the land was the property of the republic; in Asia it is that of a despot; in the middle ages it belonged to lords paramount. With the progress of the ideas of liberty, where man's freedom was accomplished, the liberty of his chattels and possessions was secured; he himself is declared to be the owner of his lands, independently of the republic, the despot, or the lord paramount. From that moment confiscation is abolished. The day the use of his faculties was restored to him, property became more individualized; it became more *proper* to the individual, more property than it was. — There is another observation to be made, and one more directly within the domain of political economy. It is, that the more property increases, is firmly established, respected, the more society prospers. "All travelers," says M. Thiers, "have been struck by the state of languor, of misery, and of rapacious usury, of countries in which property is not sufficiently well guaranteed. Go to the east, where despotism claims to be the only property owner, or, which is the same thing, return to the middle ages, and you will see everywhere the same thing: the land neglected, because it is the readiest prey to the avidity of tyranny, and left to the hands of slaves, who are not free to chose their own career; commerce preferred, because it could more readily escape exaction; in commerce, gold, silver and jewels in request, being the valuables most readily hidden; all capital seeking conversion into these values, and when it actually seeks employment concentrating itself in the hands of a proscribed class, who, making a pretense of poverty, lived in houses wretched on the outside, gorgeous internally, opposing an invincible resistance to the barbarian master who would tear from them the secret of their treasures, and solacing themselves by making him pay more dearly for the money, thus, by usury, revenging themselves for his tyranny." — Such are the roots of property to be found in history. As far as the right of property is concerned, it may be said that the universality of the fact is sufficient to establish it. Were property something accidental in human society, were the institution established only among an insular people, and were it an exception to the general custom, it might be called upon to produce its title deeds; but it stands to reason that men must have the right to do as they have done at all times, and in every inhabited place. Universal consent is an infallible sign of the necessity for, and consequently of the legality of, an institution. — But the right can be proved independently of the historic reason. "Man," says M. Thiers, "has a first property in his person and his faculties; he has a second, less intimately connected with his being, but not less sacred, in the product of his faculties, which includes all that are called worldly possessions, and which society is in the highest degree interested in guaranteeing to him, for without this guarantee there would be no labor, without labor no civilization, not even necessaries, but, instead, destitution, brigandage and barbarism." This definition is neither sufficiently absolute nor complete. M. Thiers seems to place the foundation of property in labor alone. Undoubtedly it is its most legitimate source, but it is not the only one, nor, in point of date, is it the first. At the commencement of social life, man appropriated the soil by occupation, before he made it his own by the work of his arms. Everywhere wresting the ground from man or from beast, the taking possession of it preceded its cultivation. The land belonged to a tribe collectively before it was distributed among its different members. This is what the school calls the right of the first occupant, a right which is explained by the very fact of possession being taken without hindrance, and by the power to defend, to protect, and consequently to appropriate, the land occupied. — Side by side with the men who acquired their possessions by occupancy or by labor, there are nations and individuals who usurped what they possess by violence and by fraud. Laws, and public force at the service of the laws, justify that usurpation wherever their power extends, and commands both obedience and respect. But it happens, and history furnishes many examples of it, that the property thus wrongfully acquired is peaceably handed down from

generation to generation, gives rise to an infinite number of contracts, and becomes the basis of fortunes. After all these *faits accomplis*, ought the origin of landed estates to be sought for with a view to securing their condemnation? Or, rather, does not the interest of society demand that the subsequent transactions be legitimized, and their origin wiped out? This state of affairs has given rise to the system of prescription, which is the real safeguard of property. "No transaction would be possible," says M. Thiers, "no exchange could be made, if it were not settled that after a certain time the person who holds anything holds it lawfully, and may transfer it. Imagine what would be the condition of society, what acquisition would be certain, if it were allowed to go back to the twelfth or thirteenth century, and dispute possession with the holder of a piece of property, by proving that a feudal lord had taken it from his vassal and given it to a favorite, or to one of his men-at-arms, who sold it to a member of the guild of merchants, who, in turn, transmitted it, through many hands, to a long line of owners more or less respectable. It is very right that there should be a term fixed, after which what is, simply because it is, should be declared lawful and held as good. Were this not so, what a scene the world would present."—It must be said, however, that conquest and usurpation are not constant and exclusive facts, although it might be supposed they were, when we see Assyrians, Persians, Greeks, Romans, and, finally, the northern barbarians, each in turn dispossessing the other, and ruling the world by force of arms. Violence did not mark the beginning of all property. M. Thiers, after having stated, in contradiction to the well-understood and well-interpreted testimony of history, that "all society presented in the beginning this phenomenon of occupation more or less violent," admirably explains how it is that the greater part of landed property had its origin in labor. (*De la Propriété*, by M. Thiers, vol. i., ch. 10.)—Property draws after it, as a consequence, inequality of conditions in the social order, and this inequality in condition is itself only the reflection of the differences which nature has established among men. All men have not the same muscular strength, nor the same degree of intelligence, nor an equal aptitude for or application to work. By the very fact that there are some who are stronger, cleverer, and, it must be said, happier than others, there are some also who tread with a quicker and surer foot the way to wealth. Property does not aggravate these irregularities in nature, but it marks them in durable characters, and gives them a body. In the beginning the best farmer possesses most. What interest could society have in interfering with his better farming? The most skillful and robust cultivator of the soil, while enriching his family, adds to the general sum of products, and therefore enriches society also. Equality of condition, the equal partition of the land, and equality of wages, are three forms of the same idea, which amounts to saying that the stronger ought not to produce more than the weaker, and that the thought of the enlightened man ought to sink to the level of that of the ignorant man; this would be to limit production, to repress intelligence, and to stifle literature, science and art in their very germ.—The right of possession includes, as a natural consequence, the right of disposing of the things possessed by you, of transmitting them to others, either for a consideration, or as a free gift; of exchanging, selling, or giving them away during life or by testamentary disposition, and of leaving them as an inheritance. Property implies the right of inheritance. Man is so constituted that he wishes to outlive himself. The care he feels for his self-preservation extends to his family; he would work much less for himself were he not, in working for himself, working for his family. Property reduced to a usufructuary interest would be of but half its value to individuals, and of but half its value to society.—This thought is expressed in pages which I prefer to borrow rather than attempt to adapt: "A man, if he had but himself to think of, would stop short in his career. As soon as he had provided for his old age, would you, through fear of encouraging idleness in the son, force the father himself into idleness? But does it follow, that, by permitting the hereditary transmission of property, the son must necessarily be an idler, consuming in sloth and debauchery the fortune left him by his father? Firstly, we would ask, what does the property which is to support the idleness of the son represent, after all? It represents previous work done by the father; and by hindering the father from working in order to compel the son to work for himself, all that is gained is that the son must do what the father has not done. There will have been no increase in the amount of work done. In the system, on the contrary, in which the right of inheritance is recognized, to the unlimited labor of the father is added the unlimited labor of the son; for it is untrue that the son remains idle because the father has left him a more or less considerable amount of property. To begin with, it is rare for a father to leave his son the means of doing nothing. It is only in cases of great wealth that this happens. But usually, in most professions, the father, in leaving the son his inheritance, only procures for him a better start in his career. He has only pushed him a little further, a little higher: he has given him the chance of working to greater advantage; of being a farmer, when he himself was only a farm servant; of fitting out ten ships, when he could fit out but one; of being a banker on a large scale, when he was one only on a small one: or of changing his position in life; of rising from one to another; of becoming a lawyer, a doctor, or a barrister; of being a Cicero or a Pitt, when he himself was a simple gentleman, like Cicero's father, or a cornet of a regiment, like Pitt's."—Thus, the right of inheritance is necessary to property, as property is to social order; it is that

right which, by permitting the accumulation of wealth, creates capital and makes labor productive. The laws of all free and industrious peoples sanction it; but it is so indispensable to the development of families and the progress of societies, that were it not the invincible consequence of human nature and of the social state, that, in a word, if it did not exist, it would be necessary to invent it. — IV. *Objections which have been raised against the Principle of Property.* The objections which have been taken to the principle of property are taken sometimes to the right, sometimes to the fact itself. The great opponent of property, M. Proudhon, is forced to recognize, that, as the possession of property has become general among all classes, it has approached the ideal of justice. But this more general possession of property, inseparably connected with the advance of civilization, does not disarm M. Proudhon's hostility, he contests the principle of property itself. Property, according to him, does not exist as a natural right; it is founded neither on occupation nor on labor. "Since every man," says this author, "has the right to occupy from the simple fact that he exists, and that to continue in existence he can not dispense with a material of exploitation and of labor; and since, on the other hand, the number of occupants varies incessantly, owing to births and deaths, it follows that the quantity of matter which each worker may claim, is variable like the number of occupants; that occupation is always subordinate to population; and finally, that, possession never being able rightfully to remain constant, it is, as a fact, impossible that it should become the basis of property."—To dispose of this paradox, all that is needed is to refute the point from which it starts. The prerogatives of the individual and of the species do not embrace a natural right to occupation any more than they do a natural right to labor. Undoubtedly, in the midst of a vacant space, the man who first occupies a field or a meadow, incloses it in bounds, and appropriates it, becomes its lawful possessor; but it is not by virtue of a right of possession inherent in every man, but because the ground previously belonged to no one, and because, in leaving his impress on that ground, he is not interfering with any previous right.—"A man," says M. Proudhon, "who was forbidden to travel over the highways, to rest in the fields, to take shelter in caves, to light a fire, pick the wild berries, to gather herbs and boil them in a piece of baked earth—such a man could not live. Thus the earth, like water, air and light, is a first necessity which each ought to be able to use freely, without injury to the enjoyment of them by another. Why, then, is the earth appropriated?" This thesis might have its good side in a condition of savagery. M. Proudhon's theory might succeed among a nation of hunters. But in an industrious and civilized community, it is but a late and faded echo of the declamations of J. J. Rousseau. Men nowadays do not live on wild berries or on herbs gathered in the fields; they are no longer reduced to live in caves, or to prepare coarse food in earthen vessels. Civilization has bestowed on them possessions which far more than compensate for any supposed natural rights to gather wild fruit, to hunt or to fish; and the humblest workingman of the nineteenth century is certainly better lodged, better clothed and better fed than the typical man of M. Proudhon could be, with all his right to common possession of the land. — After having asserted that occupancy could not serve as a basis for property, M. Proudhon equally denies the title of labor. Charles Comte had said: "A piece of ground of fixed dimensions is only able to produce sufficient food for the consumption of one man for one day: if the owner by his labor can make it produce enough for two days, he doubles its value. This new value is his work, his creation; it is not taken away from any one; it is his property." M. Proudhon answers: "I maintain that the possessor is paid for his trouble and his industry by the double return, but that he acquires no right in the soil. I admit that the laborer may make the product of his labor his own, but I do not understand how property in the product carries with it property in the soil, or in matter. Does the fisherman who can catch more fish, on the same coast, than his companions, become, because of his skill, proprietor of the waters in which he fishes? Was a hunter's skill ever looked upon as conferring on him a right of property in the game of a whole canton? The cases are precisely similar: the diligent husbandman finds in a harvest, abundant and of better quality, the recompense of his toil; if he has made improvements on the soil, he has the right to a preference as possessor of it; never, under any consideration, can he be allowed to allege his skill as a farmer as a title to property in the soil he tills. To transform possession into property, there is more needed than labor, otherwise man would cease to be a proprietor as soon as he ceased to be a laborer: now, what constitutes property, is, according to the law, immemorial and uncontested possession, that is, prescription; labor is only the visible sign, the material act, by which occupation is manifested." — As sources of property, occupation and labor are the complements of each other. Possession would certainly be far from lasting, if cultivation did not follow to sanction it, by revealing and bringing into play the productive forces of the soil; and as for labor, it does not necessarily imply property, since a farmer who has spent a large amount of capital in the improvement of the land he leases, while he can demand compensation for that capital, does not therefore acquire a right of property in the domain. This much is true, and can be said without exaggeration. But to suppose that the possessor who has cultivated a piece of land, and who, by so doing, has improved the land and increased the capital which that land represents, to suppose that he has no rights beyond the fruit of the year, is a glaring error. To whom would this improved land belong? Would any one bestow capital on

it, give it a new value, just that this value might become the prize of the first comer? If this were so, no one would work. — M. Proudhon admits that the husbandman who has improved land "has the right to a preference in possession." Here, then, is another case, and the case presents itself often, in which property, to use the language of Proudhon's book, ceases to be robbery. There is no doubt that the proprietor has no need to work to preserve his right: but work adds to the titles of property, and makes them still more honorable. Now, the possessor who cultivates, even if he does not add to the value of the land, would very soon grow tired of his passion for work, if he were only allowed to receive from it the produce of one harvest. Agriculture is the offspring of permanency in property, and without the guarantees which the law attaches to possession, agriculture would make no progress. M. Proudhon has only to look at what happens to the best of land when in the hands of nomadic tribes, among whom the land is only scratched to secure the meagre harvest of the year. — But, it will be said, the land thus conceded in perpetuity is, little by little, sequestered, invaded; and the last comers are likely to see both hemispheres entirely filled up by the heirs of the first who occupied the land, or of those who wrested it, by violence or by fraud, from its original owners. Even if all this were so, the misfortune does not seem to us a very great one. Land, thanks to the progress of industry, is not the only source of wealth. The man who does not own a farm may buy a house, start a factory, or have an interest in some scheme for transportation. Property, supposing there were not enough for all in the form of land, would show itself abundant under new forms. Previous appropriation of the soil, instead of robbing future races, really tends to enrich them. — Very high intellects refuse to admit this supposed confiscation of the soil to the detriment of the latest comers. M. Thiers gives us considerations on this point which are decisive. I shall try to epitomize them here. "Some engineers have thought that there was coal enough in the bowels of the earth to last indefinitely, while others have thought, that, at the rate at which industry was advancing, there was not enough for a hundred years. Should we, then, abstain from using it, lest there should be none for our posterity? * * The society which should abolish property in land for fear of the earth's whole surface being invaded, would be every whit as absurd. Let us make our minds easy on that score. European nations have not yet cultivated, some the quarter, others the tenth part, of their territories; and of the entire globe not the thousandth part is occupied. Great nations have run their course hitherto, without having brought under cultivation more than a very small part of their dominions. Nations have passed through youth, maturity and old age; they have had time to lose their characteristics, their genius, their institutions, all that they lived by, without having, we will not say, completed, but even much advanced, the cultivation of their territory. After all, space is nothing. Often, on the widest extent of land, men find it hard to live; and often, on the other hand, they live in plenty on the narrowest strip of ground. An acre of land in England or in Flanders supports a hundred times more inhabitants than an acre in the sands of Poland or of Russia. Man carries with him fertility; wherever he appears the grass grows and corn springs up. He brings with him his cattle, and wherever he settles he spreads around him a fertilizing soil. If, then, a day could be imagined when every corner of the globe should be inhabited, man would obtain from the same superficies ten times, a hundred times, nay a thousand times, more than he obtains to-day. What need be despaired of when the sands of Holland are transformed into fertile ground by man? Were he cramped for room, the sands of the Sahara, of the Arabian desert, of the desert of Cobi, would be covered by the fruitfulness which follows him; he would lay out in terraces the sides of the Atlas, of the Himalayas, of the Cordilleras, and cultivation would climb the steepest summits of the globe, and would only stop where, from the elevation, all vegetation ceases. This surface of the globe, invaded as is said, will not fail future generations, and, meanwhile, does not fail those of the present: for everywhere land is offered to men; it is offered them in Russia, on the banks of the Borysthenes, the Don and the Volga; in America, on the banks of the Mississippi, the Orinoco, and the Amazon; in France, on the coast of Africa, once the granary of the Roman empire. But emigrants do not always accept, and when they do, if nothing be added to the gift of the land, they go to their death on those distant shores. Why? Because it is not surface which is wanting, but surface covered with constructions, plantations, inclosures, the works of appropriation. Now, all these things exist only where former generations have been at the pains to put everything in such a position that the labor of the new comers may be immediately productive." — It is plain, then, that the earth, in spite of the extent of property, is not going to fail man. It is property well established, fenced around with guarantees, and become hereditary, which makes the land habitable and productive. Let us add, that under this régime the lot of the cultivator or tiller of the soil improves more rapidly than that of the owner. Property is in a special way a benefit to labor. (Compare COMMUNISM, MONOPOLY, LAND, SOCIALISM, etc.)*

L. FAUCHER.

* Property and the family are two ideas, for the attack and defense of which legions of writers have taken up arms during the last half century. Recent systems, founded upon old errors, but revived by the popular emotions which they aroused, have in vain disturbed, misrepresented, sometimes even denied, them. These ideas express necessary facts, which, under diverse forms, have been and will always be coming forth; they may thus be justly regarded as the fundamental principles of all political society, because from them originate, to a great extent, the two principal objects which

PROPERTY, Landed. (See RENT.)

PROPERTY, Literary. Under the heading of "Copyright" (see vol. i., p. 642), Mr. Macleod has given a comprehensive summary of the growth of the conception of literary property, and a specification of the enactments in Great Britain under which its status has been defined and regulated. He has also made reference to the copyright acts of some of the other states of Europe, as they stood twenty years ago. We here propose to supplement Mr. Macleod's statistics with such later

concern social laws, namely, the rights of man over things, and his duties toward his fellow-men. — *The Right of Property.* If man acquires rights over things, it is because he is at once active, intelligent and free; by his activity he spreads over external nature; by his intelligence he governs it, and bends it to his use; by his liberty, he establishes between himself and it the relation of cause and effect and makes it his own. — Nature has not for man the provident tenderness imagined by the philosophers of the eighteenth century, and dreamed of before them by the poets of antiquity when they described the golden age. She does not lavish her treasures in order to make life flow smoothly along in abundance and idleness for mortals; on the contrary, she is severe, and yields her treasures only at the price of constant labor; she maltreats those who have not sufficient strength or intelligence to subdue her, and when we consider the primitive races whom the arts of civilization had not yet raised above her, we may ask ourselves, with Pliny, if she did not show herself a step-mother rather than a mother. Left to itself, the earth presents here deserts, there marshes or inextricable forests; the most fertile portions are ordinarily the most inaccessible, because, situated in the valleys, they are encroached upon by stagnant waters, and infected by the miasms which exhale from them, or haunted by noxious animals which seek their food there; poisonous plants grow among the nutritious ones, without any outward sign by which to distinguish them, while yet we have not the warning of instinct which the animals have. The best fruits themselves have as yet, for the most part, only a coarse savor before cultivation has corrected their bitterness. Doubtless man can live, as he has, amidst this indifferent or hostile nature; but he would live there, timid and fearful as the roe of the forests, isolated, or collected in small groups, and lost in the immense spaces, in which his frail existence would be but an accident in the luxuriant life of organized beings; he would not feel himself at home, and would in very fact be like a stranger on an earth which he would not have fashioned according to his will, and where he would be neither the swiftest in the chase, the best protected against cold, nor the best armed for strife. — What even now distinguished him from other creatures, in this state of profound barbarism, were the divine powers of soul with which he was gifted. However torpid they might as yet have been, they would have taught him, without any doubt, to emerge from his nakedness and his feebleness: from the earliest times, they would have suggested the means of arming his hand with an axe of stone, like those which, buried in the calcareous deposits of another age, tell us to-day of the miserable beginning of our race upon the globe; they would have taught him to protect his body against the cold with the skin of the bear, and to shield his home and family from the attacks of ferocious beasts by arranging a cave for his use or building a hut in the midst of water, not far from the shore of a lake. But already man would have left upon matter some impress of his personality, and the reign of property would have begun. — When centuries have elapsed, and generations have accumulated their labors, where is there, in a civilized country, a clod of earth, a leaf, which does not bear this impress? In the town, we are surrounded by the works of man; we walk upon a level pavement or a beaten road; it is man who made healthy the formerly muddy soil, who took from the side of a far-away hill the flint or stone which covers it. We live in houses; it is man who has dug the stone from the quarry, who has hewn it, who has planed the wood; it is the thought of man which has arranged the materials properly and made a building of what was before rock and wood. And in the country, the action of man is still everywhere present; men have cultivated the soil, and generations of laborers have mellowed and enriched it; the works of man have dammed the rivers and created fertility where the waters had brought only desolation; to-day man goes as far as to people the rivers, to direct the growth of fish, and takes possession of the empire of the waters. We reap the wheat, our principal food. Where is it found in a wild state? Wheat is a domestic plant, a species transformed by man for the wants of man. Thus products, natives of countries most diverse have been brought together, grafted, modified by man for the adornment of the garden, the pleasures of the table, or the labors of the workshop. The very animals, from the dog, man's companion, to the cattle raised for the shambles have been fashioned into new types which deviate sensibly from the primitive type given by nature. Everywhere a powerful hand is divined which has moulded matter, and an intelligent will which has adapted it, following a uniform plan, to the satisfaction of the wants of one same being. Nature has recognized her master, and man feels that he is at home in nature. Nature has been *appropriated* by him for his use; she has become his *own*; she is his *property*. — This property is legitimate; it constitutes a right as sacred for man as is the free exercise of his faculties. It is his because it has come entirely from himself, and is in no way anything but an emanation from his being. Before him, there was scarcely anything but matter; since him, and by him, there is interchangeable wealth, that is to say, articles having acquired a value by some industry, by manufacture, by handling, by extraction, or simply by transportation. From the picture of a great master, which is perhaps of all material productions that in which matter plays the smallest part, to the pail of water which the carrier draws from the river and takes to the consumer, wealth, whatever it may be, acquires its value only by communicated qualities, and these qualities are part of human activity, intelligence, strength. The producer has left a fragment of his own person in the thing which has thus become valuable, and may hence be regarded as a prolongation of the faculties of man acting upon external nature. As a free being he belongs to himself; now, the cause, that is to say, the productive force, is himself; the effect, that is to say, the wealth produced, is still himself. Who shall dare contest his title of ownership so clearly marked by the seal of his personality? — Some authors have tried to establish the principle of property on the right of the first occupant. This is a narrow view: occupation is a fact, and not a principle. It is one of the signs by which the taking of possession manifests itself, but it is not sufficient to make it valid before the philosopher or the lawyer. Let a man land upon a desert, and say: "As far as my eye can reach, from this shore to the hills which bound the horizon yonder, this land is mine"; no one would accept such occupation for a *bona fide* title. But let the man settle upon the most fertile hill-side, build a hut there, cultivate the surrounding fields, and the possession of the portion actually occupied will become a right, because he has performed a proprietary act, that is to say, has by his labor thereon impressed on it the seal of his personality. International law makes a distinction, in regard to this, between individuals and states; what it refuses to the former, it grants to the latter; and it recognizes the validity of a summary taking of possession, which does not injure any anterior right. It is because the occupation is of an entirely different nature: the one having as its object useful possession, the other sovereignty, which implies only a general protection; the proof of this is, that in modern society the sovereignty frequently passes from one state to another without property changing hands.* Montesquieu wrote: "As men have renounced their natural independence in order to live under political laws, they have renounced their natural community of possession to live under civil laws. The political laws gave them liberty; the civil laws, property." Bentham enlarged upon the same thought: "Property and law were born together, and

* The word "cultivate" (to work and sow) must not be taken too literally; possession of land may also be taken by placing flocks on it, by opening a mine on it, or otherwise. And if the government has taken possession in the manner indicated in the text, and an individual buys a piece of ground from it, this ground becomes individual property even if left unoccupied.

data as can now be obtained, to include the specification (not to be found in Mr. Macleod's article) of the copyright acts of the United States, and also to present some of the questions that have arisen concerning literary property between nations, and to describe the conventions in force or under consideration for international copyright. — During the past twenty years, there has been a very considerable increase in the extent of international literary exchanges, and a fuller recognition, at least in Europe, of the propriety and necessity of bringing these under the control of international

will die together. Before law, there was no property; take away the law, and all property ceases." This was a narrow view. Montesquieu and Bentham, in order to consider but one side of the question, approached very near an exceedingly dangerous error, for it led to this consequence, that if the law had made property, the law could unmake it, and undid the very foundation which the authors intended to lay. It is evident that property originated before law, as before the formation of any regular society, since there has been appropriation of a certain part of matter ever since man has lived, and began, in order to subsist, to extend his hand and his intelligence about him. Property and the family have been the cause, and not the effect, of society; and the laws, to follow the beautiful definition placed by Montesquieu himself at the beginning of his work, "are the necessary relations which flow from the nature of things"; the laws have consecrated this necessary relation which was established between man and matter, but they have not erected a relation which would have been factitious and accidental. It is true that, without law, property has no guarantee against violence, and that it lacks security and solidity. But what right is there the exercise of which would be secure outside of the social condition? — It is also true that there are certain kinds of property which could not be produced without the protection of social law, because an advanced civilization and good government have the effect of widening the circle in which human activity can with safety move, and consequently extend the field of property. It is true, in short, that, in a certain number of particular cases in which natural right does not furnish sufficient light, the law decides and determines thus a positive right of property which it might perhaps determine otherwise, because it is important, in well organized society, that nothing, in such a matter, should remain in uncertainty, abandoned to the caprice of arbitrary power. But care must be taken not to confound a particular form or case with the principle of right itself. — It is, then, to the human being, the creator of all wealth, that we must come back; it is upon liberty that it is expedient to base the principle of property, and if any one would know by what sign it is to be recognized, we will answer that it is by labor that man impresses his personality on matter. It is labor which cultivates the earth and makes on an unoccupied waste an appropriated field; it is labor which makes of an untrodden forest a regularly ordered wood; it is labor, or, rather, a series of labors often executed by a very numerous succession of workmen, which brings hemp from seed, thread from hemp, cloth from thread, clothing from cloth; which transforms the shapeless pyrite, picked up in the mine, into an elegant bronze, which adorns some public place, and repeats to an entire people the thought of an artist. It is labor which is the distinctive sign of property; it is the *condition* (or the means) of it, not the *principle*, which traces its origin to the liberty of the human soul. — Property, made manifest by labor, participates in the rights of the person whose emanation it is; like him, it is inviolable so long as it does not extend so far as to come into collision with another right; like him, it is individual, because it has its origin in the independence of the individual, and because, when several persons have co-operated in its formation, the latest possessor has purchased with a value, the fruit of his personal labor, the work of all the fellow-laborers who have preceded him: this is what is usually the case with manufactured articles. When property has passed, by sale or by inheritance, from one hand to another, its conditions have not changed; it is still the fruit of human liberty manifested by labor, and the holder has the same rights as the producer who took possession of it by right. — Violence, confiscation, fraud, conquest, have more than once disturbed the natural order of property, and mixed their impure springs with the pure source of labor. But they have not changed the principle. Does the theft by which a lucky rascal is enriched interfere with the fact that labor is necessary for the production of wealth? Moreover, we must not exaggerate at pleasure the extent of these deviations from the general rule. It has been said that if we could go back to the origin of all landed property, possibly none would be found untainted with some one of these vices, on the soil of old Europe, overrun and successively occupied by so many hordes of invaders in ancient times and the middle ages. But how far would we have to go back across the centuries? So far that it could not be told in the case of ninety-nine hundredths of landed estates, except by mere conjecture, based on the probabilities of history. French laws, for instance, have established the thirty-years limitation, firstly, because it is necessary, in order to give some fixity to property, that it should not be left exposed to endless claims, and then, because long possession is itself a title, and because a man who has himself or by his tenantry, or farmers, put continuous labor on the same soil for a generation, has made, so to speak, the property his own. Now what is this short legal limitation beside the long limitation of ages, and how would any one dare contest the lawfulness of the owner's right over lands now richly cultivated, covered with farms and manufactories, under the pretext that a Frank of the fourth century expelled from them a Gaul who was herding his flocks there? On the land has accumulated immovable wealth, which has sometimes increased the value of it a hundred-fold, and the origin and transmission of which are equally lawful. Out of the soil has grown the personal wealth which now forms a large part of the patrimony of society, and this wealth, the fruit of modern labor, is for the greater part free from the stain of brute force. War is no longer in our day a means of existence; it is rather a cause of ruin; conquerors aspire to usurp sovereignty, but they respect property. The political societies which have settled in new worlds, in America and Australia, have been established for the greater part by the clearings of the pioneers who made the land what it is, and bequeathed it to their children. There has been little or no violence there, in the many places where they have not had to strive against savage tribes, even in the occupation of the land. In the main, if we consider property as a whole, how small a place is occupied by the exception as compared with the rule, by violence as compared with labor! — *Social Utility of Property.* What is just is always useful. Property has such a character of social utility that society could not exist without property, and there is no thriving society without individual property. Therefore, when persons have desired to base property upon utility, arguments were certainly not lacking; but utility, which must be taken great account of in political subjects, is, as we have remarked, a result, and not a principle, and we must content ourselves with saying that the excellent effects of property corroborate the lawfulness of the right. "Man," says M. Thiers, "has a first property in his person and his faculties; he has a second, less adherent in his being, but not less sacred, in the product of these faculties, which embraces all that is called the goods of this world, and which society is deeply interested in guaranteeing to him; for without this guarantee there would be no labor, without labor no civilization, not even the most necessary, but only misery, robbery and barbarism." We can not imagine a society entirely devoid of the idea of property; but we can conceive of one, and even find such in history, where property is in a rudimentary condition, and it would not be difficult to prove that such a condition is indeed, as M. Thiers says, misery and barbarism. Man is not a god; labor, which is a healthful exercise for both soul and body, is at the same time painful; it is only at the cost of an effort that man realizes his thought in matter, and oftentimes he would not make this effort, so painful to him, if he were not encouraged by the thought of producing a useful effect, and of himself enjoying the result of it. Who would take the trouble to fell a tree, to divide it into boards, if he knew that the next day a savage would seize upon it to make a fire with it, or even build a hut? Activity would have no object, because it would

law. Americans also are beginning to appreciate how largely the intellectual development of their nation must be affected by all that influences the development of the national literature, and to recognize the extent to which such development must depend upon the inducements extended to literary producers, as well as upon the character of the competition with which these producers have to contend. — Literary property is defined by Drone as "the exclusive right of the owner to possess, use and dispose of intellectual productions," and copyright, as "the exclusive right of

have no certain compensation; it would retire within itself, like the snail when threatened by danger, and would not venture out save for the satisfaction of the most immediate wants or the creation of property the easiest to defend —the hunting of game, or the manufacture of a bow or of an axe. In societies which have already risen to a certain degree of civilization, but which have not sufficient respect for property, this social imperfection alone is enough to impede progress and to keep men for centuries at a low level, to rise above which requires unheard-of efforts, and, above all, the knowledge of right. "All travelers," says M. Thiers elsewhere, "have been struck by the state of languor, of misery, and of greedy usury, in countries where property is not sufficiently protected. Go to the east, where despotism claims to be the sole owner, or what amounts to the same thing, go back to the middle ages, and you will see everywhere the same features; the land neglected, because it is the prey most exposed to the greediness of tyranny, and reserved for the slaves, who have no choice of employment; commerce preferred, as being able to escape more easily from exaction." A melancholy picture, but which has long been and still is, on a large portion of our globe, the true picture of humanity. When property, on the contrary, is fully recognized, respected and protected in its various forms, man does not fear to let his activity radiate in every direction. The picture of society is then entirely different: in place of a few thin, boughless shrubs, there will be seen a forest of immense oaks, spreading their branches far and wide, and exhibiting trunks more vigorous in proportion to the greater number of pores through which they breathe air and life. Far from injuring each other, men sustain each other by their individual development. For property is not a common fund fixed in advance, which is diminished by the amount which each appropriates; it is, as we have said, a creation of the intelligent force which dwells in man; each creation is added to the previous creations, and, putting new vigor into commerce, facilitates ulterior creations. The property of one, far from limiting for others the possibility of becoming owners, on the contrary increases this possibility; it is the strongest stimulus to production, the pivot of economical progress; and if the nature of things had not made a law with regard to it, anterior to all agreement, human law would have established it as the institution pre-eminently useful to the welfare and morality of nations. — *History of Property*. It will be understood, that, although the principle of property is always the same, it has not been comprehended and applied in the same manner at all times and in all countries. It is with the right of property as with most natural rights, which remain long buried in barbarism, and emerge from it gradually with the progress of civilization. We tend at present toward the plenitude of the right of property, and the most advanced nations of Europe and the new world appear to be not very far from the ideal of our conception. But how many centuries has it taken to free it from the exigencies or the ignorance of the past? The savages of America, who did not cultivate the soil, had no idea of landed property; custom made sacred the right of possession only for personal property; the land was common to all; it was a vast territory for fishing and hunting, open to all belonging to the tribe, but defended with jealous care against the encroachments of the neighboring tribes. When they improved and formed societies wisely organized, as in Mexico and Peru, they were necessarily obliged to take into account the appropriation of land, but their ideas even then did not rise to individual property. "No one," says Robertson, speaking of Peru, "had an exclusive right over the portion allotted to him. He possessed it only for a year. At the expiration of that time, a new division was made according to the rank, the number and the necessities of the family. All these lands were cultivated by the common labor of all the members of the community." In Mexico the grandees had individual property, but, he adds, "the bulk of the nation possessed the lands in a widely different manner. A certain quantity of land was allotted to each district proportionate to the number of families which formed it. This land was cultivated by the labor of the whole community. The produce was taken to a common warehouse, and divided among the families according to their respective needs." — The primitive nations do not appear to have risen much higher in the conception of the idea of property. Among the pastoral peoples of the east, property, composed principally of personal property and cattle, was almost wholly in the hands of the father of the family, of the patriarch, of the chief of the tribe; such are the customs of the Arabs, and we find them to-day in Algeria, where the land belonging to the members of the same *douar* or village in common, is distributed among them by the *caïd*. The same system, ascending from the head of a family to the prince, has concentrated all property in the hands of eastern despots, and enfeebled the progress of those beautiful countries by cutting into the roots of individual activity. The Jewish law had conceived the idea of the cancellation of personal debts every seven years and the restoration of alienated lands every fourteen years, at the great jubilee, with the view of retaining property in the same tribes and families: a law, which appears, however, not to have been very well observed. In Greece, Sparta and Athens there were indicated two opposite tendencies: one mutilating and suppressing almost the right of property, in order to fashion the citizen according to the will of the state; the other insuring, notwithstanding certain restrictions, civil liberty; but it is easy to see to which side the preferences of the philosophers inclined. Even in the laws, in which he tries to create a practical policy, Plato expresses himself thus: "I declare to you, as a legislator, that I regard you and your property as belonging, not to yourselves, but to your family, and your entire family, with its property, as belonging still more to the state." Rome, while sanctioning territorial property more solemnly than most other ancient governments, guaranteed it to her own citizens only, and centred it in the hands of the father of the family; conquest, moreover, was still among the principal modes of acquisition, and had given rise to immense possessions of the state (*ager publicus*) and to the agrarian laws. During the empire the jurisconsults, under the influence of the new ideas propagated by the stoic philosophy and the Christian religion, set themselves to extricate persons too closely confined by family bonds, and property was the gainer by this advance in liberty. But in the middle ages the feudal system weighed heavily upon the land; confounding the ideas of property and sovereignty, it made the possessor of the land master of chattels and persons, bound both the one and the other by a multiplicity of bonds, the serfs to the glebe, the lords to the fief, and interwove society in a vast net-work of reciprocal servitudes. Personal property, long smothered by these various systems, showed itself only with timidity, under the shelter of the franchise, in the guilds of the arts and trades; the laws of the princes protected it only by keeping it under strict tutelage; it gradually increased, however, and was even beginning to develop quite rapidly, when the discoveries of Christopher Columbus and Vasco da Gama had opened the great course of the ocean to maritime commerce. But, at this period, the absolute power of kings was being raised upon the ruins of feudalism in the principal states of western Europe, and if property freed itself somewhat *de facto* from bonds put on it, it *de jure* only changed masters without acquiring any further independence. Louis XIV., who may be regarded as the most illustrious and most fully convinced representative of absolute power, wrote, for the instruction of the dauphin: "Everything within the extent of our states, of whatever nature, belongs to us by the same title. You should be fully convinced that kings are absolute lords, and have naturally the full and free disposition of all property possessed as well by the clergy as the laity, to use as wise stewards." About a century later, in 1809, another sovereign,

the owner to multiply and to dispose of copies of an intellectual production."—The English statute (5 & 6 Victoria) defines copyright to mean "the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the word is herein applied."—The American statute (U. S. Rev. Stat., sec. 4952) speaks of copyright in a book as "the sole liberty of printing, reprinting, publishing, * * and vending the same."—The French constitutional convention adopted, in January, 1791, a report prepared by Chopelin, which declares that: *La plus sacré, la plus inattaquable,*

not less absolute, said. during a session of the council of state: "Property is inviolable. Napoleon himself, with the numerous armies at his command, could not take possession of a single field, for to violate the right of property in one, is to violate it in all." His actions did not always exactly conform to this theory; nevertheless, this declaration shows what progress the idea of property had made in France, from the eighteenth to the nineteenth century. This was because, the eighteenth century had passed between the two periods, and although it had not itself a clear idea of the sacred character of property, since it based it upon utility and the law, and declared it to have originated in a so-called primitive community, it had, nevertheless, shaken off the yoke of feudal servitude and the divine right of kings; it had pleaded the cause of liberty, and the revolution had made this cause triumph, by emancipating man, labor and the land; property could now be produced under its principal forms. — *Of the Objections to Property.* Property triumphed with liberty, one of the forms of which it is. It was just the time when it was about to be obliged to defend itself against the most malevolent adversaries, who attacked it in the name of a pretended equality; jealous of seeing large fortunes displaying themselves side by side with extreme poverty, they foolishly believed that to deprive of the fruits of their labor those who had lawfully acquired them, was to encourage labor and to relieve poverty. The convention, guided by principles entirely different from those of the constituent assembly, slid more than once down this declivity, and following the convention, Gracchus Babœuf collected and exaggerated the doctrines of the mountain out of which he created modern communism. "When," says he, "the minority in a state have succeeded in engrossing landed and industrial wealth, and by this means hold the majority under their rod, and use their power to cause them to languish in want, the fact should be recognized that this encroachment could take place only under the protection of the government, and then what the old administration failed to do in its time to prevent the abuse or to repress it at its birth, the present administration should do, in order to reestablish the equilibrium which should never have been lost, and the authority of the law should effect an immediate change in the direction of the ultimate principle of the perfected government, of the social contract: that all should have enough, and no one too much." There have been at all times those who have dreamed of a community of property, and who could do so the better, as individual property was in their time less extended and less firmly estalished. Plato wrote his "Republic"; Campanella, his "City of the Sun"; Thomas More, his "Utopia"; Fenelon, his "Bætica" and his "Government of Salentum"; but they created a speculative philosophy rather than a policy, and intended, above all, to trace for mankind an ideal of virtue: a mistaken, erroneous conception, but more disinterested, nevertheless, than that of modern communists. The principal object of the latter is enjoyment; their theories have been suggested by the sight of the wealth which was increasing rapidly in modern society, but distributing its favors in an unequal manner, as it proportioned them to the labor, to the intelligence, to the capital of each one and to the circumstances of production: they have wished that those less favored should have a larger share without having a heavier burden of labor. and they have conceived of no better way to do this than to limit or confiscate capital, that is to say, property, which is the lever of labor. – The Saint-Simonians, to attain this end, proposed to organise a powerful priesthood, composed of the ablest men in science, the arts and manufactures. This priesthood would have given an impetus to all society; the priest would have been "the living law"; there would have been no longer emperor nor pope; there would have been a father "disposing of all the capital and products, and distributing them to each according to his merits." They arrived at this conclusion, that "all property is property of the church," and that "every kind of business is a religious function." They did not see that property is the very reward of the labor which they were extolling, and the fruit of the economy without which labor deprived of capital, is reduced to impotence; they did not see that hereditary transmission is the consequence and the extension of property, and, under pretense of increasing social wealth, wealth which for lack of being managed and renewed by the force of individual interests, would have insensibly melted away in the hands of their high priest, they ended in an immense despotism; in order to pursue the shadow of comfort, they would have forfeited, without knowing it, their real welfare, and they did not hesitate knowingly to sacrifice liberty, the most important of all possessions in a society of civilized men. This is where the first of the systems hostile to property would have led to. – That of Fourier dates from about the same period, that is to say, the consulate. But it found no echo until after the great eclat which Saint-Simonism caused at the beginning of the reign of Louis Philippe. Fourier was not, properly speaking, a communist; he proclaimed liberty, and admitted capital. But, in fact, he incloses both the one and the other in a system of exploitation in common which maims them; there is no longer but one kind of liberty, that of abandoning one's self without restraint to one's various appetites; there is no longer but one kind of property, that of the phalanstery. Is that truly liberty which, with a firm will for a guide and responsibility for a guarantee, directs the spirit of man toward a definitive end? Is this truly property, that is to say, the full and entire possession of the various things which man has appropriated to himself by labor? — The latest adversary of property is M. Proudhon, who in a famous pamphlet has taken up again a paradox of Brissot's, viz., that property is theft. M. Proudhon does not recognize, either in possession or labor, sufficient reasons to justify property. "Since every man," he says, "has the right to possess simply because he exists and can not do without material for exploitation and labor in order to live; and since, on the other hand, the number of occupants varies continually by birth and death, it follows that the quantity of material to which each laborer may lay claim is changeable, like the number of occupants; consequently, that possession is always subordinate to the population; finally, that, as possession in law can never remain fixed, it is, in fact, impossible that it should become property." Elsewhere, in answering the argument of Ch. Comte, who sees a title to property in the superior value obtained by the possessor when the latter, thanks to his labors, has drawn subsistence for two persons from soil which had formerly fed but one, M. Proudhon adds: "I maintain that the possessor is doubly paid for his trouble and his industry, but that he acquires no right to the land. Let the laborer claim the fruits as his own; I grant that he should have them, but I do not understand that the ownership of the produce involves that of the material." This concession places all personal property outside of litigation, as it consists entirely of the produce which the laborer has made his own and has not consumed. There remains landed property, or, to express it more clearly, the very small portion of the value of real estate which is not the result of labor, a personal capital buried in the soil and confounded with it. Now, no economist maintains that every man, on coming into this world, has a right to a portion of it, and especially to a portion equal to that of others in the very country in which he is born. Possession is a fact, and not a right; it may give rise to a right when, having taken place upon land still unpossessed, it is sanctioned by labor; that is all. Society guarantees the rights of individuals, it is her first duty; in the system of M. Proudhon she would commit the double fault of wishing to do them too much good by seeking to make a fortune for them, and of doing them too much harm by spoiling some of a right logically anterior to herself, for the purpose of endowing others with a gratuitous benefit. —(The above note is the joint production of L. Wolowski and Emile Levasseur.—ED.)

et, si je puis parler ainsi, la plus personelle de toutes les propriétés, est l'ouvrage, fruit de la pensée d'un ecrivain. And in the decree rendered by the convention, July 10, 1793, the preamble (written by Lakanal) declares that *de toutes les propriétés, la moins susceptible de contestation, c'est, sans contrédit, celle des productions du génie: et si quelque chose peut étonner, c'est qu'il ait fallu reconnaître cette propriété, assurer son libre exercice par une loi positive; c'est qu'une aussi grande revolution que la notre ait été nécessaire pour nous ramener sur ce point, comme sur tout d'autres, aux simples éléments de la justice la plus commune.* — The act relating to copyright, adopted by the Reichstag of Germany, in April, 1871, declares that *Das Recht, ein Schriftwerk auf mechanischem Wege zu vervielfältigen, steht dem Urheber desselben ausschliesslich zu.* — Coppinger defines copyright as "the sole and exclusive right of multiplying copies of an original work or composition," and says that the right of an author "to the productions of his mental exertions, may be classed among the species of property acquired by occupancy; being founded on labor and invention."— Francis Lieber says (in an address delivered April 6, 1868), "The main roots of all property whatsoever are appropriation and production. * * Property * * precedes government. If a man appropriates what belongs to no one (for instance, the trunk of a tree), and if he produces a new thing (for instance, a canoe) out of that tree, this product is verily his own, * * and any one who in turn attempts to appropriate it without the process of exchange, is an intruder, a robber. * * The whole right of property * * rests on appropriation and production: and I appeal to the intuitive conviction of every thinking man to say whether a literary work, such as Baker's description of his toilsome journeys, or Goethe's Faust, is not a *production* in the fullest sense of the word, even more so than a barrel of herrings, which have been appropriated in the North sea, and pickled and barreled by the fishermen; and whether any one has a right to meddle with this property by production, any more than you or I with the barrel of herrings."— Drone says: "There can be no property in a production of the mind unless it is expressed in a definite form of words. But the property is not in the words alone; it is in the intellectual creation, which language is merely a means of expressing and communicating." It is evident that copyright is in its nature akin to patent right, which also represents the legal recognition of the existence of property in an idea or a group of ideas, or the form of expression of an idea.— International patent rights have, however, been recognized and carried into effect more generally than have copyrights. The patentee of an improved toothpick would be able to secure today a wider recognition of his right than has been accorded to the author of "Uncle Tom's Cabin" or of "Adam Bede."— Almost the sole exception to this consensus of civilized opinion on the status of literary property is presented by Henry C. Carey. He took the position that "Ideas are the common property of mankind. Facts are everybody's facts. Words are free to all men. * * Examine Macaulay's 'History of England,' and you will find that the body is composed of what is common property." Of Prescott, Bancroft and Webster he says: "They did nothing but reproduce ideas that were common property." Of Scott and Irving, "They made no contribution to knowledge." ("Letters on Copyright," Phila., 1854.) Therefore, the author of a work has no right of property in the book he has made. He took the common stock and worked it over: and one man has just as good a right to it as another. If the author is allowed to be the *owner* of his works, the public are deprived of their rights. Property in books is robbery. But this is simply a partial or specific application of the well-known formula of Proudhon: "Property is robbery," a theory which it is not necessary to discuss in this paper. — The conception of literary property was known to the ancients. A recompense of some sort to the author was regarded as a natural right, and any one contravening it as little better than a robber. Klostermann says: "The first germs of a recognition of a property in thought are to be found in the agreements which authors entered into with the booksellers for the multiplication and sale of copies of their works, and in the custom to treat as unlawful any infringement upon the bookseller's right in a work which had been so transferred to him. The booksellers among the Romans succeeded, through the use of slave labor, in producing duplicates of their manuscripts at so low a cost, that the use and productions, centuries later, of the first printing presses, were hardly cheaper." Martial records, in one of his epigrams, that the edition of his "Xenii" could be bought from the bookseller Tryphon for four sesterces, the equivalent of about twelve and a half cents. He grumbles at this price as being too high, and claims that the bookseller would have been able to get a profit from a charge of half that amount. This poet appears to have had not less than four publishers in charge of the sale of his works, one of whom was a freedman of the second Lucensis. The latter issued a special pocket edition of the "Epigrams." The poet prepared the advertisements for the booksellers, putting these in the form of epigrams, but not neglecting to specify the form and price of each book, as well as the place where it was offered for sale.* Horace refers to the brothers Sosius as

* Omnis in hoc gracili xeniorum turba libello
Constabit nummis quatuor empta tibi.
Quatuor est nimium, poterit constare duobus.
Et faciet lucrum bibliopola Tryphon.
(Epigrammata, lib. xiii., ep. 3.)

Qui tecum cupis esse meos ubicunque libellos.
Et comites longæ quæris habere viæ,
Hos eme quos arcet brevibus membrana tabellis:
Scrinia da magnis, me manus una capit.
* * * * * *
Libertum docti Lucensis quare Secundi
Limina post Pacis, Palladiumque Forum.
(Epigrammata, lib. i., ep. 3.)

his publishers, but complains that while his works brought gold to them, for their author they earned only fame in distant lands and with posterity.* Terence sold his "Eunuchus" to the Ædiles, and his "Hecyra" to the player Roscius; while Juvenal reports that Statius would have starved if he had not succeeded in selling to the actor Paris his tragedy of Agave. "Such sales," says Coppinger, "were considered as founded upon natural justice. No man could possibly have a right to make a profit by the sale of the works of another without the author's consent. It would be converting to his own emolument the fruits of another's labor." — It is apparent from these and from similar references, that under the Roman empire authors were in the habit of transferring to booksellers for such consideration as they could obtain, the right to duplicate and to sell their works, and that, under the trade usages, they were protected in so doing. There was no imperial act covering such transfers, and it does not appear that in any division of the Roman law was there provision for the exclusive right in the "copy" of literary material. — It is nevertheless the case that the Roman jurists interested themselves in the question of immaterial property, but it was apparently rather as a theoretical speculation than as a study in practical law. Some of the earlier discussions as to the nature of property in ideas appear to have turned upon the question as to whether such property should take precedence over that in the material which happened to be made use of for the expression of the ideas. The disciples of Proculus maintained that the occupation of alien material so as to make of it a new thing, gave a property right to him who had so reworked or reshaped it; while the school of Sabinus insisted that the ownership in the material must carry with it the title to whatever was produced upon the material. Justinian, following the opinion of Gaius, took a middle ground, pointing out that the decision must be influenced by the possibility of restoring the material to its original form, and more particularly by the question as to whether the material, or that which had been produced upon it, was the more essential. This opinion of Gaius appears to have had reference to the ownership of a certain table upon which a picture had been painted, and the decision was in favor of the artist. This decision contains an unmistakable recognition of immaterial property, not, to be sure, in the sense of a right to exclusive reproduction, but in the particular application, that, while material property depends upon the substance, immaterial property, that is to say, property in ideas, depends upon the form. — For the centuries following the destruction of the Roman empire, during which literary undertakings were confined almost entirely to the monasteries, the Roman usage, under which authors could dispose of their works to booksellers, and the latter could be secured control of the property purchases, was entirely forgotten. No limitation was placed on the duplication of works of literature. According to Wächter (*Das Verlagsrecht*, 1857), it was even the case that by a statute of the university of Paris, issued in 1223, the Parisian booksellers (who were in large part dependent upon the university) were enjoined to extend, as far as practicable, the duplication of works of a certain class. The business of bookseller at that time consisted as much in the renting out for reading and copying of authentic manuscript versions as in the sale of manuscript copies. In the university of Paris, as well as in that of Bologna, a statute specified the least number of copies, usually 120, of a manuscript that a bookseller must keep in stock, and the prices for loaning manuscripts were also fixed by statute. The difficulty and expense attending the reproduction of manuscripts was in every case considerable (much greater than in the early days of the Roman empire), and when, therefore, an author desired to secure a wide circulation for his work, he came to regard the reproduction of copies, not as a reserved right and source of income, but as a service to himself, which he was very ready to facilitate and even to compensate. — Throughout the middle ages, whatever immaterial property in the realms of science, art or technics, obtained recognition and protection, was held in ownership, not by individuals, but by churches, monasteries or universities. Before the invention of printing, the writers of the middle ages were fortunate if, without a ruinous expenditure, they could succeed in getting their productions before the public. The printing press brought with it the possibility of a compensation for literary labor. Very speedily, however, the unrestricted rivalry of printers brought into existence competing and unauthorized editions, which diminished the prospects of profit, or entailed loss for the authors, editors and printers of the original issue, and thus discouraged further similar undertakings. — As there was no general enactment under which the difficulty could be met, protection for the authors and their representatives was sought through special "privileges," obtained for separate works as issued. The earliest privilege of the kind was, according to Putter (*Beiträge zum deutschen Staats-und Fürstenrecht*), that conceded by the republic of Venice, Jan. 3, 1491, to the jurist Peter of Ravenna, securing to him and to the publishers selected by him, the exclusive right for the printing and sale of his work "Phœnix." No term of years appears to have been named in this "privilege." It appears, however, that most of the early Italian enactments in regard to literature were framed, not so much with reference to the protection of authors, as for the purpose of inducing printers (acting also as publishers) to undertake certain literary enterprises which were believed to be of importance to the community. — The republic of Venice, the dukes of Florence, and Leo X. and other

* Hic meret æra liber Sosiis, hic et mare transit,
Et longum noto scriptori prorogat ævum.
(Art. Poet., 345.)

popes, conceded at different times to certain printers the exclusive privilege of printing, for specified terms, rarely apparently exceeding fourteen years, editions of certain classic authors. At this time, when the business of the production and the distribution of books was in its infancy, such undertakings must have been attended with exceptional risk, and have called for no little enlightened enterprise on the part of the printers. It is fair to assume that the princes conceding these privileges were not interested in securing profits for the printers, but had in mind simply the encouragement, for the benefit of the community, of literary ventures on the part of the editors and printers. — After Italy, it is in France that we find the next formal recognition, on the part of the government, of the rights of property in literature. From the reign of Louis XII. to the beginning of the sixteenth century, it became usage for the publisher (at that time identical with the printer), before undertaking the publication of a work, to obtain from the king an authorization, or letters patent, the term of which appears to have varied according to the nature of the work and the mood of the monarch or of the advising ministers. At the close of nearly all of the volumes issued previous to the revolution, will be found printed: *Les Lettres du Roi*, addressed, *A nos ames et feaux conseillers, les gens tenons nos cours de Parlement * * et autres nos justiciers, et qui font defenses á tous libraires et imprimeurs et autres personnes de quelque qualité et condition qu'elles soient, d'introduire aucun impression étrangére* (that is to say, any unauthorized reprint) *dans aucun lieu de notre obeissance.* — These letters were in the first place obtained, as in Italy, for the protection of special editions of the classics, but very speedily the native literature increased in importance, and the list of original works came to outnumber that of the reprints of ancient authors. The rights specified in the letters were in the first place nearly always vested in the printers, but it is evident, that, the longer the terms of the royal concessions, the larger the remuneration that could be looked for from the work, and the greater the price that the printer would be in a position to pay to author or writer. It is also to be noted that the terms granted to original French works were usually longer than those for the new editions of the classics or of reprints of devotional works.—According to Lowndes, the penalties for infringing copyright were, until the revolution, heavier in France than anywhere else in Europe. It was argued that such infringement constituted a worse crime than the stealing of goods from the house of a neighbor, for in the latter case some negligence might possibly be imputed to the owner, while in the former it was stealing what had been confided to the public honor. — The status of literary property was further recognized and defined by the so-called *Ordinances de Moulines* of Henry II., in 1556, the declaration of Charles IX., in 1571, and the letters patent of Henry III., in 1576, but the character of the methods of granting and defending copyrights was not changed in any material respects. — By the decree of the national assembly of Aug. 4, 1789, all the privileges afforded to authors and owners of literary property by the various royal edicts were repealed. In July, 1793, the first general copyright act was passed, under which, protection was conceded to the author for his life, and to his heirs and assigns for ten years thereafter. — The imperial act of 1810 extended the term to twenty years after the author's death, for widow or children, the term remaining at ten years if the heirs were further removed. In 1872 the act now (1883) in force was passed. Under this the term was extended to fifty years from the death of the author. The provisions of the act were also extended to the colonies. Foreigners and Frenchmen enjoy the right equally, and no restriction is made as to the authors being residents at the time the copyright is taken out. It is, further, not necessary that the first publication of the work should be made in France. In case the work be first published abroad, French copyright may subsequently be secured by depositing two copies at the ministry of the interior in Paris, or with the secretary of the prefecture in the departments. The provisions of the statute affecting foreigners may be modified by any convention concluded between France and a foreign country. — The earliest German enactment in regard to literary property was the "privilege" accorded in Nuremberg, in 1501, to the poet Conrad Celtes, for the works of the poet Hroswista (Helena von Rossow, a nun of the Benedictine cloister of Gardersheim). As this author had been dead for 600 years, the privilege was evidently not issued for her protection, but must rather have been based upon the idea of encouraging Celtes in a praiseworthy (and probably unremunerative) undertaking. Between the years 1510 and 1514 we find record of "privileges" issued by the emperor Maximilian in favor of the sermons of Geiler of Kaisersberg, and the writings of Schottius, Stabius and others. In 1534 Luther's translation of the Bible was issued in Wittenberg under the protection of the "privilege" of the elector of Saxony. — Penalties for piratical reprints were sometimes specified in the special "privileges," but from 1660 we find certain general acts under which privileged works could obtain protection, and their owners could secure against reprinters uniform penalties. Decrees of this class were issued by the city of Frankfort in 1657, 1660 and 1775, by Nuremberg in 1623, by the electorate of Saxony in 1661, and by the imperial government in 1646. There were also enactments in Hanover in 1778, and in Austria in 1795. All of the above specified acts expressly permitted the reprinting of "foreign" works, that is, of works issued outside of the domain covered by the enactment. Piratical reprinting between the different German states increased, therefore, with the growth of the literature, and although the injury and injustice caused by it were recognized,

and measures for its suppression were promised by the emperors Leopold II. and Francis II. (1790 and 1792), nothing in this direction could be accomplished by the unwieldy imperial machinery. — In 1794 legislation was inaugurated in the Prussian parliament, which was accepted by the other states of Germany (excepting Wurtemberg and Mecklenburg), under which all German authors and foreign authors whose works were represented by publishers taking part in the book fairs in Frankfort and Leipzig, were protected throughout the states of Germany against unauthorized reprints. — According to Klostermann these enactments were only in small part effective, and it was not until forty years later, that, under the later acts of the new German confederacy, German authors were able to secure throughout Germany a satisfactory protection. It is, nevertheless, the case that to those who framed the Berlin enactment of 1794 must be given the credit of the first steps toward the practical recognition of international copyright. — The copyright statute now in force in Germany, including Elsass and Lothringen, dates from 1871. The term is for the life of the author and for thirty years thereafter. The copyright registry for the empire is kept at Leipzig. The protection of the law is afforded to the works of citizens, whether published inside or outside of the empire, and also to works of aliens, if these are published by a firm doing business within the empire. — In Italy literary copyright rests upon the statute of 1865. The term is for the life of the author and for forty years after his death, or for eighty years from the publication of the work. After the expiration of the first forty years, however, or after the death of the author, in case this does not take place until more than forty years have elapsed since the publication, the work is open to publication by any one who will pay to the author of the copyright a royalty of 5 per cent. of the published price. It is necessary to deposit two copies of the work, together with a declaration in duplicate, at the prefecture of the province. No distinction is made between citizens and aliens, and the provisions of the law are applicable to the authors of works first published in any foreign country, between which and Italy there is no copyright treaty. — In Austria the term of literary copyright is for thirty years after the author's death, and the other provisions of the act in force are similar to those of the German statute. — In Holland and Belgium, copyright, formerly perpetual, is now limited to the life of the author and twenty years thereafter. — In Denmark, copyright, formerly perpetual, is now limited to thirty years from the date of publication. — In Sweden, copyright was also, until recently, perpetual. By the act of 1877, however, it now endures for the life of the author, and for fifty years thereafter. The provisions of the law are made applicable to the works of foreign authors only on condition of reciprocity. — In Spain, copyright rests on the act of 1878, and endures during the life of the author and for eighty years thereafter. If the right be assigned by the author, and the author leave no heirs, it belongs to the assignees for eighty years from the author's death. In the case, however, of heirs being left by the author, the assignment holds good for but twenty-five years, after which the ownership reverts to the heirs for the remaining fifty-five years of the term. Owners of foreign works will retain their rights in Spain, provided they adhere to the law of their own country. The copyright registry is kept at the ministry of the interior, and to perfect the registry a deposit of three copies of the work is required. The Spanish government is authorized to conclude copyright treaties with foreign countries on the condition of complete reciprocity between the contracting parties. Under such an arrangement any author, or his representative who has legally secured copyright in the one country, would be, without further formalities, entitled to enjoy it in the other. — In Russia, copyright endures for the life of the author, and for fifty years thereafter. — In Greece the term is fifteen years from publication. — In Japan the law of copyright dates from 1874. Manuscript must be examined by the department of the interior, and if found free from disloyal opinions or any matter calculated to injure public morals, a certificate of protection is promptly issued. Three copies of the work must be deposited in the department, and the fees amount to the value of six more copies. — In China, notwithstanding the large body of national literature, no laws have been enacted for the protection of literary property. — In Great Britain the act of 1842, now (1888) in force, provides as follows: Copyright in a book endures for forty-two years from the date of publication, or for the author's life, and for seven years after, whichever of these two terms may be the longer. The first publication of the work must be in Great Britain. The copy can be taken out by any author or owner who is a British citizen, or by an alien who may at the time of the first publication be within the British dominions (in any portion of the British empire). The work must be registered in the records of the stationers' company, and five copies must be delivered to certain institutions specified. A bill is now, however, before parliament, framed mainly upon the recommendations of the copyright commission of 1878, which provides that the term of copyright for books shall be fifty years; that in the case of British subjects copyright extends to all the British dominions; that aliens, wherever resident, shall be entitled to British copyright on registering their work in that part of the British dominions where it was first published. — The history of the status of literary property in England prior to 1863, is given in detail in the article of Mr. Macleod (vol. i., p. 642). It is in England that the nature and basis of copyright have received the most thorough consideration, and the English opinions (although representing very wide differences among themselves) have been the most important contributions to the discussion of the subject. It is sufficient to note here that the first record of the

recognition of property in literature appears in 1558 (that is, half a century later than in France or Germany) when the earliest entry of titles was made on the register of the company of stationers in London. As early as 1534, however, Henry VIII. granted to the university of Cambridge the exclusive right of printing certain books in which the crown claimed a prerogative. Afterward, patents *cum privilegio* were granted to individuals. Prior to 1710 there was no legislation creating literary property or confining ownership, nor any abridging its perpetuity or restricting its enjoyment. It was understood, therefore, to owe its existence to common law, and this conclusion, arrived at by the weightiest authorities, remained practically unquestioned until 1774. For the provisions of the act of 1710 (8 Anne), the details of the cases of Miller *vs.* Taylor (1769), and Donaldson *vs.* Becket (1774), the discussions concerning these cases, with the opinions of Lord Mansfield, Lord Camden and Justice Yates, and also for the debate attending the framing of the act of 1842, with the arguments of Talfourd, Lord Campbell, Justice Coleridge, Lord Macaulay and Thomas Hood, the reader is referred to Mr. Macleod's paper. —In the United States the first act in regard to copyright was passed in Connecticut in January, 1783. This was followed by the Massachusetts act of March, 1783, that of Virginia in 1785, and New York and New Jersey in 1786. These acts were due more particularly to the efforts of Noah Webster, and their first service was the protection of his famous "Speller." Webster journeyed from state capital to state capital, to urge upon governors and legislatures the immediate necessity of copyright laws, and under his persistency measures had also been promised and in part framed in Rhode Island, Pennsylvania, Delaware, Maryland and South Carolina. The necessity for state laws on the subject was, however, obviated by the United States statute of 1790. In creating a public and legislative opinion which made such a law possible, Webster's writings and personal influence were all important. — Previous to the adoption of the federal constitution, in 1787, a general copyright law was not within the province of the central government, and in order to encourage the states in the framing of copyright legislation, a resolution, proposed by Madison, was adopted in congress, in May, 1783, recommending to the states the adoption of laws securing copyright for a term of not less than fourteen years. The state acts passed prior to this resolution had conceded a term of twenty-one years. The act of 1790 provided for the shorter time suggested by Madison. The act of 1831 extended the fourteen years to twenty-eight, with privilege to the author, his widow or children, of renewal for fourteen years more. The act of 1834 provided that all deeds for the transfer or assignment of copyright should be recorded in the office in which the original entry had been made. In 1846 the act establishing the Smithsonian institution required that one copy of the work copyrighted should be delivered to that institution, and one copy to the library of congress. This provision was repealed in 1859, by a statute which transferred to the department of the interior the custody of the publications and records. In 1865 the copies were again ordered to be delivered to the library of congress. In 1861 an act was passed, providing that cases of copyright could, without regard to the amount involved, be appealed to the supreme court. — The act now in force in the United States, is that of July, 1870, (see Rev. Stat., secs. 4948–4971). This provides that the business of copyrights shall be under charge of the librarian of congress; that copyrights may be secured by any citizen of the United States or resident therein; that the term of copyright shall be twenty-eight years, with the privilege of renewal for the further term of fourteen years, by the author if he be still living and continues to be a citizen or a resident, or by his widow or children if he be dead; that two copies of the work shall be deposited in the library of congress; that the work must first be published in the United States, and that the original jurisdiction of all suits under the copyright laws shall rest with the United States circuit courts. — Under the present interpretation of the courts in both the United States and Europe, copyright in published works exists only by virtue of the statutes defining (or establishing) it, while in works that have not been published, such as compositions prepared exclusively for dramatic representation, the copyright obtains through the common law. Copyright by statute is of necessity limited to the term of years specified in the enactment, while copyright at common law has been held to be perpetual. The leading English decisions have before been referred to. The United States decision, which still serves as a precedent on the point of the statutory limitation of copyright, is that of the United States supreme court in 1834, in the case of Wheaton *vs.* Peters. This decision involved the purport of the United States law of 1790, and the determination of the same question that had been decided by the house of lords in 1774, viz., whether copyright in a published work existed by the common law, and, if so, whether it had been taken away by statute. The court held that the law had been settled in England, the act of 8 Anne having taken away any right previously existing at common law; that there was no common law of the United States; and that the copyright statute of 1790 did not affirm a right already in existence, but created one. Justices Thompson and Baldwin, in opposing the decision of the four justices concurring in the decision, took the ground that the common law of England *did* prevail in the United States, and that copyright at common law had been fully recognized, and that, even if it were admitted that such copyright had been abrogated in England by the statute of Anne, such statute had of course no effect either in the colonies or in the United States. "These considerations," says Drone, "deprive Wheaton *vs.* Peters of much of its

weight as an authority." In 1880, in the case of Putnam *vs.* Pollard, it was claimed by the plaintiff that the decision in Wheaton *vs.* Peters could in any case only make a precedent for Pennsylvania; that the English common law obtained in the state of New York, and could not have been affected by the statute of Anne; but the New York supreme court decided that Wheaton *vs.* Peters constituted a valid precedent. — *What may be the Subject of Copyright.* In order to acquire a copyright in a work, it is necessary that it should be original. The originality can, however, consist in the form or arrangement as well as in the substance. Corrections and additions to an old work, not the property of the compiler, can also secure copyright. The copyright of private letters forming literary compositions, is in the composer and not in the receiver. (Oliver *vs.* Oliver, Percival *vs.* Phipps et al., Story's Com.) — The English statute, 5 and 6 Vict., defines "book" "to mean and include every volume, part or division of a volume, pamphlet, sheet of letterpress, sheet of music, map, chart or plan separately published." The right of property in lectures, whether written or oral, is now confirmed by statute, the most important English decision on the point being that of Abernethy *vs.* Hutchinson, and American precedents being Bartlett *vs.* Crittenden, Keene *vs.* Kimball, and Putnam *vs.* Meyer. Copyright can be secured for original arrangements of common material, or novel presentations of familiar facts. In Putnam *vs.* Meyer the New York supreme court held that certain tabular lists of anatomical names, arranged in a peculiar and arbitrary manner for the purpose of facilitating the work of memorizing, were entitled to protection. — Abridgments and abstracts, which can be called genuine and just, are also entitled to copyright. (Lawrence *vs.* Dana, Gray *vs.* Russell et al.) According to English precedent, copyright can not exist in a work of libelous, immoral, obscene or irreligious tendency. There is no record in the United States of a case in which the question of copyright in irreligious books has been considered. Drone points out that the uniform construction of the law relating to blasphemy is evidence of the large freedom of inquiry and discussion allowed in religious matters. On this point the opinion of Justice Cooley (People *vs.* Ruggles, 8 Johns. Rep., N. Y.) is worth citing. "It does not follow because blasphemy is punishable as a crime, that therefore one is not at liberty to dispute and argue against the truth of the Christian religion, or of any accepted dogma. Its 'divine origin and truth' are not so far admitted in the law as to preclude their being controverted. To forbid discussions on this subject, except by the various sects of believers, would be to abridge the liberty of speech and of the press on a point which, with many, would be regarded as the most important of all." In quoting a similar opinion of Justice Story, Drone concludes that "there appears to be no good reason why valid copyright will not rest in a publication in which are denied any or all of the doctrines of the Bible; provided the motives and manner of the author be such as not to warrant the finding of a case of blasphemy or immorality." — Several of the questions concerning the status and the defense of literary property in this country are only now beginning to come into discussion. The literature of the country is still so young that as yet but a small portion of it has survived the statute term of copyright. From the present time, however, as the terms of works which have established a position as classics, begin in part or in whole to expire, we can look forward to a larger number of issues and of suits connected with alleged infringements of copyright. — The case of Putnam *vs.* Pollard, decided in the New York supreme court in 1881, covered some points that appear to have not before received consideration. The defendants had reprinted some fragmentary and unrevised portions of the works of Washington Irving, on which the copyright had expired, and offered these for sale under the designation of "Irving's Works." The plaintiff had for a number of years used this title to describe the authorized, complete and revised writings of this author in the shape in which he had finally prepared them for posterity. The plaintiff sought to enjoin the sale, under the above title, of the fragmentary work, on the several grounds that it misled the public, caused injury to the literary reputation of Irving, and interfered with the property rights of Irving's heirs. The courts decided, however, that as long as the volumes in question contained nothing but material which had actually been written by Irving, it was not unlawful to designate them as "Irving's Works," even though the writings should not be in complete or in their final form; and the injunction was denied. The question involved was, it will be noted, one of trade-mark, and the decision took the ground that an author's name, combined with the term "works," does not constitute a trade-mark. Under this ruling, it might be proper to add to the title pages of volumes of "fragments" sold as "works," the caution "Caveat emptor." — The four theories which have resulted from this discussion of a century, are thus summarized by Drone: 1. That intellectual productions constitute a species of property founded in natural law, recognized by the common law, and neither lost by publication nor taken away by legislation; 2. That an author has, by common law, an exclusive right to control his works before, and not after, publication; 3. That this right is not lost by publication, but has been destroyed by statute; 4. That copyright is a monopoly of limited duration, created and wholly regulated by the legislature, and that an author has, therefore, no other title to his published works than that given by statute. — The first country to take action in regard to international copyright was Prussia, which, in 1836, passed an act conceding the protection of the Prussian statute to the writers of every country which should grant reciprocity. In 1837 a copyright convention was

concluded between the different members of the German confederation.—This was followed by the English act of 1838, 1 and 2 Vict., c. 59, amended and extended by 15 Vict., c. 12. This act provided that her majesty might, by order in council, grant the privilege of copyright to authors of books, etc., first published in any foreign country to be named in such order, provided always that "due protection had been secured by the foreign power so named in such order in council, for the benefit of parties interested in works first published in the British dominions."—Different provisions may be made in the arrangements with different countries. Under the general copyright act, no right of property is recognized in any book, etc., not first published in her majesty's dominions. Hence, British as well as foreign authors first publishing abroad, have no protection in Great Britain unless a convention has been framed, under the international copyright act, between Great Britain and the country in which the publication is made. It may be noted here, that the condition of "first publication" which obtains in the statutes of nearly all countries, has been held to be complied with by a *simultaneous* publication in two or more countries.—Under this international copyright act, Great Britain has entered into copyright conventions with the following countries: with Saxony, in 1846; France, in 1851; Prussia, in 1855; states of Germany comprised in the German empire: Anhalt, in 1853; Brunswick, in 1849; Hamburg, in 1853; Hanover, in 1847; Oldenburg, in 1847; Hesse-Darmstadt, in 1862; Thuringian Union, in 1847. (It is not clear what effect the absorption of these states into the empire may have had upon their several copyright treaties.) With Spain, in 1857 (temporarily renewed in 1880); Belgium, in 1855; and Sardinia, in 1862 (confirmed in 1867 by the kingdom of Italy).—The conventions with the several German states contain essentially identical provisions, which are as follows: "The author of any book to whom the laws of either state (English or German) give copyright, shall be entitled to exercise that right in the other of such states, for the same term to which an author of a similar work would be entitled if it were first published in such other state. The authors of each state shall enjoy in the other the same protection against piracy and unauthorized republication, and shall have the same remedies before courts of justice, as the law affords to the domestic authors. Translators are protected against a piracy of their translation, but acquire no exclusive right to translate a work except in the following case: The author who notifies on the title page of his book his intention of reserving the right of translation, will, during five years from the first publication of the book, be entitled to protection, in the treaty state, from the publication of any translation not authorized by him. In order, however, to secure this protection, the author must, within three months of the first publication of his book, register the title and deposit a copy in the proper office in the treaty state; part of the authorized translation must appear within a year, and the whole of it within three years of the deposit and registration of the original; and the translation must itself be duly registered and deposited. When a work is issued in parts, each part shall be treated as a separate book; but notice of the reservation of the right of translation need be printed only on the first page. The importation into either of the two states of unauthorized copies of works protected by the convention, is forbidden. A certified copy of the entry in the registry of either state shall *prima facie* confer an exclusive right of republication within such state.—The provisions of the existing conventions between England and France, Spain, Belgium and Italy, are essentially identical with those of the German treaty. The continental book, on the title page of which has been duly printed the announcement of the reservation of the right of translation, must be duly registered at stationers' hall, London. The English work must be registered for France at the *bureau de la librairie* of the ministry of the interior, in Paris, and for Spain and Belgium at the corresponding offices in Madrid and Brussels.—The provisions of the treaty between Spain and France, which is based upon the Spanish copyright act of 1878, have, in the main, been followed in the conventions between Spain and Italy, Spain and Portugal, France and Italy, etc. They are as follows: 1. Complete reciprocity between the contracting parties; 2. Treatment of each nation by the other as the most favored nation; 3. Any author or his representative who has legally secured copyright in the one country, to enjoy it forthwith in the other, without further formalities; 4. The prohibition in each country of the printing, selling, importation or exportation of works in the language of the other country, without the consent of the owners of the copyright therein.—The copyright treaty between France and Germany, as framed in 1883, is a step in advance in many ways. By article ten, authors of the two countries are spared all formalities of registration, and the appearance of the writer's name on the title page is to be considered sufficient proof of his rights, unless the contrary is proved. In the case of anonymous or pseudonymous works the publisher will be regarded as the author's representative. The knotty point of the right of translation has been solved by a compromise. The necessity to print a reserve of the right of translation on the book is abolished, as is the registration of translations. The author is to retain his right of translation for ten years, instead of the five hitherto allowed. When a work is issued in parts, the ten years are to be counted from the issue of the last part. Books and acting plays are put on the same footing; and the treaty will apply to works already published.—An international literary association was organized some years ago, with Victor Hugo as its first president, and has been of service in calling attention to defects in existing enactments and conventions for

the protection of property in literature. It has recently called special attention to the exceptional position occupied by the United States toward the literature of other countries. — Between no two countries has the exchange of literary productions been so considerable or so important as between Great Britain and the United States. The interests of authors, of readers, of publishers, of national literature and of national morality, have alike demanded that the exchange should be placed under international regulation, and that this extensive use by the public of each country of the literature of the other should be conditioned upon an adequate acknowledgment of the rights of the producers of such literature. — It is a disgrace that the two great English-speaking people, claiming to stand among the most enlightened of the community of nations, should be practically the only members of such community which have failed to arrive at an agreement in this all-important international issue; and it is mortifying for an American to be obliged to admit that the responsibility for such failure must, in the main, rest with the United States. — The reproduction of British literature in this country has, during the past century, been much more considerable than that of American literature in Great Britain, and the direct loss to the English authors, through the want of an assured and legalized remuneration from the American editions of their works, has therefore been greater than the corresponding direct loss to American authors. For this and for other reasons, the suggestions and propositions for an international arrangement have been more frequent and more pressing on the part of England. And although it is certainly true, that from an early date the rightfulness and desirability of an international copyright have been maintained in this country, not only by authors, but by leading publishers and many others who have given thought and labor to the matter, it is nevertheless the case that the views of these advocates of a measure have not as yet been successful in securing the legislation required to change the national policy. This policy still persistently refuses to recognize the rights of any alien writers, and, through such refusal, continues to inflict a grievous and indefensible wrong, not only upon such alien writers, but also upon the authors and the literature of our own country. — The history of the efforts made in this country to secure international copyright is not a long one. The attempts have been few, and have been lacking in organization and in unanimity of opinion, and they have for the most part been made with but little apparent expectation of any immediate success. Those interested seem to have nearly always felt that popular opinion was, on the whole, against them, and that progress could be hoped for only through the slow process of building up by education and discussion a more enlightened public understanding. — In 1838, after the passing of the first international copyright act in Great Britain, Lord Palmerston invited the American government to co-operate in establishing a copyright convention between the two countries. In the year previous, Henry Clay, as chairman of the joint library committee, had reported to the senate very strongly in favor of such a convention, taking the ground that the author's right of property in his work is similar to that of the inventor in his patent. This is a logical position for a protectionist, interested in the rights of labor, to have taken, and the advocates of the so-called protective system, who call themselves the followers of Henry Clay, but who are to-day opposed to any full recognition of authors' rights, would do well to bear in mind this opinion of their ablest leader. — No action was taken in regard to Mr. Clay's report or Lord Palmerston's proposal. In 1840 Mr. G. P. Putnam issued in pamphlet form "An Argument in behalf of International Copyright," the first publication on this subject in the United States of which we find record. It was prepared by himself and Dr. Francis Lieber. In 1843 Mr. Putnam obtained the signatures of ninety-seven publishers, printers and binders to a petition he had prepared, which was duly presented to congress. It took the broad ground that the absence of an international copyright was "alike injurious to the business of publishing and to the best interests of the people at large." A memorial, originating in Philadelphia, was presented the same year, in opposition to this petition, setting forth, among other considerations, that an international copyright would prevent the adaptation of English books to American wants. — In the report made by Mr. Baldwin to congress twenty-five years later, he remarks that "the mutilation and reconstruction of American books to suit English wants are common to a shameless extent." — In 1853 the question of a copyright convention with Great Britain was again under discussion, the measure being favored by Mr. Everett, at that time secretary of state. A treaty was negotiated by him, in conjunction with Mr. John F. Crampton, minister in London, which provided simply that all authors, artists, composers, etc., who were entitled to copyright in one country, should be entitled to it in the other on the same terms and for the same length of time. The treaty was reported favorably from the convention on foreign relations, but was laid upon the table in the committee of the whole. While this measure was under discussion, five of the leading publishing houses in New York addressed a letter to Mr. Everett, in which, while favoring a convention, they advised: 1st, that the foreign author must be required to register the title of his work in the United States before its publication abroad; 2d, that the work, to secure protection, must be issued in the United States within thirty days of its publication abroad; and 3d, that the reprint must be wholly manufactured in the United States. — In 1853 Henry C. Carey published his "Letters on international copyright," in which he took the ground that the facts and ideas in a literary production are the common property of society, and

that property in copyright is indefensible. — In 1858 a bill was introduced into the house of representatives by Mr. Morris, of Pennsylvania, providing for international copyright on the basis of an entire remanufacture of the foreign work, and its reissue by an American publisher within thirty days of its publication abroad. This bill does not appear to have received any consideration. — In March, 1868, a circular letter, headed "Justice to Authors and Artists," was issued by a committee composed of George P. Putnam, S. Irenæus Prime, Henry Ivison, James Parton and Egbert Hazard, calling together a meeting for the consideration of the subject of international copyright. The meeting was held on the 9th of April, Mr. Bryant presiding, and a society was organized under the title of the "Copyright Association for the Protection and Advancement of Literature and Art," of which Mr. Bryant was made president, and E. C. Stedman secretary. The primary object of the association was stated to be "to promote the enactment of a just and suitable international copyright law for the benefit of authors and artists in all parts of the world." A memorial had been prepared by the above-mentioned committee to be presented to congress, which requested congress to give its early attention to the passage of a bill, "to secure in all parts of the world the right of authors," but which made no recommendations as to the details of any measure. Of the 153 signatures attached to this memorial, 101 were those of authors and 19 of publishers. — In the fall of 1868 Mr. J. D. Baldwin, member of the house from Massachusetts, reported a bill, the provisions of which had in the main received the approval of the copyright association, which provided that a foreign work could secure a copyright in this country, provided it was wholly manufactured here and should be issued for sale by a publisher who was an American citizen. The bill was recommitted to the joint committee on the library, and no action was taken upon it. Mr. Baldwin was of opinion that an important cause for the shelving of the measure without debate was the impeachment of President Johnson, which was at that time absorbing the attention of congress and the country. No general expression of opinion was, therefore, elicited upon the question from either congress or the public, and even up to this date (June, 1883), the question has never reached such a stage as to enable an expression of public opinion to be fairly arrived at. In 1871 Mr. Cox, of New York, introduced a bill which was practically identical with Mr. Baldwin's measure, and which was also recommitted to the library committee. — In 1870 a copyright convention was proposed by Lord Clarendon, which called forth some discussion, but concerning which no action was taken on the part of the American government until 1872. — In 1872 the new library committee called upon the authors, publishers and others interested to assist in framing a bill. At a meeting of the publishers held in New York, a majority of the firms present were in favor of the provision of Mr. Cox's bill. The report was, however, dissented from by a large minority, on the ground that the bill was drawn in the interests of the publishers rather than that of the public; that the prohibition of the use of foreign stereotypes and electrotypes of illustrations was an economic absurdity, and that an English publishing house could in any case, through an American partner, retain control of the American market. During the same week a bill was drafted by C. A. Bristed, representing more particularly the views of the authors in the copyright association, which provided simply that all rights secured to citizens of the United States by existing copyright laws be hereby secured to the citizens and subjects of every country the government of which secures reciprocal rights to the citizens of the United States. A few weeks later, at a meeting of publishers and others held in Philadelphia, resolutions were adopted (which will be referred to later) opposing any measure of international copyright. — These four reports were submitted to the library committee, together with one or two individual suggestions, of which the most noteworthy were those of Harper & Bros., and of Mr. J. P. Morton, a bookseller of Louisville. Messrs. Harper, in a letter presented by their counsel, took the broad ground that "any measure of international copyright was objectionable because it would add to the price of books, and thus interfere with the education of the people." It is to be remarked, in regard to this consideration, that it is equally forcible against any copyright whatever. As Thomas Hood says: "Cheap *bread* is as desirable and necessary as cheap books, but one does not on that ground appropriate the farmer's wheat stack." Mr. Morton was in favor of an arrangement that should give to any dealer the privilege of reprinting a foreign work provided he would contract to pay to the author or his representative 10 per cent. of the wholesale price. This suggestion was afterward incorporated in what was known as the Sherman bill. In view of the wide diversity of the plans and suggestions presented to this committee, there was certainly some ground for the statement made in his report by the chairman, senator Lot M. Morrill, that "there was no unanimity of opinion among those interested in the measure." He maintained further, in acceptance of the positions taken by the Philadelphians, "that an international copyright was not called for by reasons of general equity or of constitutional law; that the adoption of any plan which had been proposed would be of very doubtful advantage to American authors, and would not only be an unquestionable and permanent injury to the interests engaged in the manufacture of books, but a hindrance to the diffusion of knowledge among the people, and to the cause of American education." — The commission appointed by the British government in 1876 to make inquiry in regard to the laws and regulations relating to home, colonial and international copyright, made reference

in the following terms to the present relations of British authors with this country: "It has been suggested to us that this country would be justified in taking steps of a retaliating character with a view of enforcing, incidentally, that protection from the United States which we accord to them. This might be done by withdrawing from the Americans the privilege of copyright on first publication in this country. We have, however, come to the conclusion, that, on the highest public grounds of policy and expediency, it is advisable that our laws should be based on correct principles, without respect to the opinions or the policy of other nations. We admit the propriety of protecting copyright, and it appears to us that the principle of copyright, if admitted, is of universal application. We therefore recommend that this country should pursue the policy of recognizing the rights of authors, irrespective of nationality." Here is a claim for a far-seeing, statesman-like policy, based upon principles of wide equity, and planned for the permanent advantage of literature in England and throughout the world. — It is mortifying for Americans, possessed of any sensitiveness not only for their national honor but for their national reputation for common sense, to see quoted abroad as "the American view of the copyright question" such utterances as the resolutions adopted in the meeting previously referred to, held in Philadelphia in January, 1872. The meeting was presided over by Henry Carey Baird, and may be considered as having represented the opinions of the Pennsylvania protectionists, opinions which, while not, as I believe, shared by the majority of our community, do still succeed in shaping the economic policy of the nation. The resolutions are as follows: 1. That thought, unless expressed, is the property of the thinker; when given to the world, it is, as light, free to all. 2. As property it can only demand the protection of the municipal law of the country to which the thinker is subject. 3. The author of any country, by becoming a citizen of this, and assuming and performing the duties thereof, can have the same protection that an American author has. 4. The trading of privileges to foreign authors for privileges to be granted to Americans is not just, because the interests of others than themselves may be sacrificed thereby. 5. Because the good of the whole people and the safety of republican institutions demand that books shall not be made costly for the multitude by giving the power to foreign authors to fix their price here as well as abroad. — The first proposition is certainly a pretty safe one, as thought, until expressed, can hardly incur any serious risk of being appropriated. — The second proposition, while admitting for a literary creation its claim to be classed as property, denies to it the rights which are held to pertain to all property in which the owner's title is absolute. The property which would, if it still existed, most nearly approximate to such a definition as above given, is that in slaves. Twenty-five years ago the title to an African chattel who was worth in Charleston say $1,000, became valueless if said chattel succeeded in slipping across to Bermuda. It is this ephemeral kind of ownership, limited by accidental political boundaries, that the Philadelphia protectionists are willing to concede to the creation of a man's mind, the productions into which have been absorbed the gray matter of his brain, and possibly the best part of his life. — In regard to the third proposition, it may be said that the protection accorded to American authors is, according to their testimony, most unremunerative and unsatisfactory; and it is difficult to understand why a European author, who has before him, under international conventions, the markets of his native country and of all the civilized world, excepting belated America, should be expected to give up these for the poor half loaf accorded to his American brother. — The fourth proposition strikes one as rather a remarkable protest to come from Philadelphia. Here are a number of American producers (of literature) who ask for a very moderate amount of protection (if that is the proper term to apply to a mere recognition of property rights) for their productions; but the Philadelphians, filled with an unwonted zeal for the welfare of the community at large, say: "No; this won't do; prices would be higher, and *consumers* would suffer." — The last proposition appears to show that this want of practical sympathy with the producers of literature is not due to any lack of interest in the public enlightenment. It may well, however, be doubted whether education as a whole, including the important branch of ethics, is advanced by permitting our citizens to appropriate, without compensation, the labor of others, while through such appropriation they are also assisting to deprive our own authors of a portion of their rightful earnings. But apart from that, the proposition, as stated, proves too much. It is fatal to all copyright and to all patent right. If the good of the community and the safety of republican institutions demand, that, in order to make books cheap, the claim to a compensation for the authors must be denied, why should we continue to pay copyrights to Lowell and Whittier, or to the families of Longfellow and Irving? The so-called owners of these copyrights actually have it in their power, in co-operation with their publishers, to "fix the prices" of their books in this market. This monopoly must indeed be pernicious and dangerous when it arouses Pennsylvania to come to the rescue of oppressed and impoverished consumers against the exactions of greedy producers, and to raise the cry of "free books for free men." — Early in 1880 a draft of an international copyright treaty was prepared, which received the support of nearly all the publishers, including Messrs. Harper, who had found reasons since 1872 to modify their views, and of some authors. The latter, together with the publishing firms which had previously been most active in behalf of a measure, gave their assent to this, not because they

thought its provisions on the whole wise or desirable, but because the middle ground that it took between an author's bill, without any restrictions, and the extreme "manufacturing view" of the Philadelphians, seemed most likely to secure the general support required; and it was believed, that if a copyright could once be inaugurated, it ought not to prove difficult to amend it in the direction of greater liberty and greater simplicity. — The proposed treaty provided that copyright should be accorded reciprocally to English and American works, the foreign editions of which should be issued not later than three months after the first publication: the entries for copyright should, however, by means of title pages, be made simultaneously in the home and the foreign offices of registry, and the several conditions applicable to the national copyright enactments should be duly complied with. It was further provided, in order to secure the protection of the American copyrights, that the foreign work must be printed and bound in this country, the privilege being accorded of importing stereotype plates and electrotypes of the illustrations. It is to be noted, that this last clause indicates an advance in liberality of opinion since the suggestions of 1872 and of earlier dates, in nearly all of which it was insisted that the foreign work must be entirely remanufactured in this country. The authors and publishers who gave their signatures, under protest, to the petition in behalf of this treaty, objected principally to the brief term allowed for the preparation and issue of the reprinted editions. Many of the authors believed that there should be no limit of time, while some of the leading publishing houses insisted that the limit ought to be twelve months, and should in no case exceed six months. Attention was especially called to the fact that such a limitation as three months, while a disadvantage to all authors whose reputations were not sufficiently assured to enable them to make advance agreements for their works, would be especially detrimental to American writers, whose books were rarely undertaken by English or continental reprinters until they had secured a satisfactory home reputation. Chas. Scribner, Henry Holt & Co. and Roberts Bros. united with G. P. Putnam's Sons in a protest against what seemed to them the unwise and illiberal restrictions of the proposed measure. These firms did not, however, think best to withhold their signatures from the petition in behalf of the treaty, being of opinion, that even if it might not prove practicable to amend this before it was put into effect, amendments could at a later date be introduced, and that in any case, even a very faulty treaty would be an advance over the present unsatisfactory and iniquitous state of things. — In July, 1880, the American members of the international copyright committee, which had been appointed by the association for the reform of the law of nations, addressed to Mr. Evarts, secretary of state, a memorial in behalf of a treaty practically identical with the measure above specified, with the exception of specifying no limit of time for the issue of the reprint. — In September, 1880, Mr. Lowell, at that time minister in London, submitted to Earl Granville the draft of a treaty based upon the suggestions of American publishers. Lord Granville advised Mr. Lowell, in March, 1881, that the British government would be interested in completing such treaty, but that an extension of the term for republication from three months to six would be considered essential, while a term of twelve months was thought to be much more equitable. — In March, 1881, the international literary association adopted the report of a committee appointed to examine the provisions of the proposed treaty between the United States and England. In this report the two countries were congratulated at the prospect of an agreement so important to the authors of each, and the United States was especially congratulated upon the first steps being taken to remove from the nation the opprobrium of being the only people from whom authors could not secure just treatment. The provisions of the treaty calling for remanufacture, and the brief term allowed for the preparation of the reprint, were, however, sharply criticised. In the spring of 1881, Sir Edward Thornton, the British minister in Washington, received instructions from London to proceed to the consideration of the treaty, provided the term for reprint could be extended. President Garfield had taken a strong interest in the matter, an interest which Mr. Blaine was understood to share, and it was expected that the treaty would be submitted to the senate in the fall of 1881. The death of Garfield and the change in the state department appear to have checked the progress of the business, and there has since, to the date of this writing (June, 1888), been no evidence of any interest in it on the part of the present administration. — It appears as if further consideration for the treaty can be secured only on the strength of a popular demand, based on a correct understanding of the rights and just requirements of authors, American and foreign, and on an intelligent appreciation of the unworthy position toward the question at present occupied by the United States, which alone among civilized nations has failed to give full recognition to literature as property. — This brief historical sketch of the various national and international enactments relating to copyrights, indicates also the lines along which were developed the ideas relating to authors' rights. The conception of property in literary ideas is of necessity closely bound up with the conception of property in material things. In tracing through successive centuries the history of this last, we find a continued development in its range and scope corresponding to the development in civilization itself, of which so large a factor is the recognition of human rights and reciprocal human duties. — It would be beyond the scope of this paper to go into the history of the property idea. It is sufficient to point out, that what a man

owned appears in the first place to have been that which he had "occupied," and could defend with his own strong arm. Later, it became what his tribe could defend for him. With the organization of tribes into nations, that which a man had occupied, shaped, or created, was recognized as his throughout the territory of his nation. — The idea of protection by national law was widened into an imperial conception by the Roman control of the Roman world. With the shattering of the empire, the former local views of property rights (or, at least, of property possibilities) again obtained, and were only gradually widened and extended by the growth, through commerce, of international relations, a growth much retarded by feudal claims and feudal strifes. The robber-barons of the Rhine, by their crushing extortions from traders, did what was in their power to stifle commerce, and unwittingly laid the foundations of the so-called protective system; and later, the little trading communities, still hampered by the baronial standard, built up at their gates barriers against the admission of various products from the outer world, the free purchase of which by their own citizens would, as they imagined, in some manner work to their impoverishment. Barons and traders were alike fighting against the international idea of property, under which that which a man has created, or legitimately occupied, is his own, and he is free to exchange it, that is, entitled to be protected in the free exchange of it, throughout the civilized world, for any other commodities or products. A man's ownership of a thing can not be called complete if it is to be hampered with restrictions as to the place where, or the objects for which, he can exchange it. — To that extent the idea of international copyright is bound up with the idea of free trade. They both claim a higher and wider recognition for the rights of property, taking the position, that what a man has created by his own labor is his own, to do what he will with, subject only to his proportionate contribution to the cost of carrying on the organization of the community under the protection of which his labor has been accomplished, and to the single limitation that the results of his labor shall not be used to the detriment of his fellow-men. The opponents of free trade would limit the right of the producer to exchange his products, saying, as to certain commodities, that he shall not be permitted to receive them at all, and, as to others, that he must give of his own product, in addition to the open market equivalent of the article desired, an additional quantity as a bonus to some of his favored fellow-citizens. The opponents of international copyright assert that the producers of literary works shall be at liberty to sell them only within certain political boundaries. The necessary deduction from such a position is, that the extent of an author's remuneration is made to depend, not upon the number of readers whom he had benefited, but upon the extent of the political boundaries of the country in which he happened to be a resident. — If the recognition of the fact that aliens and citizens of foreign states (the "barbarians" of the Greeks and Romans) possessed rights deserving of respect, had depended solely upon the development of international ethics and humanitarian principles, its growth would have been still slower than has been the case. That growth has, however, been powerfully furthered by utilitarian teachings. When men came to understand that their own welfare was not hampered, but furthered, by the prosperity of their neighbors, reciprocity took the place of reprisals, and commercial exchanges succeeded Chinese walls.—The same result, in Europe at least, followed the understanding of the fact, that the development of national literature, and the adequate compensation of national authors, is largely dependent upon the proper recognition of the property rights of foreign authors: this understanding, added to the widening conceptions of human rights, irrespective of boundaries, and the increasing assent to the claim that the producer is entitled to compensation proportioned to the extent of the service rendered by his production, and to the number of his fellow-men benefited by this, have secured international copyright arrangements on the part of all countries where literature exists, excepting only the great republic, which is founded on the "rights of men." — The question of the proper duration of literary property has called forth a long series of discussions and arguments, the more important of which are referred to in Mr. Macleod's paper in this work. Authors have almost from the beginning taken the position that literary property is the highest kind of property in existence; that no right or title to a thing can be so perfect as that which is created by a man's own labor and invention; that the exclusive right of a man to his literary productions and to the use of them for his own profit is as entire and perfect as the faculties employed and labor bestowed are entirely and perfectly his own. "If this claim be accepted," says Noah Webster, "it is difficult to understand on what logical principle a legislature or court can determine that an author enjoys only a *temporary property* in his own productions. If a man's right to his own *property in writing* is as perfect as to the productions of his farm or his shop, how can the former be abridged or limited, while the latter is held without limitations? Why do the productions of manual labor reach higher in the scale of rights of property than the productions of the intellect?" — It is the case, however, that, notwithstanding the logic of this position, no nation to-day accords copyright for more than a limited term, of which the longest is eighty years. In the only countries in which the experiment of perpetual copyright has been attempted, Holland, Belgium, Sweden and Denmark, a return was speedily made to protection for a term of years. There appears to have been always apprehension on the part of the public and the governments lest an indefinite copyright might result in the accu-

mulation in the hands of traders of "literary monopolies," under which extortionate prices would be demanded from successive generations for the highest and most necessary productions of national literature. It is hardly practicable to estimate how well founded such apprehensions may be, as no opportunities have as yet existed for the development of such monopolies. It seems probable that accumulations of literary property would, as in the case of other property, be so far regulated by the laws of supply and demand as not to become detrimental to the interests of the community. If a popular demand existed or could be created for an article, it would doubtless be produced and supplied at the lowest price that would secure the widest popular sale. If the article was suited but for a limited demand, the price, to remunerate the producer and owner, would be proportionately higher. A further consideration obtains in connection with literary property which has also influenced the framing of copyright enactments. The possibility exists that the descendants of an author who have become by inheritance the owners of his copyrights, might, for one cause or another, desire to withdraw the works from circulation. A case could even occur in which parties desiring to suppress works might possess themselves of the copyrights for this purpose. The heirs of Calvin, if converted to Romanism, would very naturally have desired to suppress the circulation of the "Institutes"; and the history of literature affords, of course, hundreds of instances in which there would have been sufficient motive for the suppressing, by any means which the nature of copyrights might render possible, works that had been once given to the world. It will, doubtless, be admitted, that, in this class of cases, the development of literature and freedom of thought would alike demand the exercise of the authority of the government on behalf of the community, to insure the continued existence of works in which the community possessed any continued interest. — The efforts in this country in behalf of international copyright have been always more or less hampered by the question being confused with that of a protective tariff. The strongest opposition to a copyright measure has uniformly come from protectionists. — Richard Grant White said, in 1868: "The refusal of copyright in the United States to British authors is, in fact, though not always so avowed, a part of the American protective system. With free trade, we shall have a just international copyright." — It would be difficult, however, for protectionists to show logical grounds for their position. American authors are manufacturers who are simply asking, first, that they shall not be undersold in their home market by goods imported from abroad on which no (ownership) duty has been paid, which have been simply "appropriated"; secondly, that the government may facilitate their efforts to secure compensation for such of their own goods as are enjoyed by foreigners. These are claims with which a protectionist who is interested in developing American industry ought certainly to be in sympathy. The contingency that troubles him, however, is the possibility, that, if the English author is given the right to sell his books in this country, the copies sold may be, to a greater or less extent, manufactured in England, and the business of making these copies may be lost to American printers, binders and paper men. He is much more concerned for the protection of the makers of the *material casing* of the book than for that of the author who created its essential substance. — It is evidently to the advantage of the consumer, upon whose interest the previously-referred-to Philadelphia resolutions lay so much stress, that the labor of preparing the editions of his books be economized as much as possible. The principal portion of the cost of a first edition of a book is the setting of the type, together with, if the work is illustrated, the designing and engraving of the illustrations. If this first cost of stereotyping and engraving can be divided among several editions, say one for Great Britain, one for the United States, and one for Canada and the other colonies, it is evident that the proportion to be charged to each copy printed is less, and that the selling price per copy can be smaller, than would be the case if this first cost had got to be repeated in full for each market. It is, then, to the advantage of the consumer, that, whatever copyright arrangement be made, nothing shall stand in the way of foreign stereotypes and illustrations being duplicated for use here whenever the foreign edition is in such shape as to render this duplicating an advantage and a saving in cost. — The few protectionists who have expressed themselves in favor of an international copyright measure, and some others who have fears as to our publishing interest being able to hold its own against any open competition, insist upon the condition that foreign works to obtain copyright must be wholly remanufactured and republished in this country. We have shown how such a condition would, in the majority of cases, be contrary to the interests of the American consumer, while the British author is naturally opposed to it because, in increasing materially the outlay to be incurred by the American publisher in the production of his edition, it proportionately diminishes the profits, or prospects of profits, from which is calculated the remuneration that can be paid to the author. — The suggestion, previously referred to, of permitting the foreign book to be reprinted by all dealers who would contract to pay the author a specified royalty, has, at first sight, something specious and plausible about it. It seems to be in harmony with the principles of freedom of trade, in which we are believers. It is, however, directly opposed to those principles. First, it impairs the freedom of contract, preventing the producer from making such arrangements for supplying the public as seem best to him; and secondly, it undertakes, by paternal legislation, to fix the remuneration that shall be given to the

producer for his work, and to limit the prices at which this work shall be furnished to the consumer. There is no more equity in the government's undertaking this limitation of the producer and protection of the consumer in the case of *books*, than there would be in that of bread or beef. Further, such an arrangement would be of benefit to neither the author, the public, nor the publishers, and would, we believe, make of international copyright, and of any copyright, a confusing and futile absurdity. — A British author could hardly obtain much satisfaction from an arrangement, which, while preventing him from placing his American business in the hands of a publishing house selected by himself, and of whose responsibility he could assure himself, would throw open the use of his property to any dealers who might scramble for it. He could exercise no control over the style, the shape, or the accuracy of his American editions; could have no trustworthy information as to the number of copies the various editions contained; and if he were tenacious as to the collection of the royalties to which he was entitled, he would be able in many cases to enforce his claims only through innumerable law suits, and would find the expenses of the collection exceed the receipts. — The benefit to the public would be no more apparent. Any gain in the cheapness of the editions produced would be more than offset by their unsatisfactoriness; they would, in the majority of cases, be untrustworthy as to accuracy or completeness, and be hastily and flimsily manufactured. A great many enterprises, also, desirable in themselves, and that would be of service to the public, no publisher could, under such an arrangement, afford to undertake at all, as, if they proved successful, unscrupulous neighbors would, through rival editions, reap the benefit of his judgment and his advertising. In fact, the business of reprinting would fall largely into the hands of irresponsible parties, from whom no copyright could be collected. The arguments against a measure of this kind are, in short, the arguments in favor of international copyright. A very conclusive statement of the case against the equity or desirability from any point of view of such an arrangement in regard to home copyright, was made before the British commission, in 1877, by Herbert Spencer. — The recommendation had been made, for the sake of securing cheap books for the people, that the law should give to all dealers the privilege of printing an author's books, and should fix a copyright to be paid to the author that should secure him a "fair profit for his work." Mr. Spencer objected: 1st. That this would be a direct interference with the laws of trade, under which the author had the right to make his own bargains. 2d. No legislature was competent to determine what was a "fair rate of profit" for an author. 3d. No average royalty could be determined which could give a fair recompense for the different amounts and kinds of labor given to the production of different classes of books. 4th. If the legislature has the right to fix the profits of the author, it has an equal right to determine that of his associate in the publication, the publisher; and if of the publisher, then also of the printer, binder and paper maker, who all have an interest in the undertaking. Such a right of control would apply with equal force to manufacturers of other articles of importance to the community, and would not be in accordance with the present theories of the proper functions of the government. 5th. If books are to be cheapened by such a measure, it must be at the expense of some portion of the profits now going to the authors and publishers; the assumption is, that book producers and distributers do not understand their business, but require to be instructed by the state how to carry it on, and that the publishing business alone needs to have its returns regulated by law. 6th. The prices of the best books would in many cases, instead of being lessened, be higher than at present, because the publishers would require some insurance against the risk of rival editions, and because they would make their first editions smaller, and the first cost would have to be divided among a less number of copies. Such reductions of prices as would be made would be on the flimsier and more popular literature, and even on this could not be lasting. 7th. For the enterprises of the most lasting importance to the public, requiring considerable investment of time and capital, the publishers require to be assured of returns from the largest market possible, and without such security enterprises of this character could not be undertaken at all. 8th. Open competition of this kind would, in the end, result in crushing out the smaller publishers, and in concentrating the business in the hands of a few houses whose purses had been long enough to carry them through the long and unprofitable contests that would certainly be the first effect of such legislation. — All the considerations adduced by Mr. Spencer have, of course, equal force with reference to open international publishing, while they may also be included among the arguments in behalf of international copyright. — It is due to American publishers to explain that, in the absence of an international copyright, there has grown up among them a custom of making payments to foreign authors, which has become, especially during the last twenty-five years, a matter of very considerable importance. Some of the English authors who testified before the British commission stated that the payments from the United States for their books exceeded their receipts in Great Britain. These payments secure, of course, to the American publisher no title of any kind to the books. In some cases they obtain for him the use of advance sheets, by means of which he is able to get his edition printed a week or two in advance of any unauthorized edition that might be prepared. In many cases, however, payments have been made some time after the publication of the works, and when there was no longer even the slight advantage of "advance sheets" to be gained

from them. — While the authorization of the English author can convey no title or means of defense against the interference of rival editions, the leading publishing houses have, with very inconsiderable exceptions, respected each other's arrangements with foreign authors, and the editions announced as published "by arrangement with the author," and on which payments in lieu of copyright have been duly made, have not been, as a rule, interfered with. This understanding among the publishers goes by the name of "the courtesy of the trade." I think it is safe to say that it is to-day the exception for an English work of any value to be published by any reputable house without a fair, and often a very liberal, recognition being made of the rights (in equity) of the author. In view of the considerable amount of harsh language that has been expended in England upon our American publishing houses, and the opinion prevailing in England that the wrong in reprinting is entirely one-sided, it is in order here to make the claim which can, I believe, be fully substantiated, that, in respect to the recognition of the rights of authors unprotected by law, their record has in fact, during the past twenty-five years, been better than that of their English brethren. English publishers have become fully aroused to the fact that American literary material has value and availability, and each year a larger amount of this material has had the honor of being introduced to the English public. According to the statistics of 1878, 10 per cent. of the works issued in England in that year were American reprints. The acknowledgments, however, of any rights on the part of American authors have been few and far between, and the payments but inconsiderable in amount. The leading English houses would doubtless very much prefer to follow the American practice of paying for their reprinted material, but they have not succeeded in establishing any general understanding similar to our American "courtesy of the trade," and books that have been paid for by one house are, in a large number of cases, promptly reissued in cheaper rival editions by other houses. It is very evident, that, in the face of open and unscrupulous competition, continued or considerable payments to authors are difficult to provide for; and the more credit is due to those firms who have, in the face of this difficulty, kept a good record with their American authors. — One of the not least important results to be looked for from international copyright is a more effective co-operation in their work on the part of the publishers of the two great English-speaking nations. They will find their interest and profit in working together; and the very great extension that may be expected in the custom of a joint investment in the production of books for both markets, will bring a very material saving in the first cost, a saving in the advantage of which authors, publishers and public will alike share. — It seems probable that the "courtesy of the trade," which has made possible the present relations between American publishers and foreign authors, is not going to retain its effectiveness. Within the last few years certain "libraries" and "series" have sprung into existence, which present in cheaply-printed pamphlet form some of the best recent English fiction. The publishers of these series reap the advantage of the literary judgment and foreign connections of the older publishing houses, and, taking possession of material that has been carefully selected and liberally paid for, are able to offer it to the public at prices which are certainly low as compared with those of bound books that have paid copyright, but are doubtless high enough for literature that is so cheaply obtained and so cheaply printed. These enterprises have been carried on by concerns which have not heretofore dealt in standard fiction, and which are not prepared to respect the international arrangements or trade courtesies of the older houses. — To one of the "cheap series" the above remarks do not apply. The "Franklin Square Library" is published by a house which makes a practice of paying for its English literary material, and which lays great stress upon "the courtesy of the trade." It is generally understood that this series was planned, not so much as a publishing investment, as for purposes of self-defense, and that it would in all probability not be continued after the necessity for self-defense had passed by. A good many of its numbers include works for which the usual English payments have been made, and it seems probable, that, in this shape, books so paid for can not secure a remunerative sale. It seems safe to conclude, therefore, that their publication is not, in the literal sense of the term, a *business* investment, and that the undertaking was not planned to be permanent. — A very considerable business in cheap reprints has also sprung up in Canada, from which point are circulated throughout the western states cheap editions of English works, for the "advance sheets" and "American market" of which United States publishers have paid liberal prices. Some enterprising Canadian dealers have also taken advantage of the present confusion between the United States postal and customs regulations to build up a trade by supplying through the mails reprints of *American copyright works*, in editions which, being flimsily printed and free of charge for copyright, can be sold at very moderate prices indeed. — It is very evident, that, in the face of competition of this kind, the payments by American publishers to foreign writers of fiction must be materially diminished. These pamphlet series have, however, done a most important service in pointing out the absurdity of the present condition of literary property, and in emphasizing the need of an international copyright law. In connection with the change in the conditions of book manufacturing before alluded to, they may be credited as having influenced a material modification of opinion on the part of certain publishers who have in years past opposed an international copyright as either inexpedient or unnecessary, but who are now quoted as ready to give

their support to any practicable and equitable measure that may be proposed. — We may, I trust, be able, at no very distant period, to look back upon, as exploded fallacies of an antiquated barbarism, the two beliefs, that the material prosperity of a community can be assured by surrounding it with Chinese walls of restriction to prevent it from purchasing in exchange for its own products its neighbor's goods, and that its moral and mental development can be furthered by the free exercise of the privilege of appropriating its neighbor's books. GEO. HAVEN PUTNAM.

PROPORTIONAL REPRESENTATION. Democracy has as its basis the right of the individual to be represented in the government of his country. This right has been distorted into the alleged right of a majority of men to be so represented, and to deny a like power to all others. Three causes have led to this: first, the fact, that all government rests at last upon superior physical force, and that in every civilized country a majority of its men is a stronger force than all the rest of the community; second, the belief that legislative bodies would find it too difficult to do even the little done now if the minority of voters was fully represented (the common phrase of a "working majority" condenses this idea); and, third, the practical impossibility of representing all minorities, with the illogical deduction of the uselessness of representing any. — The first cause would justify the seizure of a country and the overthrow of its institutions by any one who could persuade one more than half of its adult males to join him. The second is due to the existence in legislatures of a foolish partisan spirit, based on a desire to use public positions as party plunder, and to the non-existence of reasonable rules of procedure. Civil service reform will destroy absurd partisanship. Experience will create a proper procedure. It would be difficult, if not impossible, to represent all minorities. If 1,000,000 voters elect 100 representatives, one voter whose views differ wholly from those of all the rest, can not well be represented. But nearly all minorities can be represented, and should be, unless government of the people by the people is wrong. — A crude form of minority representation often prevails, for a time, when a legislature is composed of two chambers. Whenever there is a liberal ministry in England and the house of lords dares to use its constitutional rights, this is true. The senate of the United States has not infrequently occupied the same position, notably in 1876, and again in 1888. Such a condition of affairs is often a good one in checking hasty legislation and insuring that public opinion, rather than public passion, shall be reflected in the statutes. But it is politically wrong. For it gives the minority more than proportional representation. It gives it a veto on the measures of the majority. Such a power, persistently used, would lead to revolution in any free country. — A few figures may serve to show the injustice of the existing methods of election in the United States and in Great Britain. — In the latter, two men have sat in the same house of commons, one of whom received 18,292 votes, and the other 69; ten successful candidates have polled 159,650 votes, while ten other successful ones polled 1,873, and ten defeated ones, 83,117; ten millions of the English people have elected 302 members, when twelve millions returned 187; of the lucky ten millions, 1,850,000 sent 81 members, and 3,008,000 sent 22; and 952,000 persons have returned 120 members, while 7,500,000 returned 96. — In the United States, about 8,000,000 men voted, in 1882, for candidates for the forty-eighth congress. More than 3,500,000 of them, nearly 44 per cent. of the whole, voted for unsuccessful candidates, and therefore have no representation in the present congress. That is, the American system of majority representation practically disfranchised forty-four out of every hundred men to whom American laws gave the franchise. If we take the votes cast for Grant and Greeley in November, 1872, and divide each by the number of congressmen elected by the party in question, we find that a successful republican candidate required, on an average, 18,076 votes, while a liberal, to insure success, had to get 30,474. That is, majority representation made one republican vote worth one and three-fourths liberal votes. In 1866, when the fortieth congress was elected, one republican vote equaled two and one-fourth democratic votes. In 1872 the administration party received 55.93 per cent. of the popular vote; the opposition, 44.07 per cent. But the respective strengths of the two parties in congress were 68.15 and 31.85 per cent. That is, majority representation added nearly forty-four per cent. to the just congressional power of the majority. In 1880 it took 29,500 votes to elect a republican congressman, and 33,500 to give him a democratic colleague. In 1882 the successful democrat, got, on an average, less than 21,000 votes, while the successful republican had to poll more than 28,000. Of the 8,000,000 persons who voted in 1882, 1,792,000 elected 163 members of Congress, a majority of the whole body. If these 163 vote together on any question (which is merely improbable, not impossible), they can carry it, though they represent less than one-fourth of the voters who took part in the election, and less than one-fifth of the voters in the country. A minority of less than one-fourth would then rule the nation, and perhaps dictate its policy for a term of years. To prevent the possibility of minority rule, minority representation must be granted. — The ideal sought by all systems of proportional representation is this: Every vote cast at the polls for a candidate for membership in a law-making assembly should count in every vote taken in that assembly, whether or not the particular person voted for is elected. Seven methods of reform in representation have been suggested. These are, the proxy, the limited, the cumulative and the double vote, the free list or registered ballot, the Andræ (or Hare) system, and totality representa-

tion. The limited, the cumulative and the Andræ plans have been tried on a large scale. — The proxy vote regards every vote for a legislative candidate as an informal power of attorney, and authorizes him, *if* elected, to cast as many votes as were cast for him. The fatal objection lies in the "if." If a candidate is not elected, his supporters have no representation whatever. This plan merely makes the power of local majorities greater than it is now, and so offers a standing reward for the fraudulent increase of such majorities. — The limited vote applies only to elections in which three or more places are to be filled. Some English boroughs choose members of parliament in this fashion. Every elector can cast as many votes as there are vacancies, less one. If three men are to be chosen, he can vote for two; if four, three. But he can not give more than one vote to one man. This plan fails to give representation to any but a very large minority. Suppose 100,000 electors, and three places to be filled. A minority of 39,997 can elect nobody, for the majority of 60,003 can cast 120,006 votes, which, divided among three candidates, will give each 40,002. In case of an accidental vacancy, under this system, a direct majority vote must decide the succession. — The cumulative vote gives every elector as many votes as there are places to be filled; and allows him to concentrate or scatter them as he will. This plan also recognizes the rights only of large minorities. It is not proportional. Let the number of vacancies equal x. A minority of less than $\frac{1}{x+1}+1$ loses all representation. If there are 100,000 electors and three vacancies, 25,001 electors can secure one member (which is more than their share), but any less number must go unrepresented. Again, a very large minority does not get enough representation. If the 100,000 electors stand 50,001 to 49,999, the minority can get but one member, provided their opponents concentrate on two. The cumulative vote usually involves a great waste. In the first election of the London school board, conducted on this plan, the leading candidate received nearly 50,000 votes, while her colleagues were elected by from 8,000 to 13,000, and 50,000 were wholly lost. This system also makes no provision for the filling of accidental vacancies. Under the last constitution of the state of Illinois, adopted in 1870, the members of the lower house of the state legislature are chosen in this way, three from each district. This has been moderately successful. Parties have been better balanced in the legislature, and some better men have been sent there from the country districts. In the cities and towns, however, the most marked result has been to make king caucus more of a monarch than ever. A premium is put on the bargainings of party managers at the cost of party voters. By limiting the number of candidates on each side, the managers practically run a joint ticket, a proceeding which is rarely conducive to the public welfare. A similar provision in the same constitution in regard to the election of the officers of private corporations seems to have had no results. — The double vote requires two elections. The first tests the relative strength of the several parties, and so determines how many representatives each shall have. If, with a legislature of 100 members, 600,000 persons vote the liberal ticket and 400,000 the conservative, the liberals become entitled to sixty members, and their opponents to forty. At a supplemental election each party selects its representatives. The double vote involves a waste of time, trouble and money, but it solves to a certain extent the problem of filling an accidental vacancy, and is worth more attention than other systems far better known. — The free list, or registered ballot scheme, provides that a certain number of citizens can make nominations by registering a list of names, the number of which shall not exceed the number of places to be filled. At the ensuing election only the lists thus registered can be voted for. The number of votes needed to elect is found by dividing the whole number of votes by the number of vacancies. If there are 100,000 voters, and ten places to be filled, the quota is 10,000. Suppose four tickets to be nominated, which receive respectively 35,000, 30,000, 27,400, and 7,600 votes. As the first has three times the quota, the first three men on it are elected. The second ticket also has three men elected, and the third two. The largest two remainders are those for the fourth and the third ticket, 7,600 and 7,400. The first nominee on the fourth ticket and the third on the third are therefore chosen. There is a waste of votes here. The men elected on the four tickets represent, respectively, 11,666, 10,000, 9,133 and 7,600 voters. Since 7,600 ballots suffice to elect a candidate, 24,000 ballots, nearly one-fourth of the whole, have been wasted. Again, in the event of the death, resignation or expulsion of a legislator, and a consequent special election, the free list can not be used. — The Andræ system of proportional representation is commonly known in Great Britain and America as the Hare system, but Mr. Andræ introduced the practice of it in Denmark two years before Mr. Hare called attention to the theory of it in England. Under this system the quota of votes needed to elect a candidate is found as it is under the free list. Every elector puts as many names as he pleases on his ballot, numbered one, two, etc. As the ballots are taken from the box, each is credited to the name which is first upon it. If the electoral quota has already been cast for this first name, the ballot is credited to the second name upon it, and so on till all the full quotas have been ascertained. The largest fractions of quotas then elect, as under the free list system. This plan is somewhat complex, but not unduly so. It reduces the waste of votes almost to a minimum, except in the case of a special election or of an unusual number of candidates. The gravest objection to it is, that in transferring votes the real wishes of very many electors may be wholly ignored; chance may conquer choice. Suppose 100,000 electors, and two men to be elected; A is everybody's first choice; B and C

each stand second on 50,000 papers. It makes a great difference which 50,000 ballots are counted for A. Chance or cunning, not choice, will elect B or C, as the case may be. Again, suppose B to stand second on 74,500 papers, and C on 25,500. If all the ballots counted for A have B as second choice, B's remaining 24,500 votes are eclipsed by C's 25,500, and C is elected, although B's real majority over him is 49,000. — The formula of totality representation is this: after every general election of a law-making assembly, let the aggregate number of votes cast by each party be ascertained; divide this by the number of representatives elected by the party in question; the quotient will be the number of votes which each of those representatives is entitled to cast. — Suppose that of 8,000,000 voters, who choose a congress of 300 members, 4,500,000 belong to one party and 3,500,000 to the other. It is quite possible that the congress thus chosen would stand 200 to 100. This estimate gives the majority less proportional weight than it has had in several congressional elections. While the parties in the nation were as nine to seven, they would be in the house as two to one. The legal majority in the latter would be 100; the equitable, 38. But apply the plan here proposed. Each of the majority has (4,500,000 ÷ 200 =) 22,500 votes; each of the minority has (3,500,000 ÷ 100 =) 35,000 votes. The end sought is attained. The strength of each party in the house is a precise index to its strength in the nation. There is not an unrepresented man in the country. — Under totality representation, an independent legislator would cast the number of votes he received. The ballots thrown for the man he defeated would be credited to that man's party. If an independent candidate were defeated, his supporters' votes could be credited to other independents or go to swell the sum total of one of the two great parties. His constituents could express their wishes in this respect on their ballots. — Fraud would be diminished by diminishing its usefulness. If we take our hypothetical figures of 8,000,000 voters, divided into two parties of 4,500,000 and 3,500,000, represented by 200 and 100 members of congress respectively, 50,000 fraudulent votes in favor of the majority would doubtless ensure the return of ten more members. The party in power would then have 210 to the opposition's 90. But under this system the administration would have a voting strength of 4.550,000 to its opponents' 3,500,000. In the first case, the fraud would increase the party majority by 20 per cent.; in the second case, by 5 per cent. — At first the process of recording the votes of the legislature might be a trifle slow, but after two or three days' experience under the apportionment which would follow each general election, a clerk could reckon the result of a doubtful vote about as quickly as if it were taken by yeas and nays. — The totality representation system would make every vote cast at the polls at an election of a law-making assembly count in every vote taken in that assembly, whether or not the particular person voted for was elected. It would bring many habitual absentees to the polls, by giving every vote its proper weight, and would thus maintain a healthy public interest in politics. Its introduction would involve no sweeping changes, either in electoral districts or in modes of election. The ignorant citizen could vote as before, without being perplexed by new methods. All the necessary calculations would be made for him after the election. The system would stop "gerrymandering" by making it useless. A vote, wherever cast, would count. Finally, totality representation would allow an accidental vacancy to be filled at once, without depriving the minority in the particular district of its due representation. The new figures from this district would be substituted for the old ones in the aggregate vote of each party; each aggregate would be divided as before; and the quotient would be the number of votes which each representative of the party in question would be entitled to cast. — See *Memorandum on the History, Working and Results of Cumulative Voting*, by Thomas Hare, 1857; *The Election of Representatives, Parliamentary and Municipal*, by Thomas Hare; *Considerations on Representative Government*, by John Stuart Mill, 1862; *On Representative Government*, by Simon Sterne, 1871; *Essays and Lectures, Political and Social*, by Henry Fawcett and Millicent G. Fawcett, 1872; *MacMillan's Magazine*, November, 1872; *Minority or Proportional Representation*, by Salem Dutcher, 1872; *Proportional Representation*, by Charles R. Buckalew, 1872; *The New Englander*, July, 1874; *The Science of Politics*, by Sheldon Amos, 1883. ALFRED BISHOP MASON.

PROTECTION. RESTRICTIONS UPON FREEDOM OF EXCHANGE. I. *Fiscal Duties, or Duties for Revenue only.* Notwithstanding the evident advantages of freedom of exchange, it has been restricted by two kinds of measures, fiscal and prohibitory ones. We shall first consider the former. — It is easy to conceive how exchanges came to be restricted with a view to the wants of the treasury. As soon as avenues of communication began to be opened and exchanges to multiply, governments began to perceive that it was both possible and profitable to tax articles which found a market through the new ways. At first the tax was a simple toll for meeting the expense of maintaining the roads worn by the transportation of merchandise: soon it served also to reimburse the treasury for other public services, among which may be counted the security afforded those making the exchanges. But, in imposing a tax of this kind, the end in view was not the restriction of trade, it was simply to procure as much money as possible for the treasury, and this fiscal end could not be attained without trade being hampered thereby. — Unfortunately, a good financial course was rarely adopted. In the middle ages, for example, every country was divided up into a multitude of little seignories or chatellanies, whose proprietors arrogated to themselves the right of

taxing the exchanges within their territorial limits. These artificial obstacles, being interposed in addition to the natural obstacle of distance, resulted in such an interception of the exchanges as prevented the extension of trade. Consequently, the industries, being confined to the chatellany or the commune for a market, long remained in an undeveloped state. As the means of production could not be developed, wealth and civilization made no progress, save on the seacoasts and along the great rivers, where fewer obstacles impeded free circulation. — Later, the feudal system having disappeared, the number of tolls was diminished, and there was at the same time augmented security of communication. The sphere of the exchanges at once became enlarged, a better division of labor became possible, and public wealth developed as if by enchantment. The establishment of the uniform tariff of Colbert in France, and the abolition of internal customs duties by the constituent assembly, contributed greatly to these results. — In our day the octroi and excise duties, river tolls, tonnage duties, etc., in Europe, which directly affect the circulation of supplies, have a purely fiscal character. Until better means have been found for providing for the public expenses, or until the offices for which the tax furnishes the salaries are by degrees relegated to the domain of private industry, it will be difficult to find a substitute for these taxes. It is only to be regretted that they have become so numerous and are so exorbitant; for, by their excess, they hinder the growth of trade, retard progress in the division of labor, and consequently prevent, in no small degree, an increase of revenue to the treasury.—Notwithstanding the hindrance to the development of trade, resulting from the establishment of fiscal taxes, the principle of these taxes can not be assailed. If they restrict the sphere of the exchanges, it is inevitable; but their object is not to restrict. — II. *Protective or Prohibitory Duties. Their character and effects.* Protective or prohibitory duties have an entirely different character. These are established with direct view to limiting the sphere of exchange. They restrict in order to restrict. The governments which have persistently imposed them, apparently with the idea that the organization and development of the exchanges could not be safely left to the rule of Providence, have interposed "to regulate the matter." We shall see whether these organizers of the exchanges were well inspired. But let us first ascertain what are the defenses of the protective system. — Considered as a whole, the protective or prohibitory system includes two kinds of impediments, viz., prohibitions or protective duties on the importation of merchandise, and prohibitions on its export. It includes also premiums awarded to the exporters or importers of certain classes of supplies. Finally, it has served as a basis for the colonial system, as well as for tariff agreements or commercial treaties. — Prohibitions or protective duties imposed on imported merchandise, have for their object to favor the development of certain branches of national production at the expense of the same industries in foreign countries. — Prohibitions against exporting are sometimes imposed in order to keep certain supplies, essential to the industries or to national consumption, at a low price, or to restrict foreign industries or foreign consumption. — Premiums on export are pecuniary encouragement awarded to certain branches of national industry at the expense of other branches. Sometimes their object is to hasten the development of an industry deemed necessary, or to counteract the protective duties imposed by foreign countries. Sometimes, again, they are imposed simply as a remedy for a sudden panic. The *drawbacks* are premiums to reimburse the exporter of a manufactured product, for the tax paid on the raw materials imported. Premiums on importation are ordinarily of a transient character: in past times they were sometimes employed in cases of dearth, for example, to encourage the importation of food supplies. — Customs agreements and commercial treaties are partial and temporary breaches of prohibitory tariffs, in favor of certain nations with which it is desired to maintain especially friendly relations. — Prohibitions or protective taxes on importation constitute the principal weapon of the system. To obtain a clear idea of the manner in which they operate, let us take an example. Suppose the nation A annually furnishes the nation B a thousand tons of spun cotton. Why does B buy this cotton of A instead of spinning it itself? Because the manufactories of A are so situated and organized as to produce spun cotton in better quality and at lower price than manufactories in B could possibly do: because the nation A is more advantageously situated in respect to the conditions for the manufacture of cotton. If it were not so, cotton would be manufactured in B as well as in A. But here a statesman of B persuades himself that it would be useful to "ravish" this industry from the foreigner, and that the importation of cotton thread should be interdicted. Suppose this statesman can prevent the people of B from receiving the thousand tons of cotton which had been annually furnished them by A, as is possible if the frontier is easy to guard, and is provided with a sufficient number of proved and well-paid officers. Suppose he also promotes the erection of a certain number of mills in B for spinning cotton. Can he place these spinning mills under conditions of production as favorable as those of the mills of A? Can he cause cotton to be spun as well and as economically as in A? No; for he is not master of the natural conditions of cotton production: these he can not change. All he can do, is to prevent cotton which has been spun at low cost from entering B. There his power stops. The nation B now ceases to be "invaded" (this is the consecrated term of the prohibitionist's vocabulary) by the thousand tons of spun cotton from A. It makes its own cotton; but this cotton costs more than that of A, and is of a poorer quality; and less of it is consequently consumed. Before pro-

hibition, the consumption of B took a thousand tons of spun cotton; after prohibition, it no longer takes more than six or seven tenths of this quantity; whence results a diminution, by this difference, in the total production of cotton. Suppose, now, that the nation A imitates the course of B, and prohibits, for example, the importation of spun flax, which it formerly received in exchange for its supplies of cotton. Flax will begin to be spun in A; but as it will be spun at greater cost than in B, and not so well, the total production of linen will in turn be diminished. Less will be produced by both nations, though with as great or greater expenditure of effort than before; and one country will not be as well provided with linen, and the other with cotton. — At the time when this mischievous policy became the law in international relations, and every nation was trying to "ravish" manufactures from foreigners, a very spirited pamphlet was published in England, under the title "Monkey Economists." A vignette representing a barrack of monkeys served as a frontispiece. Half a dozen monkeys, placed in separate compartments, were coming to receive their regular allowance; but, instead of each one peaceably consuming the portion allotted him by his keeper, these animals were each maliciously attempting to "ravish" the portions of their neighbors, without perceiving that the latter were engaged in the same operation. Thus every one exerted himself to the utmost to obtain by stealth that which could have been easily found directly before him; and the common fund of subsistence was diminished by all that was wasted or lost in the scramble. — Exactly such has been the conduct of governments which have adopted the errors of the prohibitory system. They have neglected the wealth which Providence bestowed upon them, to purloin that which had been allotted to their neighbors. They have, by their mischievous jealousy, rendered production more difficult and less abundant: they have retarded the growth of prosperity among the people. A statesman who imposes a prohibitory or protective duty, acts precisely the reverse of an inventor who discovers a new process for rendering production more economical and more perfect: he invents a way to render production more expensive and not so good: he invents a process which compels people to forsake fertile lands and productive mines, to cultivate bad lands and work poor mines. He is the reverse of an inventor: he is the agent of barbarism, as an inventor is the agent of civilization. — This becomes still more evident when we examine the influence of the prohibitory régime on progress in the industries. Division of labor is one chief element of a low-priced market; the more labor is divided, the more the expense of production is reduced, and the more, consequently, prices are reduced. The demonstrations of Adam Smith on this point have become classical. But on what conditions can labor become more and more subdivided? On condition that it can find a continually widening market. "As it is the power of exchanging," said Adam Smith ("Wealth of Nations," book i., chap. iii.), "that gives occasion to the division of labor, so the extent of this division must always be limited by the extent of that power, or, in other words, by the extent of the market. * * It is impossible that there should be such a trade as that of a nailer in the remote and inland parts of the highlands of Scotland. Such a workman at the rate of a thousand nails a day, and three hundred working days in a year, will make three hundred thousand nails in a year. But in such a situation, it would be impossible to dispose of one thousand, that is, of one day's work, in a year." Division of labor, then, can be extended only as the market is increased. Hence everything that narrows the market must inevitably retard division of labor and industrial progress. Now, by systematically taking away from the most favored industries a part of their market, the prohibitory system compels manufacturers to reduce their scale of production, and to divide labor less. In cotton manufacture, for example, it would oblige the spinners to spin coarse and fine numbers at the same time, instead of confining themselves to a few numbers or to one alone. Thus production would become more costly and less perfect. It is true, however, that if prohibition contracts the business of the established firms, it gives rise to new ones. But what is the situation of these? Placed, relatively to their rivals, in unfavorable conditions of production, they can not create a sale for their products outside of their own country. Now, this market is limited. An effort is made, it is true, to remedy its insufficiency by establishing premiums on exports, which will permit the protected industries to compete in the markets of their rivals. But, this proceeding being extremely costly and manifestly unjust, it can be employed only to a limited degree. On the one side, then, the industry situated under favorable natural conditions is injured; and on the other, establishments which prohibition has made to spring up artificially, find themselves so situated that they can not extend their market without imposing the most onerous sacrifices on the nation. Thus the artificial breaking up of the markets, occasioned by the prohibitory régime, has everywhere retarded division of labor, diminished progress in the industries, and at the same time perpetuated high prices. — This is not all. High prices are not the only evil which the prohibitory régime has perpetuated, if not engendered. To this evil may be added another not less disastrous, viz., instability. The industries which prohibition makes spring up under unfavorable economic conditions, are continually exposed to fatal lesions. Let the prohibitory duty which permits their existence become lowered, or surveillance be less guarded on the frontiers, and they will infallibly be deprived of a part of their trade. They then suffer all the disasters which are consequent on industrial panics, and their very existence is compromised. They resemble

those hot-house plants which perish as soon as one ceases to supply them with the fuel necessary to maintain their artificial existence. The condition of the national industries is no longer secure. They have nothing to fear, it is true, for their home market, for they are so situated as to defy foreign competition; but the markets they have been able to create abroad are essentially precarious. At any moment prohibition may take from them these markets, on which their existence in part depends. The prohibitory régime, then, causes production to be accompanied by risk, and this inevitably has a disastrous effect on the growth of industries as well as on the condition of the workman. — Prohibitory taxes on exports are generally less important than others, but their effects are no more salutary. When recourse has been had to them, it has usually been in order to prevent or to restrict the exportation of articles of subsistence and certain raw materials essential to the industries of a country. Let us see how they operate. Two cases may occur: 1st, where the production of the article whose export is interfered with, is limited by nature; 2d, where it may be indefinitely increased. In the former case, which is the more rare, prohibition acts at first simply as a tax levied upon certain producers for the benefit of certain consumers. Suppose, for example, the French government should prohibit the export of the choicest French wines. What would result? It is not probable that a smaller quantity of these would be produced; but the producers, obliged henceforth to offer their whole vintage of these choice wines in the home market, would no longer derive as much profit from them. They would suffer for the benefit of a certain class of French consumers. Such would be the near effect of the imposition of the prohibitory duty. But the consumers would have to suffer in their turn. The best wines being taxed for the benefit of home consumers, the production of fine wines would be discouraged. No attempt would be made to improve the inferior wines, lest they should also be taxed. The home consumers would obtain, it is true, the best wines at a lower price; but they would have to renounce the advantages they might have received from an improvement in the inferior wines. The final result of it all would be that they would be more poorly provided with fine wines, and would have to pay more for them. — In the second case, *i. e.*, where production may be indefinitely increased, prohibition on export would be at once followed by diminished production of the prohibited article. If the latter were, for example, wheat or any other article of food, or silk, flax, or raw hemp, the production of these articles would be gradually reduced until it was proportioned to the market. Prices would doubtless fall greatly in the meantime; but they would again rise. In fact, the diminished market would compel producers to restrict their operations; and those who produced on a small scale, no longer being able to divide their labor so efficiently, would eventually be driven from the market, because production would have become more costly to them. The remaining producers then having the monopoly, might raise prices so that the consumer would in the end suffer from a measure originally intended for his benefit. But if the object of the prohibition is to deprive a rival industry of its necessary material, this selfish measure will result in encouraging the production of a similar article abroad. Thus England, by putting a high export duty on coal, contributed to the development of mineral production in Belgium. — To sum up, then, high prices on the one hand, and instability on the other, result from the prohibitory régime; the high prices arising from the bad conditions of production in which this régime places the industries, and the obstacle it interposes to division of labor, when it does not cause a monopoly; and the instability resulting from modifications in the tariffs, which continually produce panics in the markets. — III. *Causes which have led to the establishment of the Protective or Prohibitory Régime.* It must seem astonishing that a system so clearly disastrous to the people, so opposed to progress in wealth and civilization, could have become established. Its origin must be principally attributed to certain circumstances inherent in the condition of barbarism and war in the midst of which it arose. Nations, which had been from their commencement hostile to each other, and almost continually at war, could not exchange their products in any permanent or regular manner. Each was obliged to provide for itself most of the articles of its consumption. War then acted as an artificial obstacle added to the natural obstacle of distances. When peace succeeded war, this artificial obstacle disappeared. Unfortunately, its removal was only accidental and temporary: a new war soon arose, when the obstacle reappeared at once. Let us endeavor to obtain an idea of the precise effect which sudden changes of this sort might have on the state of production. Suppose two nations, C and D, the first supplying the second with woolen goods while receiving in exchange silk goods. A war arises, and exchanges are immediately interrupted. The consumers of D can no longer receive the woolen goods which the producers of C had been accustomed to furnish them. The consumers of C are deprived, in their turn, of the silk goods they were having from D. Meanwhile, the demand continues, on the one side for wool goods, on the other for silk. This, then, is what will probably happen. The manufacturers of woolen goods in C, whom the war has deprived of their market, will begin to produce silks, and the manufacturers of silks in D will set about producing woolen goods. Each nation will thus succeed in obtaining, as before the war, the goods it needs. To be sure, the conditions will be less favorable. The silks which C will manufacture will probably be dearer and not so good as those with which it provided itself in D. The wool goods which D will make will probably be inferior to those it procured in C;

but, on both sides, it will be found more advantageous to employ the capital and the labor whose market the war has cut off, than to leave them idle; on both sides, also, people will prefer to pay a higher price for the goods they need, than to do without them. The war, as we see, compels a change of place of certain industries, to their injury. It ruins the most vigorous branches of production, those which had been able to create an outside market, to substitute for them artificial industries which only the interruption of international communication can make subsist. But peace comes in time: and the protection which the war gave C in the manufacture of silks, and D in the manufacture of woolen goods, at once vanishes. It is evident that these war industries must succumb, unless an equivalent obstacle is substituted for the war, in order to protect them. If the condition of the world is such that the peace can be lasting, it will most assuredly be better to let them succumb, and thus permit production to resume its natural place; but if war is the natural condition of communities, if peace intervenes only as a short truce, perhaps it will be preferable to renounce relations whose precarious existence is a continual occasion of disastrous perturbations. Prohibition will then appear as a veritable insurance premium granted the industries to which war has given rise, and whose maintenance it has rendered necessary. — Thus, for example, the prohibitory system became considerably extended in Europe and America at the close of the continental war. During the war the general interruption of communication had led to the establishment of a certain number of industries under bad economic conditions. When the war ceased, the manufacturers loudly demanded that the impediment of prohibition be substituted for that of war, to protect them. Governments hastened to defer to their demand. This was unquestionably a great mistake; for, at a time when peace has become the normal condition of communities, prohibition is no longer anything but a costly anachronism. In this new situation it costs less to suffer the perturbations which a temporary war may cause in international relations, than to pay a heavy war premium for twenty or thirty years to avoid them. However, one can conceive how the prohibitory régime should have come to prevail to a certain degree at the close of a war which convulsed the world for a quarter of a century, and made communities retrograde toward barbarism. On the other hand, it is more difficult to comprehend how this war régime could have been extended and made worse, as it was, long after peace had become established. This is connected with certain effects of prohibition, of which it is important to take account. — We have spoken above of a statesman who should establish prohibitions or protective duties as the reverse of an inventor. Let us pursue the comparison, and we shall discover the motives which have contributed to extend and make more burdensome the prohibitory régime in time of peace. Suppose that an inventor discovers a process which permits a saving of 10 per cent. in the cost of production of a certain article: by lowering the price of that article 5 per cent. he will obtain an advantage over his competitors, and realize besides a good profit. This profit is the difference between the saving effected and the amount by which the price has been lowered, and constitutes the remuneration for the invention. Now, what takes place when a prohibitory duty is imposed? An artificial deficit is immediately produced in the market, and this deficit brings about an increase in the price. A certain article which was procured at an average price of twenty cents, for example, can no longer be obtained under thirty cents. This is an artificial enhancement by one-half, and is caused by the rupture of communication between the foreign producers and the home consumers. Suppose the prohibited article could be produced in the country at an average price of twenty-two cents: capital would be invested in that new industry; for it would receive, besides the ordinary profits of other branches of production, an extraordinary premium equal to eight cents. This premium would result from the difference between the price at which the article can be produced in the country, and the artificial price which prohibition has created. It is then manifest that if the profits of invention are based on the lowering of prices, those of prohibition are based in just the same way on their enhancement. — But is the extraordinary premium arising from prohibition lasting? Must not the profits in the protected industries finally fall to the level of those in other branches of production, as a result of home competition? That will depend on the nature of the protected industry. If the industry is one whose essential elements are not limited in the country, the premium will have only a temporary character; for new manufactories will be established with a view of obtaining the premium as long as it shall continue. Home competition will then lower prices so much as to destroy the premium. Sometimes even the increase of the protected industry will not stop at its necessary limit, and prices will suddenly fall below the expenses of production. The result will be a panic, which will swallow up a good part of the profits from the premium which enhanced prices. Prices will afterward rise again; but the protected industry will have ceased to realize profits greater than those of other branches of production. Its *patent* will have expired, to use an apt phrase of Mr. Huskisson. It will be otherwise if the protected industry is not capable of unlimited extension; if it is, for example, grain culture in a country where land adapted to raising wheat is scarce, or the production of coal, iron, or lead, in countries where mineral deposits are rare. In such cases, the enhanced price may be obtained for any length of time. If prohibition has increased the price from twenty to thirty, the supply will be sufficiently small not only to maintain this price, but even to increase it gradually with the increase

of population and public wealth. Then the holders of natural protected monopolies, such as land or mines, will see their profits increase every year; they will continually grow rich without having to take the least trouble. — But, whether the premium which enhances prices be lasting or temporary, the allurement of that premium is sufficient, and more than sufficient, to multiply prohibitions. What more tempting, in fact? While money is so difficult to win under the abominable law of competition, here is a process discovered, by the aid of which one can grow rich by turning over his hand. Who would not hasten to use and to abuse so marvelous a process? Who would not manage to work the machine to manufacture premiums, until the exhaustion of the material? To be sure, these premiums can be obtained only at the cost of the ruin or impoverishment of others; they constitute a manifest spoliation, a veritable brigandage. But does one stop for such slight considerations when a fortune is in question? Besides, is not this spoliation legal? Is not this brigandage consecrated by the practice of all civilized nations? Is it not universally admitted that one may confiscate, by means of a simple statute, the trade of a foreign industry, and impose on the "protected nation" an extra tax to enhance the price, payable into the hands of the beneficiaries of the confiscated trade? — Meanwhile, theorists are taking it into their head to denounce so unjust and disastrous a violation of property rights. They demand liberty of the exchanges, invoking justice and urging the interests of the masses. But there is no embarrassment in replying to these theorists. In the first place, they are accused of propounding a theory; and, in the eyes of many people, the accusation is enough to condemn them. Then, search is made in the old arsenal of popular errors and favorite prejudices, for all sorts of redoubtable weapons which people use to crush so pernicious a theory. By the same reasoning that caused inventors in former times to be persecuted and derided, the promoters of freedom of the exchanges are treated as dangerous dreamers, while the supporters of the prohibitory régime are considered as benefactors of humanity. — The list is long of the sophisms which have been employed to disguise the true motives for the raising of custom house barriers since the establishment of a general peace. Often, it is true, these sophisms were employed in good faith by persons who thought, that, by enriching themselves by means of the international depredations of prohibition, they were contributing to the greatness and prosperity of their native land. Almost always, too, ignorance of sound economic notions has been so general, that the act of profiting by premiums which raised prices while establishing an industry contrary to nature, was considered, even by the victims of prohibition, as a work of patriotic devotion. We do not intend to take up all the sophisms which have been forged to justify prohibition and glorify the prohibitionists. This would be an endless task. We shall confine ourselves to a review of those most frequently employed. — IV. *Review of the Sophisms of Protectionists.* 1. *That a nation should not allow itself to become dependent on foreign countries, especially for articles of prime necessity.* This argument was the most important of those which were brought forward by English prohibitionists against the free traders who advocated the repeal of the corn laws. "Is it not," they said, "renouncing our political independence, to put ourselves under the necessity of having recourse to foreigners for the means of subsistence? Would not a nation from which its enemies cut off supplies be obliged to surrender at discretion?" But what more chimerical than such an apprehension? When two nations effect exchanges, is not the dependence which results from them mutual? If England depends for the means of subsistence on Russia, France and the United States, do not these three countries in their turn depend upon England for their supplies of iron, coal, cotton goods, wool fabrics, etc.? Besides, even if England should become embroiled with most of the nations which supply her with grain, could she not, for a small advance in price, supply the deficit from other nations? Did not the gigantic folly of the continental blockade demonstrate the impossibility of commercially isolating a powerful nation? And as to a small nation, do not the commercial relations which such a nation establishes abroad furnish it with new guarantees of independence, by attaching to its cause all the interests which it has been able to conjoin to its own? — One of the most brilliant orators of the anti-corn law league in England, Mr. W. J. Fox, shows up with marvelous skill the superannuated character of the argument for independence of foreigners, in the following celebrated passage: "Independence of foreigners," he says, "is the favorite theme of the aristocracy. But surely the squire is not consistent when he exclaims against foreign supplies. Let us examine his life. A *French* cook dresses his dinner, and a *Swiss* valet dresses him for his dinner. The lady whom he hands from the drawing room, is adorned with pearls which never grew within the shell of a *British* oyster, and the feathers which nod in her plume belonged to no barnyard fowl. The viands of his table come from *Belgium*, his wines from the *Rhine* or the *Rhone*. His eyes are delighted with flowers from *South America*, and his nose with a leaf from *North America*. His horse is *Arabian*, and his favorite dog of the *St. Bernard* breed. His gallery is enriched with *Flemish* paintings and *Greek* statues. Does he seek diversion? He goes to hear *Italian* singers, singing *German* music, all followed by a *French* ballet. Does he rise to judicial honors? The ermine which decorates his shoulders was never before on the back of a *British* beast. His mind even is a picnic of exotic contributions. His philosophy and poetry come from *Greece* and *Rome*, his geometry from *Alexandria*, his arithmetic from *Arabia*, and his religion from *Palestine*.

His infant teeth were pressed on coral from the *Indian ocean;* and when he dies, sculptured marble from the quarries of *Carrara* will adorn his tomb! And this is the man who says, 'Let us be independent of foreigners!'"—2. *That a nation should avoid large purchases from foreign countries, in order to prevent an exhaustion of its stock of money.* Here we see the old sophism of *balance of trade.* This sophism, formerly on every one's lips, is now much less employed, English protectionists, in particular, seeming ashamed of using it. That an argument, formerly so general, should have become thus discredited, is due to several causes: in the first place, to the deadly war the economists have waged against the doctrine of *balance of trade;* then, to the decrease in the relative importance of importations and exportations of money in transactions between people of different nations; finally, to experience, which successively demonstrated that the suppression of custom house barriers between the different provinces of France, between England and Ireland, and between the states of the Zollverein, was followed by none of the monetary disasters predicted by the advocates of the mercantile theory. However, the prejudice has not disappeared; and so long as the laws of monetary circulation are not commonly understood, it will be possible to stir up the masses against freedom of exchange, by alarming them with the phantom of an exhaustion of the supply of money. (See BALANCE OF TRADE.)—3. *That it is necessary to have protective duties, as a compensation for the taxes imposed on home industries.* If the English protectionists made little use of the sophism about the exhaustion of money, they made, on the other hand, abundant use of that on *compensatory duties.* "The English farmers," they said, "bear taxes more numerous and more severe than those of Russian farmers. Is it not just to make compensation for the difference, by a protective duty? Is it not just to equalize the conditions of home production with those of the foreign?" Now, in the first place, do these differences in the figures of the taxes always signify what they seem to signify? It was certainly true that the English farmers did pay more taxes than their Russian competitors. But did they not also enjoy more complete security and freedom? Were they not better protected against spoliation and despotism? and was not this greater liberty and security fully an equivalent for the greater taxes they had to pay? In the second place, can protection really compensate for the burdens which excessive taxation imposes on production? Protect home agriculture in a country like England, under the pretext that it is more encumbered by taxes than its rivals, and you will doubtless provide a compensation to farmers, by permitting them to increase the price of their products. But upon whom will fall the burden from which you have relieved them? Upon all the other branches of production, which will pay more dearly for their raw materials and the means of subsistence for their workmen. What is gained on one side is lost on another. Unless a way can be found by which a tax which enters the treasury can be paid by nobody, compensatory duties can not relieve production. Now, if they can neither destroy nor diminish the evil necessarily connected with the existence of every tax, of what use is it to change the place of the evil?—4. *That home labor must be protected, to prevent the number of employments diminishing in consequence of foreign competition, and thus to guarantee the means of subsistence to the workmen.* This sophism is worthy of notice, because it gives prohibition the attractive appearance of philanthropy. If landholders and manufacturers loudly demand prohibitory legislation, it is not to realize extraordinary profits at the expense of their rivals; O no! it is only to secure work and good wages for the workmen of their country; it is to keep the laboring classes from the sad results of unlimited competition, etc., etc. But if such were the only aim of the prohibitionists, would they confine themselves to interdicting products from abroad? Would they not prohibit, above all, the importation of foreign workmen who come into competition with their own? Do we, however, observe that they abstain from employing foreign workmen, even at the times when they most energetically plead the necessity of protecting "home labor"? No: they have no scruples of this sort. There is a striking contradiction between their argument and their conduct. (See EMIGRATION.) Now, is it true that the prohibitory system increases the number of places in which men can be employed, in the country? Let us see. We have observed that prohibitions have just the opposite effect on prices from that produced by new machines; that by inducing certain industries to put themselves in bad economic conditions, and by impeding progress in division of labor, they bring about increase of prices, while new machines cause reduced prices. Now, do machines diminish the number of men employed in production? Does not experience, on the contrary, attest that their final result has been to increase it, by the general increase of consumption? Are there not to-day, for instance, more men employed in the cotton industry, than there were before the steam engine and the mule jenny had transformed that industry? A man who should propose to break the spinning machines and the looms of to-day, to replace them by the spinning wheel and the hand loom, in order to give more chances for employing workmen, would justly be deemed insane. But if new machines result at last in an increase in the number of persons employed, must not prohibition diminish the number? If we look at the interests of the working classes, in what respect are the errors of the prohibitionists better than those of the destroyers of machines?—By making the cost greater, the prohibitory system diminishes consumption, and consequently production, and the number of opportunities for employment. This is how it protects home labor.

But does it not, at least, tend to give it more stability? Does it not afford security to the workman against industrial panics, as the prohibitionists affirm? or is the contrary the case? We have already seen that the prohibitory system, by putting industries at the mercy of the changing opinions of legislators, has introduced a constant condition of instability in all branches of production: we have seen that tariff changes are likely to engender industrial panics. Must not the dreadful crises which have so painfully affected the subsistence of workmen, be attributed to the incessant perturbations which the prohibitory system has occasioned in the markets? The history of modern industry gives us strange lessons on this subject. One may read on its every page of the cruel evils which this system for "protecting national labor" has brought upon the laboring classes. (See PAUPERISM.)—5. *That nationality should be made the basis of the system of exchanges.* This argument was the basis of Dr. List's national system of political economy. But in studying the history of the formation of states, and examining into the elements which constitute them, one readily perceives that nationality can not serve as a basis to a system of exchanges. States have been formed, for the most part, by conquest, and enlarged either by royal alliances, by wars, or by diplomacy. No economic consideration has controlled their formation. When the map of Europe was made over at the congress of Vienna, for example, did any one consult the interests of the industries and the commerce of the peoples whose nationality they were changing? Did any one ask whether the situation of the Rhine provinces and of the other countries which were then separated from the French empire, rendered that separation advantageous or injurious to the countries concerned? No: the question was not even mooted. Political considerations and diplomatic intrigues alone decided the new configuration of the states. Why should an attempt be made to establish a national system of exchanges based on pretended economic necessities, in states whose formation was controlled by no economic views, states of which the chances of war and of alliances alone decided the boundaries? Is it not the height of absurdity to transform these boundaries, which the hazard of events has alone determined, and which it may enlarge or contract to-morrow, into rational limits of the exchanges? Is not an economic system founded on a political basis and politically modifiable, a monstrosity which good sense rejects?—6. *If the protective system did not exist, it would perhaps be well not to invent it; but to attempt to destroy it to-day would be to pronounce a death sentence on a multitude of industries, to occasion ruinous displacements of capital and of labor, etc., etc.* We have pointed out above the striking analogy between the setting up of a new machine and the suppression of a prohibition. The result of each is to substitute a good market for a high-priced one, and abundance for penury. But all progress, from whatever source, is accompanied by some disturbance. Must we renounce a permanent advantage, to avoid this transient disturbance? Must we give up new machines, new methods, new ideas, under pretense that they disturb the old machines, the old methods, the old ideas? Shall we immobilize humanity, to prevent some change of employments? Let us hear Dr. Bowring on this subject, in his speech at the congress of economists, at Bruxelles, in 1847, where he admirably refuted this paralytic objection: "The displacement of capital," he said, "the displacement of capital! Why, it is a sign of progress. Has not the plow displaced the spade? What became of the copyists after the invention of printing? * * We formerly had thousands of little boats on the Thames: what has become of them, now that the Thames is furrowed by hundreds of steamboats? But are not the interests of the workman himself subserved by so rapid and economical means of transportation? The first time I ever went to London I had to pay four shillings to go from one part of the city to the other: to-day I make the same trip for six pence; and if you ask how this has been brought about, I answer: by the displacement of labor and capital. This displacement may be found everywhere. I was born in a town which figures in the commercial history of my country. I have seen there, at Exeter, an entire industry, the woolen industry, abandoned. I have seen, in the port of that city, ships from all countries, and have heard my ancestors speak of their relations with most distant lands. But as soon as steam was introduced into manufactories, fuel being dear in that part of the country, the industry removed to where it was cheap. Well, capital was displaced; but the population has nevertheless increased. When I left Exeter the population was 25,000 inhabitants; now it is 40,000. The workmen have taken up other employments. But what has displaced labor? What has displaced capital? What has displaced industries? What has put them on a false basis? What has built upon sand? Prohibition. What, we ask, is to found the industries on a rock which can not be moved?"—But do the displacements which the substitution of free exchanges for prohibition may occasion, occur on so large a scale as has been attributed to them? Would the advent of free trade become the signal for the ruin of a multitude of industries? Would one see entire countries deserted for others, as the prohibition pessimists affirm? Observation and experience agree in contradicting these gloomy predictions. The London exposition convinced the most prejudiced minds that the great industries of the various countries of Europe were in a nearly equal state of advancement, and that no people possessed a decidedly marked superiority over their rivals. "The crystal palace," says Michel Chevalier, in his interesting letters on the London exposition, "is a good place to prove this similarity, this fraternity, this equality of the industries of the principal nations of western civili-

zation. It is manifest there, it forces itself upon our attention. When I go from the English department to the French, thence to that occupied by the Zollverein, or to the Swiss, or the Belgian, or the Dutch, I find articles of nearly equal merit, which give evidence of nearly the same aptitude and experience, and at nearly the same prices. This is more especially manifest in regard to England and France, especially if we take the trouble to complete our exhibit at London by recalling the articles we had in Marigny Square in 1849, of which the abused producers refused to send specimens to London. In thus speaking of equality, I do not mean that the productions of the principal nations are identical: on the contrary, they are diverse, they have their peculiar stamp. They reveal special industrial aptitudes, a distinct originality, but they manifest a nearly equal degree of advancement. If one is surpassed in one kind of articles, it is first in another, perhaps similar and equally difficult: and we can not doubt, that, with a little incentive, each nation could equal the one which excels it in any particular product. If prime materials were equally cheap everywhere (and they would be if the legislators of certain countries would abolish the wholly artificial causes of high prices which it has pleased them to multiply), the expense at which the manufactured articles could be produced would be nearly the same, and the several countries would have markets about equally low priced."—A well-known French manufacturer, Jean Dolfus, corroborated the statements of Chevalier, and showed how the prohibitory régime had resulted in preventing the cotton industry in France from adopting improvements in machinery. "We do not," he says, "keep pace with England in industrial progress. Ten years ago they commenced there to substitute machines which twist the thread on the pirn without the aid of a workman for the old spinning machines: to-day, for certain numbers, no other machines exist. All have been obliged to adopt the improvement. With us, on the contrary, people still make money while using very antiquated machines; and the sum appropriated to compensate for the annual depreciations, at least in the spinning of cotton, is scarcely necessary, for it is not generally employed to improve the machines. Why have not the improvements adopted in England become necessary in France? Because all remain in the old way, and continue to make spun goods that could be manufactured at much less expense, by a little additional outlay. My house has a spinning mill of 25,000 spindles, 20,000 of which are for calico: it could, by replacing its looms, a part of which are nearly forty years old, spin a kilogramme twenty centimes cheaper than it does to-day: but home competition is not sufficient to compel them to do it. Is not this conclusive? Who pays the twenty centimes? The consumer, the country. The committee for the protection of national labor did not think it best to change our looms, because many spinners might thus be thrown out of employment. But can we with impunity resist progress thus? On this principle we should return to the spinning wheel, and regret all the mechanical progress realized for the last fifty years. If spinning can be done more economically, consumption will increase; more cotton goods will be sold, more machines will be constructed, and more labor will be needed." (See the corroborative testimony of D. A. Wells, when a special tariff commissioner of the United States government, showing how the protective tariff has operated in the United States to keep in use inferior machines long since discarded in England. —E. J. L.)—Thus, in the view of manufacturers themselves, the prohibitory régime retards production. Let this régime be abolished, and every industry which is located under favorable natural conditions will inevitably become considerably extended. It will doubtless then be necessary to exercise more intelligence, activity and energy, in order to preserve and increase one's trade; for freedom of exchange is not so easy a couch as prohibition. Every industry would be at once obliged to employ every new improvement to keep up with its rivals. But would not humanity as a whole profit by the great impulse production would have received? Would not people be more abundantly provided with all things, and their minds, kept active by necessity, become more accessible to light? Necessity is a powerful incentive to progress, and the chief result of freedom of exchange will be to render progress more and more necessary. Look, for example, at British agriculture. How many times the prohibitionists had predicted that it could not endure the competition of the United States, Poland and Russia! How many times they had depicted its fields devastated, its laborers ruined and dispersed, by the storm of free trade, and old England, deprived of this main-stay of her power, disappearing from the list of nations! Well, the corn laws have been abolished, free trade is enthroned, and what has become of British agriculture? Has it sunk in the storm? Has its capital been destroyed, and its fields submerged by the "deluge of foreign grain"? Have proprietors and farmers carried into effect their threat to emigrate to America, abandoning their fields to the thorn and the briar? No. Scarcely had the corn laws been repealed, when the agriculturists, redoubling their efforts, made improvement the order of the day on every hand. The old instruments and the old methods were abandoned; and agriculture, so long given over to routine, took rank among the most progressive industries. Thus transformed under the strong pressure of foreign competition, it now laughs at the phantom which formerly gave it apprehension. And this was an industry which was to be infallibly ruined by free trade!—Observing, then, as Chevalier and Blanqui did at the universal exposition at London, the condition of the industries of the civilized world, and investigating carefully the results already obtained by tariff reforms, one becomes convinced that the ruinous displace-

ments of production, the destruction of protected industries, and so many other calamities, which, according to the prohibitionists, were inevitably to accompany the advent of liberty of the exchanges, were vain phantoms. One also acquires the conviction that the adoption of free trade would strengthen and develop industries, instead of compromising and ruining them. — Here we terminate our review of the sophisms of the prohibitionists, although the subject is far from exhausted. But these unsound arguments have been refuted by all the economists in succession since Adam Smith and Turgot. An especially lively and satirical refutation of them will be found in Bastiat's *Sophismes Economiques*, to which we refer our readers. — V. *Conclusion*. Freedom of exchanges tends to produce a cheaper market and to favor stability. Should it become permanently established, the industries, having no restriction as to market, would have all the development of which they are capable. At the same time they would acquire a maximum of stability, by ceasing to be based on a precarious foundation. To the high prices and instability inherent in the artificial régime, would succeed a return to the order instituted by Providence. Now, is it chimerical to count on progress so beneficent? Is free trade an economic ideal which we are interdicted from attaining? Is it a pure utopia, a humanitarian dream, as the defenders of prohibition affirm? Observe the signs of the times, and then reply. Is not one of the most absorbing interests of our time, the improvement of means of intercommunication? Are not all civilized nations multiplying railroads, electric telegraphs, and other means of intercourse? Are not steam and electricity having a constantly increasing effect in diminishing the natural obstacle of distance? Now, what is the economic result of all this? It is to extend the sphere of the exchanges. Railroads, steamboats, electric telegraphs, are powerful instruments in destroying distance, to the profit of the exchanges from city to city, and from people to people. But lo! while nations are imposing on themselves gigantic sacrifices to multiply the ways which facilitate the exchanges, they are, on the other hand, maintaining the prohibitory system, which interrupts them! They would stimulate exchange with one hand, and cut it off with the other! Such a flagrant contradiction must eventually impress all minds. Either steam locomotion and the electric telegraph must be abandoned, or else the prohibitory system must fall; for the simultaneous existence of these agents of civilization and of this relic of barbarism is absurd. But there is small likelihood that steam locomotion and the electric telegraph will be abandoned. The prohibitory régime, however, has received severe blows. Governments have finally perceived that prohibitory duties brought them nothing, and that it would be an excellent operation to substitute for them revenue taxes. Sir Robert Peel took this position as the starting point of his financial policy, and the budget of Great Britain, whose accounts showed a continual deficit before the reforms of Peel, afterward presented a regular surplus revenue. A similar reform in the United States gave like results in 1851. Under reduced tariff duties, exports doubled, and the revenue was increased $50,000,000. Financial necessities thus combine with economic necessities and the progressive tendencies of our age, to put an end to the prohibitory régime. Prohibitions may be compared to the chains which were used in the middle ages to bar the streets. In our day they are a vestige of a system of defense which the progress of civilization has rendered useless and superannuated. Before long, we trust, the frontiers will cease to be barred, as the streets have ceased to be so: and, despite those utopists whose ideal is in the past, liberty will at last become the law in human affairs. — BIBLIOGRAPHY. Adam Smith, *Wealth of Nations*, book iv., chaps. iv. and v., Restraints on the importation from foreign countries of such goods as can be produced at home—also chaps. iv. and v., On drawbacks and bounties; J. B. Say, *Political Economy*, chap. xvii., The effect of government regulations intended to influence production, (trans. from the French), Philadelphia, 1832 and 1850; Jas. Mill, *Elements of Political Economy*, chap. iii., sec. 17, Bounties and prohibitions, 2d ed., London, 1824; J. A. Blanqui, *History of Political Economy*, chaps. xvi., xx. and xxix., Results of free trade in the Hanse towns, in Venice, and in Holland — Contrasting policy of Chas. V. given in chap. xxi., (trans.), New York, 1880; Wm. Roscher, *Political Economy*, app. iii., sec. i , The industrial protective system and international free trade, (trans.), New York, 1878; Amasa Walker, *The Science of Wealth*, chaps. ii. and iii., Obstructions to trade, fallacies of the protective theory, 7th rev. ed., Boston, 1874; W. G. Sumner, *History of Protection in the United States*, New York, 1877; J. E. Cairnes, *Leading Principles of Political Economy, newly expounded*, part iii., chap. iv., Free trade and protection, New York, 1874; A. L. Perry, *Elements of Political Economy*, chap. xiii., Foreign trade and the mercantile system—also chap. xv., On American tariffs, New York, 1866 and 1873; F. A. Walker, *Political Economy*, part vi., chap. xiii., Protection *vs.* Freedom of production, New York, 1883; J. S. Mill, *Some Unsettled Questions of Political Economy*, chap. i., The laws of interchange between nations, 3d ed., London, 1877; John McDonell, *Survey of Political Economy*, chap. xxviii., Protectionism, Edinburgh, 1871; Edmund About, *Handbook of Social Economy*, chap. vi., Liberty, (trans. from the French), New York, 1873; Frédéric Bastiat, *Sophisms of Protection*, (trans.), New York, 1877, 12mo, 397 pp.; S. S. Cox, *Free Land and Free Trade*, 16mo, 126 pp., New York, 1880; Henry Fawcett, *Free Trade and Protection*, 12mo, 173 pp., London, 1878; W. F. Marriott, *Grammar of Political Economy*, chap. xxv., Free trade and protection, London, 1874; Emil Walter, *What is Free Trade?* 12mo, 158 pp., New York, 1867. To the above list may be added the following popular tracts, which, with others,

are circulated by the New York Free Trade Club: David A. Wells, *The Creed of Free Trade*, 8vo, 21 pp., New York, 1875—*The Results of Protection in the United States*, 12mo, 31 pp., 1878—*How Congress and the Public deal with a great Revenue and Industrial Problem*, 8vo, 26 pp., New York, 1880—*Freer Trade essential to Future National Prosperity and Development*, 51 pp., New York, 1882—*Why we Trade, and How we Trade*, 8vo, New York; Abraham L. Earle, *Our Revenue System and Civil Service*, 8vo, 47 pp., New York, 1878; Abram S. Hewitt, *Labor, Wages, and the Tariff*, Speech in House of Representatives, March 30, 1882; S. S. Cox, *Reciprocal Brigandage of the Tariff*, Speech in House of Representatives, May, 1882; E. P. Wheeler, *Crude Materials*, Testimony before Tariff Commission, July, 1882, 19 pp.; J. B. Sargent, (a New Haven, Conn., manufacturer), *Reduction of Duties*, Testimony before Tariff Commission, Aug., 1882; J. Schoenhoff, *The Tariff on Wool and Woolens*, 14 pp., New York, 1883; W. G. Sumner, *Protection and Revenue in* 1877; Graham McAdam, *The Protective System:* What it costs the American Farmer, 87 pp., New York, 1880—*What is Free Trade?* 8 pp.—*The Tariff in American Politics*, 8 pp.—*Protection and Wages;* H. J. Philpott, *Free Trade* vs. *Protection;* Horace White, *The Tariff Question;* E. J. Donnell, *Slavery and Protection*, 69 pp., New York, 1882—*The Impending Crisis*, 82 pp.; *Review of the Tariff Commission Report*, by the Ex. Com. of Brooklyn Revenue Reform Club, New York, 1882; *Free Trade the best Protection to American Industry*, (12 tracts, of one page each), New York, 1883; *The Tariff Question:* A few questions to intelligent voters, one page; Thos. G. Shearman, *Free Trade the Only Road to Manufacturing Prosperity and High Wages*, 22 pp., New York, 1883. Of protectionist writers, Henry C. Carey, of Philadelphia, has been the most noted. His *Principles of Social Science*, (3 vols., Phila., 1858), give an exposition of his views on this subject. Prof. Francis Bowen, of Harvard College, in his *American Political Economy*, chap. xx., treats of the doctrine of international exchanges, and the limits of free trade and the protective system. Geo. M. Weston, of New York, has also well presented the arguments of protectionists in his *Refutation of Some Current Errors in Respect to Foreign Commerce*, (8vo, 33 pp., Cambridge, Mass., 1883), an argument read before the tariff commission.

E. J. L., *Tr.* G. DE MOLINARI.

PROTECTION IN THE UNITED STATES.

UNITED STATES TARIFF. Imposition of duties on imports from foreign countries for the encouragement, promotion and defense of native industry. The fundamental principle which justifies this practice, and makes it needful, is found in the fact that protection, in the broadest acceptance of the term, is not only the sole function of government, but the primal object sought in establishing its authority. Although God has constituted man a social being, so that the race is everywhere and always in communities, yet man's nature is such that his emotions, which centre upon himself, are very much stronger than his sympathies, which go out toward his fellow-creatures; in other words, "he feels more intensely what affects him directly than what affects him indirectly through others." In all the elements of reality and importance his own pains, aches, troubles, plans, desires, appear to his mind far superior to those of other people. Consequently, every person has a higher regard for what he conceives to be his own safety, or his own welfare, or his own happiness, than he has for the safety, welfare and happiness of others, and, when these come in opposition, is ready to sacrifice the interests of others to his own. Out of this constitution of man's nature arises in society a universal tendency to strife between individuals, leading, unless prevented, to wrongs, oppressions and crimes of every sort. Restraint thus becomes indispensable for the preservation and for the advancement of society. That restraint invariably takes the form of government, which is found, of some description, wherever there is a community, either civilized, barbarous or savage. The sole purpose of instituting government is, therefore, to obtain and secure *protection*. All the functions of government, legislative, judicial, executive, and whatever, in all their branches and acts, resolve themselves into this—to *protect* the rights of person and property. Moreover, the human race is divided into nations, and these are as different, in their conditions, resources, interests, capacities, motives, as individuals are, with equal tendency to clash, and to encroachment one upon another. For instance, England has for her object to manufacture for the world, to monopolize the bulk of reproductive power, to keep all lands, especially her own colonies, in a state of industrial infancy and vassalage, by political management as well as by the superiority of her capital, by her cheap labor, by her skill, and by her navy and her mercantile marine. Her policy is to have other countries compete in her home market for the sale of their raw materials, to the end that she may be enabled to fix the prices of what she buys; and to have other countries compete in her home market for the purchase of her finished products, to the end that she may be enabled to fix the prices of what she sells, thus becoming mistress of the globe. These aims require that England shall be aggressive and overmastering; hence her trade system first looks outwardly, and hinges largely upon external circumstances. On the contrary, the United States has for its object to bring into harmonious proportion and development, within its own boundaries, the four great branches of industry—agriculture, manufacturing, commerce and transportation—without which national life can not attain to the highest degree of excellence, because the history of growing civilization is a history of a long, tedious, painful progress from a condition in which occupations are few to a condition in which they are many. Our republic has for its

object, further, to be free, independent, powerful, but to let every other country enjoy its freedom, independence and power, in its own way; hence our trade system first looks inwardly, and hinges largely upon internal circumstances. These extremes in method of aggrandizement involve all the intermediary differences which distinguish the commercial policy of other nations. Now, the same constitution of man's nature which leads to conflict between individuals in society, leads also to conflict between political communities under different governments, and renders it needful to defend the industrial interests of each against aggression and encroachment from all the others. The United States, as a distinct aggregate of persons, possessing common government, common laws, institutions and interests, common history and destiny, constituting one body politic, free and independent, can provide common defense and security of the rights, property and lives of its citizens, only by following the dictates of self-protection, in order to create the greatest amount of common welfare within, and the greatest amount of safety against danger from without. Just as it would be foolish in congress to refuse to have an army, or a navy, or forts, or a military academy, on the plea that mankind would be better off if there was no war, so it would be foolish in congress to refuse to have protective duties on imports, on the plea, that, in a perfect but entirely imaginary state of the human race, foreign free trade would be beneficial to all. It is not the aim of protection to supply the wants and regulate the exchanges of supposititious communities, purified from the vices, villainies, propensities and ills which vex ordinary humanity; purged of mercenary tradesmen, gainful arts and counterfeit honesty; freed of greediness in getting and tenacity in keeping, whether it be wealth or authority; devoid of withering competition, down-trodden laborers, and hunger-pinched wretchedness; but, on the contrary, to provide man with what he requires while he continues in society as it is, recognizing the facts, that individual selfishness predominates over individual benevolence; that the strong, unless restrained, will not respect the rights of the weak; that he who plants a sugar estate, dykes a rice plantation, sows a field, erects a factory, or constructs a ship, needs the firm basis of the laws and institutions of his country to depend upon, as much as he who builds a house needs a solid foundation; that the great elementary object of organizing government, and of conducting legislation under its constitution or form, is to shield property, foster useful industry, and promote the general welfare; and that nations often may and do have interests as antagonistic as those of persons, making it necessary to provide for the defense of each against the cupidity, over-reaching or encroachment of the rest, manifested either in positive ways or through indirection. — PRINCIPLES AND FACTS. 1. *Freedom within, but restraint without, the American rule.* — Every analogy of nature supports the policy of free exchange between the inhabitants of a country, while it is denied between that and other countries. For instance, there is free exchange between the different members of the human body; and it would be the extreme of folly, for it would be death, to protect the kidneys or the lungs from the blood, or the stomach from the liver; yet, it is highly proper and beneficial to protect all these organs, by suitable clothing, from aggressive, injurious outside influences, and to protect that human body, as a united whole, against encroachment from some other human body. So it is with the body politic. Free exchange between its various parts is essential to its healthy development, and even to its existence; but protection is needed against aggression and encroachment from foreign bodies politic. This internal free trade rests upon the broad foundation of a community of reciprocities or equalities. Whatever there may be of clash between home interests is minimized, and is subject to control by internal forces. There is one contiguous territory, one national language, one central government, one patriotic allegiance, one kind of political institutions, one code of laws, one set of civil obligations, one habit of manners and customs, one standard of societary excellence, one tendency of public opinion. United under one flag, associated under one general authority, and combined into one organism, the people have rights, duties, privileges, benefits, advantages, prospects, interests, which can not be safely shared with any other people. This homogeneous condition is what makes free trade both permissible and beneficent within the borders of each distinct nationality, as, for instance, between the several parts of the United States. It is the lack of a concurrent homogeneousness outside of those boundaries which causes *foreign* free trade to be dangerous. Producers and traders in other countries are not subject to our laws, nor amenable to the processes of our courts, nor obligated to serve upon our juries, nor liable to be drafted into our armies, nor bound to contribute to our internal taxes, nor answerable for nonperformance of any of the duties of American citizenship. They are total aliens to our national commonwealth. To permit them to sell their merchandise in our home markets, free of all tariff charge, free of all local burdens, free of all allegiance to our government, would be to exalt perfect strangers above the heads of its own patriotic people in privilege. The foreigner, abiding in a distant land, and often hostile at heart to our free institutions, has no right to ask to be placed on a dead level of commercial benefits with our citizens, who have a round of local burdens incident to those institutions—burdens from which he is exempt. It has cost a vast amount of sacrifice, an immense aggregate of exertion, and an incalculable investment of capital, on the part of our population, through a number of generations, to transform a perfect wilderness into the most opulent and the most desirable of the world's markets. Why should the total alien, without any

participation in developing our resources, without sharing in the support of our government, without a personal stake in the welfare of our Union, be allowed to be an exceptionally favored beneficiary of all that toil and effort? There is no way in which he can be compelled to compensate our nationality for the high privilege of admission to our domestic markets except through duties on imports. Only by the imposition of such charges, made adequate to the purpose, can the unequal conditions of competition be equalized between the alien and the citizen, meeting as rivals in trade upon our soil. — 2. *Difference between European and American protection.* The utmost freedom compatible with liberty regulated by law presides over the internal affairs of the United States. Not only to commodities, but also to land, to political franchises, to education, to religion, to speech, and to whatever else, is applied this principle of equal unrestraint. Here, then, is found in completest operation the great natural law of all organized existence, which requires free exchange within, while demanding protection against without. Defensive duties on imports are thus enabled to promote the welfare of the whole community. It is not so in Europe, where restriction, of one kind or another, represses local freedom, as the *octroi* charges in France, the land monopoly in England, the autocratic method in Russia, and, generally, the grudging limitation of suffrage. Consequently, it is European capitalists, not European laborers, who reap the solid benefits of protective duties. In this country, the laborer is the chief beneficiary. This is the fundamental difference between tariff protection in Europe and in the United States. — 3. *Need of diversified industry.* The civilization of every community is necessarily graduated by its individual and collective power to command the services of nature; the degree to which industry is diversified among any people affords the surest test of their ability to call the governing forces of matter to their aid; variety in the pursuits of society is not a condition which originates spontaneously the moment there is room for it, and to the extent that surrounding circumstances will permit, but results either from the pressure of population upon the means of subsistence, or from the stimulus of artificial encouragement. To complete the development of man's power over the forces of matter, no single kind of labor will suffice, either agricultural, mechanic, scientific, or manufacturing. Cultivation of the ground subdues the earth only as regards its vegetative properties, and its highest excellence depends upon assistance rendered by the whole circle of the sciences and the arts. Use of the principles involved in the lever, the wheel and axle, the pulley, the inclined plane, the wedge and the screw, while pre-eminently the conquest of mind over matter, commands the services of only one section of the material forces. Delving for ores merely develops for subsequent operations certain products which nature has gratuitously provided in her stupendous laboratory. Systematizing knowledge, although highly promotive of utilitarian results, does little more than set up finger-boards to point out to workers the paths they must follow in accomplishing their task of converting the properties of natural objects into useful and obedient servants. Manufacturing is limited to the arts of reproduction—to changing the condition, shape, arrangement, combination, uses and values of metallic particles, vegetable fibres, and other raw materials. A widespread association of these integral elements of national development is requisite to advance any people to a high position among political communities of modern times. Diversified industry thus lies at the base of all normal progress. The more intelligent, skilled, experienced, productive, prosperous it is, the better for the inhabitants and for the state, and higher and nobler will be the attendant civilization. Hence the interests of labor and of the laborer should be the chief concern of statesmanship; for whatever shackles, cripples, undermines or prostrates them is retrogressive in tendency and force, and strongly detrimental to society. Upon the place in the governmental structure assigned to the industrial element depends the value of the resulting civil and political institutions. In the work of bringing the forces of matter under the control of man, diversified pursuits march hand in hand, evermore co-operating to produce and hasten the same general attainment. Acting together, they assault nature in her strongholds, and wrest from her possession her most treasured secrets, and explanation of her most occult processes. At every step of this concerted movement, knowledge acquires some new insight into the laws which govern the material world, resulting in augmented ability to use them for practical ends. Thus, so long as science maintained that earth, air, fire and water were elementary substances, it was impossible to find out that the rusting of metals, the formation of acids, the burning of inflammable bodies, the breathing of animals, and the growth of plants by night, involve the same operation: or that the diamond embodies, under dissimilar conditions, the same substance as charcoal or graphite; or that water is composed of two gases, one of which is the great feeder of combustion. What amazing accomplishments have arisen from, and what grand possibilities are presented by, the chemical demonstration that the chief constituents of all organic matter are carbon, oxygen, nitrogen and hydrogen, three of which are gaseous. So long as the nature of electrical phenomena was a sealed book, the invention of the magnetic telegraph was impracticable. What mighty utilitarian results and civilizing influences have grown out of this conquest of mind over matter, bringing two continents, although three thousand miles apart, into instant communication. How meagre would be the accomplishments of bleachers and dyers, were it not for the discoveries of chemistry. How could carpenters and masons safely and correctly estimate the strength of timbers, of walls, of arches, but

for the investigations which have been made in mechanical philosophy? How would it be possible for workers in metals to produce the wonderful results they do, were it not for the accumulated knowledge about the nature of those substances, and about their relations to both heat and other metals, and the airs and liquids with which they come in contact? The improvements of the steam engine by Watt resulted from the most learned inquiry into mathematical, mechanical and chemical truths. Indeed, although a man be neither artisan nor farmer, but only one who has a pot to boil, he is indebted to inventive genius, and to discovered principles which govern matter, for power to cook his morsel better, and to both vary and improve his dish. The art of good and cheap cookery—an art never found separate from a high state of civilization—embodies the application of natural laws, which neither would have been brought to light nor devoted to practical purposes by a community of hunters, or of shepherds, or of farmers. Among such peoples little exists to stimulate observation and arouse inquiry as regards the secret workings of nature. But diversified industry is everywhere seen to be the faithful parent of utilitarian investigations, philosophical experiments, scientific discoveries, mechanical development, inventive ingenuity, and serviceable improvements. Its peculiar province is to enlarge the sphere of mental activity, creating a demand for, and calling into exercise, the latent powers of intellect; to make men more expert, skillful and useful in the various kinds of work by which they are to earn their daily bread; and to supply those cogent instrumentalities by which they are enabled to make it go far, and taste well, when earned. Agriculture, science, invention, mining, manufactures, the mechanic arts, transportation, commerce, esthetics, therefore, all are factors in the solution of one stupendous problem—the universal emancipation of mankind from the thralldom of nature. Whatever reinforces one, reinforces all; whatever is detrimental to one, is detrimental to all. —4. *Correlation of industries and human faculties.* The protective principle, when established in full operation, secures a diversity of employments suited to the diversified inclinations and aptitudes of the people. Every body politic, like every human body, is necessitated, by virtue of its existence and nature, as a separate and distinct organism, to seek first and preferentially its own safety, welfare, happiness, development, strength and excellence. These qualities, however, are nationally manifested largely or scantily according as they exist largely or scantily in the individuals who compose the nation. God has so constituted society that there must ever be among its members wide differences of natural force, talent, appetency and will, unlike capacities, aptitudes, capabilities, endowments, preferences, longings; wholly dissimilar powers of body and of mind. This great diversity in human faculties requires an equally great diversity in human occupations. He who makes a very indifferent farmer, might excel as a machinist. He who is considered a failure as a carpenter, might achieve reputation as a musician. He who is a bungler as a shoemaker, might win applause and wealth as an actor. He who fails as a merchant, might succeed as an inventor. A sailor, a locksmith, a bank clerk and a dancer could not exchange functions. Each person is specially qualified for some one pursuit in life, and less suited for all the rest. If he can not acquire that pursuit and devote to it his labors, there must be a waste of his highest endowment. Its usefulness is lost to the community in which he resides, and to the nation of which he is a unit. When this sort of waste is so general as to embrace a considerable part of the population, the national power must be very far less than it would be with full exercise of the idle adaptabilities. Hence the imperative need of such a policy of government as will insure the diversity of occupations requisite to employ the diversity of capacities. — An invincible objection to a system of free trade between this and other countries is, that it would operate with increasing tendency to minimize the number of distinct vocations among our people, and thereby dwarf our national vigor and importance through waste of human aptitudes. In a community where agriculture is the sole occupation, there is very little opportunity to develop and employ the mind in the direction of its best faculties. Although a man might be pre-eminently fitted by nature to be a chemist, and although a knowledge of chemistry is essential to a scientific cultivation of the soil, what means or incentive to that end exists in a rural region, where everybody's chief talk is about the crops and the weather? What likelihood is there, in a purely agricultural country, that many of the rising generation will choose, in preference to the calling of the father, to become architects, bookbinders, confectioners, foundrymen, gunsmiths, jewelers, miners, printers, weavers, and so on through the whole round of skilled employments? Certainly there is nothing in the every-day life and surroundings of such a community to call forth the latent capacity for any of these vocations which may exist in the minds of its members. Under such circumstances thousands may continue, to the end of their days, without once suspecting that they possess faculties which need only to be properly cultivated to give them eminence and usefulness in some trade or profession of which they have, perhaps, never even heard the name. Only where industry is greatly diversified can there be a field of opportunity sufficiently comprehensive to permit a man's own instincts to choose the pursuit which most enlists inclination, gives it functional exercise, and engages its steady perseverance. Then production, whether mental or material, is largest in quantity and highest in quality, because then each particular endowment is occupied with its appropriate work, and available for its utmost contribution to the aggregate result. Individual and national wealth augments very rapidly when such conditions exist in a country, and its government is

rendered powerful and efficient by the symmetrical arrangement and advantageous application of the capacities of its citizens. All this is promoted by the atmosphere of intellectual freedom in which the people live, where there is suitable employment for physical strength, for manual skill and dexterity, for inventive genius, for the active and the sedentary, for childhood as well as youth and mature age, nay, even for decrepitude. A people so situated develop the better part of their natures, grow intelligent and exceedingly enterprising, enjoy the maximum of general prosperity, soon understand and respect one another's rights, and become imbued with intense patriotism. — In the United States, where the recognized and approved standard of comfort among the masses requires an expenditure beyond the reach of the earnings of the masses in any other country, diversity of industry could neither be created nor maintained under a system of foreign free trade. The consequent invasion of manufactures from Europe, displacing our own, would be as destructive to our varied arts as the invasion of the Goths and Vandals was to the Roman empire. Hence protection, in the form of defensive duties on imports, is necessary to secure to our people those industrial conditions which are the most potent of all the auxiliaries of civilization, and without which its fullest development can not be achieved. — 5. *The rights of labor.* Labor is the greatest part of the capital of every country, because all wealth proceeds originally from production, and all production proceeds from labor. Even the earth, with its prodigious resources, and man himself, are the products of labor—of God's labor—furnishing the basis of all production by the human race. No one can apply his hand or point his finger to an object regarded as capital which is not the result of labor. Whatever exists anywhere under the name of property is the representative of previous labor. So, too, of things not commodities. Government and laws; civil, social and religious institutions; the entire and comprehensive forms and values of human society, are all, severally and collectively, the outcome of human labor. In brief, whatever is has been produced. Production is the sole function of labor, either bodily or mental. But labor's productiveness is dependent upon its ability to find instant and appropriate exercise for labor's function. This moment's power to produce must be utilized this moment. Yesterday's power to produce, unless employed yesterday, must remain forever inoperative. Opportunity to use its potential energies thus becomes absolutely necessary to enable labor to be efficient and copious in production. To the extent that opportunity is absent or neglected, production must be prevented, and to the same extent supply be less for consumption and accumulation. Whatever promotes the activity of labor stimulates, therefore, the growth of individual and national wealth; and whatever slackens that activity retards that growth. The inevitable inference is, that government owes to society the obligation of shaping legislation so as to secure to labor every practicable advantage for the exercise of its productive capacity. Labor thus constitutes the creative force of all betterments which are essential to communities of man. Upon it depend even life, liberty and happiness. Because the multitudinous interests of society are to labor what the superstructure is to the foundation, labor has the first and highest right to full protection. As, in the present stage of civilization, the bulk of labor is unable to produce with profit unless its services are hired, its needed protection consists in what will insure *steady employment and fair wages.* — But these essentials can not be made safe to labor in the United States when it is undefended against excessive competition from foreign countries. This is why: It has been estimated, after careful inquiries, that, on an average, about four-fifths of the cost value of manufactured articles consists of labor alone. Perhaps the problem is too complex to permit the ascertainment of the exact proportion, and the answer which would be correct at one date might not fit the conditions at a subsequent date; but it is unquestionable that the ratio must be very large. To illustrate the case, take a steel rail. There is labor in the ore, labor in the coal or coke, labor in the limestone, labor in the transportation requisite to bring these elements together at the furnace, labor in the pig iron, labor in the spiegeleisen, and labor in the finished rail, besides the labor which originally produced the capital invested in the several mines, invested in the furnaces, invested in the railroads or shipping, and invested in the rolling-mill grounds, buildings, machinery and patents. This aggregate of labor value in the final product can leave only a small fraction of the whole to represent the raw materials of the manufacture, gratuitously furnished by nature. Since human labor thus contributes the bulk of the commercial value of commodities, it is clear that the selling price must be determined generally by the rate of pay for labor's services. If this rate be so unfairly low as to amount to only subsistence wages, then evidently the products of labor so paid will be able to undersell the products of labor paid comfort wages, except when the latter possess countervailing advantages, such as more and better labor-saving machinery, or more operative processes. Now, it is known that wages in Great Britain are about one-half, and on the continent of Europe about one-third, on an average, of what are paid in the United States. If the products of such scantily paid labor should come, without let or hindrance, into this country, they would necessarily be able to undersell the products of our highly paid labor, doing great wrong and distressful injury to our industrious and patriotic people, who need to be secured against this encroachment upon their rights and the consequent damage. Protection to our labor, to be adequate, must therefore have respect to the difference in the joint cost, price or value of money and labor in the United States and in the countries with

which we trade. In no other way than by defensive duties on imports can this difference be offset. The very object of a protective tariff is to equalize between this and foreign nations existing inequalities in the cost of production and in the power of competition. These paramount considerations render such a tariff both justifiable and necessary. To illustrate this position, take a single interest. Iron and steel, with their various forms of reproduction, being admitted, let us suppose, free of duties, or under entry charges low enough to avoid protection, our home producers would be unable, generally speaking, to carry on their business except at a loss, and, sooner or later, would be compelled to succumb before an outrivaling competition, reinforced by the whole strength of our national legislation. In that case, what would become of the numerous laborers who had found remunerative employment in those various industries? What would become of the miners, and of the miners' children; of the furnacemen, and of the furnacemen's children; of the forgemen, and of the forgemen's children; of the moulders, and of the moulders' children; of the rolling-mill hands, and of the machinists, and of the engineers, and of the mechanics; of the men engaged in the allied and dependent arts and trades; in brief, of the entire body of persons who can earn a comfortable livelihood because coal and ores are mined, furnaces in blast, foundries in operation, iron-works busy, machine-shops crowded with orders, rolling-mills run to their fullest capacity, and factories prosperous? On withdrawing the protection of our tariff laws from our domestic industries in general, what would become of the multitude of men and women who work in brass, copper, lead, zinc, tin, nickel, stone, glass, wood, leather, silk, paper, cotton, wool, and other materials? What would become of the local development created and continued in existence by their labors? What would become of the vast amount of capital invested in those diversified pursuits? What would become of the immense aggregate of machinery and of buildings provided at enormous expense to carry on special operations which would have to cease? What would become of the traders and the transporters who thrived on the patronage which so much production had afforded? Who but the government, remiss in its obligation to protect the rights of labor and of property, would have to be held responsible for the widespread and heavy decline in the prices of real estate which would necessarily ensue upon such a comprehensive and fundamental alteration in the condition of affairs? Where else would the blame have to be laid for the increased local taxation for state, county and municipal purposes, which would have to be levied upon other property to make up the deficiency caused by such prodigious derangement and fall of prices, and by such an enervating decrease of the productive forces? Finally, what substantial or permanent gain would there be to show for all this demolition of home resources, this prostration of manufacturing industry, this invasion of the rights of labor, this sacrifice of assured prosperity to satisfy a visionary experiment, this paralysis of vital interests, this inauguration of wholesale suffering among those who live by wages? — It is asserted that the multitude of skilled laborers thus thrust out of employment could find work and pay in more productive occupations, in those which could exist without the aid of a tariff on imports. But the skill of these laborers — forming the valuable capital acquired by them through years of persevering training, fitting them to perform certain services better and more profitably than any other service — would cease to be available as an element in reckoning the rate of wages, and would lose its money value in any different vocation. Every employer needs that his employés shall have both aptitude and knowledge, not the lack of these qualifications; and the highest capacity will be able to obtain the most pay. A druggist will not add one cent to a clerk's salary because he is an excellent machinist, nor a farmer esteem it a pecuniary advantage to hire a man who is a first-class puddler, nor the captain of a vessel feel called upon to give more compensation to a sailor who is a competent filemaker. On the contrary, the inexperience of each applicant for employment in some occupation with which he is unfamiliar, instantly operates to lower the value of his services, and to diminish the amount he can earn. Perhaps he can become a manual day laborer, of whom mechanical skill is not required; but the ranks of that useful class are always full, and, if he adds himself to them, it will tend to break down the wages of them all. Perhaps he can become a farm hand; but there is already a surplus of labor in agriculture, so much so that corn is frequently used for fuel in some parts of the rural west. When a multitude of men are forced, by adverse circumstances, out of employment in the trades for which they were trained, they can find new employment only by being absorbed into other occupations; and they can be so absorbed only by reducing the wages in the occupations to which their labor is transferred. Thus the aggregate capital represented in the skill of labor suffers a ruinous depreciation, which is felt, not merely by the laborer himself, but, through the partial or total loss of his earning and purchasing powers, by all with whom he had been accustomed to deal, extending its injurious influences throughout an almost unimaginable complexity of relations. During the years which followed the panic of 1873, the tramp nuisance signally illustrated the effect of driving labor out of its legitimate channels of occupation. Society is obligated, therefore, as well from what it owes to labor, as from a regard to its own best interests, and to all of its interests, to *secure* to labor those opportunities for steady employment, and those advantages of fair wages, which are indispensable to its welfare, and which will promote its greatest prosperity. This is the only protection which labor asks,

and is what it has a right to demand from government.—6. *Cheap production through sacrifice of labor.* There is only one way in which defensive duties on imports could be discontinued without bringing ruin upon our diversified industries. If our labor would promptly consent to resign itself to unfairly low, or subsistence, or *slavery* wages, such as are doled out to European labor, foreign competition could be overmastered and our establishments could survive. Here the chief elements of mere subsistence are already far cheaper than they are in Europe, and, under a system of scaling prices down to conformity with pittance pay to labor, even food would become much cheaper than it is, while clothing, household utensils, furniture, tenement rents, and nearly all other requirements of the simplest living, would be reduced in cost much below the average in any of the manufacturing countries of the old world. This unparalleled cheapness would enable our subsistence wages to be put at a less rate than they are in any part of Europe. Then we could produce manufactures cheaper than any foreign competitor whatever. But the purchasing power of the masses of our people would be correspondingly low, while their productive power would be largely in advance of their consumption. This would force our producers, as it does the British, to look abroad for markets to take off the surplus, or else a considerable part of production would have to cease, with the result of thrusting a multitude of laborers out of employment and into pauperism, to be supported by public charity or to starve. Under such circumstances we would become exporters of immense quantities and values of finished products, and would be deeply, even vitally, interested in the abolition of hostile tariffs everywhere, as Great Britain is now. Further than that, with the advantage possessed by us in our superior cheapness, as regards both productive cost and selling price, we could and would wrest from Great Britain, not only her foreign markets, but even her home market, and ruin her manufacturing industries, as she now seeks to ruin ours that she may secure a monopoly control of *our* market, and thus take off much of *her* surplus. It would be our selfish interest, as it is hers, to crush out competition wherever encountered throughout the world, and to destroy all the rising arts of reproduction set on foot by other nations. Nor could we be prevented from accomplishing this result, unless those nations should adopt defensive tariffs on imports, efficiently framed and adequately enforced, as we have done. Thus it would be *possible* for us, therefore, to beat Great Britain at her own game of overmastering cheapness. But what, worth having, would we *gain* by such a radical change of our present condition? Nothing whatever. Instead, the aggregate *loss* would be enormous and awful. We would, to begin with, treat man as made for trade, not trade as made for man. Our laborers, deprived of justly high, or comfort, or *freedom* wages, would quickly sink in the scale of civilization. Within a few generations they would cease to be intelligent, and become ignorant, debased, superstitious, servile, and unfit to be trusted with the ballot. No longer having chances to improve their condition, or to arise above it, they would lose their present incentives to self-respect, to courage, to ambition, to enterprise, to hope. The spirit of man falls with his wages—declines as declines the reward of his industry, toil and care. Crush the latter, and *he* is crushed. Take away from labor in the United States the elevated, important and commanding position which it now occupies, and let its wages and its situation sink to the European level, then its descent would drag down the edifice of republican institutions and of human freedom. These can not long exist where the rights of labor are not respected. Would general cheapness in the prices of commodities be any compensation for this tremendous sacrifice of all we hold dear and sacred as the results of American liberty?—7. *Cheap production through defense of labor.* Protection attains to cheapness of money price in a rational and beneficent way. Under that system the American mechanic, educated, well paid, well clothed, well housed, is not consumed by those large cares, nor deadened by those cruel privations, which beset the life of his European competitor, who rarely has either leisure, inclination or incentive to study out improvements in the processes by which he earns his daily bread. Here, however, the workman, surrounded by a multitude of different industries, is always in the path of intelligently perceiving what is wanting or what is amiss in the old methods, and has a better chance, as well as a stronger inducement, to make the needed progress, whether in machinery, in fabrics or in operations. Without protection, our widely differentiated industry could not exist; without such diversity, there would be lacking, not only the accurate knowledge of details which is requisite to suggest a higher excellence in productive instrumentalities, but also the hope of reward essential to spur the mind to experimental effort. An improved plow is not expected from sailors, who are ignorant of agriculture; an improved ship is not expected from farmers, who have no practical acquaintance with the ocean. If Whitney had not seen cotton growing, and learned both the difficulties and the cost of separating the seed, it is probable that he would not have invented the cotton gin. If the spinning of cotton had not been carried on in England at all, during Arkwright's life, it is altogether unlikely that he would have invented the spinning frame. Our successful inventors have generally been poor men, whose daily experience at their work has shown them some defect in its processes, or suggested some more useful mode of reaching its results. In this manner the drudgery of human hands is gradually transferred to muscles of iron and steel, one machine doing the work of several or many men, with constantly decreasing cost of its production. These automatic appli-

ances rise in the scale of excellence until a correspondingly high degree of excellence, which means intelligence, in the labor, is indispensable. Then, as prices of manufactures decline, the rate of wages advances. Cheapness of commodities thus brought about is allied with the progress of civilization; but the cheapness caused temporarily in an importing country by foreign free trade both victimizes and debases the people whom it promises to bless. — 8. *Poverty and weakness of a purely agricultural country.* Supposing nearly the whole body of our population occupied in cultivating the soil to obtain a livelihood, a home market for any considerable share of the surplus of the crops would be a simple impossibility. The grower of cotton, of tobacco, of rice, of wheat, of corn, of hemp, or of flax, has neither need nor desire to purchase a like product; he is always and everywhere a seller, not a buyer, of the commodity. If his surplus can not find sale in his own neighborhood, it must be sent to a distant place for that purpose; and if customers or consumers can not be found nearer than Liverpool, his crops must cross the ocean in search of a market, involving the greatest amount and distance of transportation, and the largest demand for the always expensive services of the middleman, with the least profit to the producer. Thus dependent upon very far-off markets, the agriculturist must conform his crops to the arbitrary and inexorable requirements of those markets. He is forced to raise only such things as can with certainty be sold regularly there; and he must do so without knowing beforehand whether large or small quantities of his produce will be needed for export, or whether the prices he will receive after harvest will be high or low. Uncertainty, instability and risk, in an extraordinary degree, must be the inseparable companions of his toil, and the constant perils of its reward. An agriculture so situated and conducted, being necessarily devoid of rotation of crops, leads to exhaustion of the soil, and to the appropriation of other land, in its turn to be exhausted. As the farmer advances in this butchery and spoliation of the earth's surface, he leaves behind him an impoverished region, incapable of sustaining a population. Such a plunder of the fertilizing and vegetative elements of the ground unavoidably tends to poverty; hence agricultural nations, with scarcely any manufacturing industry, are always *poor* nations. Ireland's present condition offers a fair illustration of the invariable result. A like doom would await the United States under foreign free trade, or under even "a tariff for revenue *only*," if either should be continued to the bitter end. The effects upon mining, transportation, inventive genius, architecture, education, literature, and the power of combination and association, would all be equally repressive and disastrous. There would be enormous and frightful losses, for which no possible cheapness of the money prices of commodities could compensate our people. Further, a poor nation is necessarily a weak nation. What if war should come upon us after we had reached our impoverished condition as an agricultural country? We might be unable to maintain the national independence of the United States against a war of invasion. Under just such a policy, Turkey has been slowly crumbling away before continual encroachment, until she is upon the perilous edge of a final catastrophe which will blot her name from the list of self-governed states. History abounds with similar warnings, which nothing except the blind confidence of ignorance or the audacious insanity of folly would refuse to heed. All the voices of experience combine to teach that the only path of safety, and the only road to prosperity, lies through protection to home labor by means of defensive duties on imports. — 9. *Effect of separating producer from consumer.* When farmer and miller are within easy reach of each other, they divide between them, on some equitable plan, all the flour made; but when a considerable distance is interposed between the two, a third party, the transporter, must be employed, who takes a share of the grain, or the money price of that share, to compensate him for his services in conveying the grain to the miller; and again, a share of the flour, or the equivalent of that share, to pay him for his time and trouble in carrying the flour to the farmer, leaving less to be divided between the man who grows the grain and the man who converts it into flour. Ultimately, however, the miller might grind the transporter's share of the grain, taking therefrom his customary toll, and thus might secure for himself the same proportion of the whole quantity as if the transporter had not intervened; but the farmer must, in any event, suffer a positive and permanent loss. It is true, the farmer makes a gain by obtaining the conversion of his grain into flour; but between his gain and that of the miller and the transporter, theirs not being complicated with a sacrifice, there is a large inequality of profitable result. Let this inequality be extended to a great variety and number of the farmer's exchanges, covering the most of his purchases, then his impoverishment would be merely a question of time, or else his power of accumulation would be so seriously crippled as to prevent any considerable or rapid improvement of his condition. Extending this idea, let us suppose A, a country in the western hemisphere, and Z, a country in the eastern hemisphere; and that A exchanges its raw products of the soil for Z's finished products of the loom, the forge and the workshop. This would be the exchange of commodities which free traders declare to be commerce. It clearly belongs to the kind, however, which would call largely for the services of the transporter and his allied middlemen. It would require the investment of a vast amount of capital in steamships, sailing vessels, railroads, canals, and other machinery of the carrying trade. A and Z would severally have to pay the cost of conveying their commodities to the distant market. Much the heavier part of this expense would fall upon producers in A. Their raw products of

the soil being bulky, these would necessarily occupy large space in the holds of the ships, and being of small money value proportioned to their size, it would require a considerable percentage of that value to liquidate the freight charges. On the contrary, much the lighter part of the expense would fall upon producers in Z, whose finished products of mechanical labor would fill small space relatively, and being of large money value in little compass, only a trifling percentage of such value would be needed to pay for transportation. A cargo of wheat exported from A to Z would involve the payment of pretty much the same amount of freight charge as a cargo of cloth exported from Z to A; yet the cargo of cloth would purchase many cargoes of wheat. Producers in A would have to give so considerable a part of the money value of their products to the transporter, to compensate him for taking them to market, as to leave a very scanty margin for a profitable return; and the more inland the producers were, the greater would they be sufferers in this respect; for, in addition to the cost of ocean carriage, they would have that of getting their products to the seaboard. Moreover, this mode of commerce would embody the folly of taking food and the crude materials of manufacture, in unending series, immense distances to supply the wants of the loom, the forge and the workshop, instead of bringing the loom, the forge and the workshop, once for all, where they could reproductively consume the food and the crude materials of manufacture, thus saving forever all the expenses of a double transportation. Still further, under such a system of exchanges, the inhabitants of A would be compelled to devote themselves to the growth of such staples as the inhabitants of Z would purchase, thereby enforcing a uniformity of crops, and depriving the people of the power to make exchanges among themselves, except to a very limited extent. This condition would also involve a dispersion of population, accompanied with feeble capacity for combined effort in the construction of roads and the building of bridges, and in providing other means to diminish the burdensome tax of transportation. A large increase of the export of the raw products of the soil from A might indicate, therefore, not an increase of individual and national prosperity, but a diminished ability to exchange commodities at home, causing an expansion of the foreign at the expense of the domestic commerce. It thus appears that there may be an exchange of commodities between different countries in which all the real gain is on one side and all the actual loss on the other; or, in other words, wherein all the aggrandizing tendencies combine with Z, and all the depreciating tendencies assault A. — 10. *Effect of bringing producer and consumer together.* Middlemen, whether carrier, broker, agent or trader, add nothing to either quantity or quality of commodities passing through their hands; yet the pay for their services, including their accumulation of wealth as well as their maintenance, must come out of producers or consumers. Wool will make as much cloth in the United States as in England. If, however, the wool is taken to England to be converted into cloth, and the cloth is brought back to be converted into clothing, then all the intermediaries required to make the changes in place will obtain a portion of the values created, and all the other parties involved will receive less by the amount thus deducted. When the manufacturer is transferred to the side of the wool grower, these intervening charges, expenses, losses, are thrust out and entirely saved. The exchanges become direct, with the minimum of friction, risk, delay and obstacle. Transactions are between principals, not through agents. No organized waste of time separates the moment of completed production from the moment of commenced consumption, resulting in a sluggishness of societary movement. As exchanges between parties distant from each other are always fewer than between parties near together, and as frequency and rapidity of exchanges are far preferable to their rarity and tardiness, commerce is rendered capable of conferring its utmost benefits. Protection's task is to place producer and consumer side by side, making them such correlatives in human industry as they are in nature's operations. The rock collects the elements of change from the surrounding affinities, not from the far-off ledge or particles. The plant draws its sustenance from the soil in which it is rooted, and from the neighboring air, sunshine and showers, not from the remote field, and from the distant atmosphere, light and rain. The cow, endowed with the power of locomotion, browses in the vicinity of her home, not in the valleys or upon the plains a score of miles away. Such is the mode of procedure in all nature, animate or inanimate, below man. He alone has ever voluntarily pursued a different course: he alone by distance has separated production from consumption, thereby establishing impediments between the two, and injuriously affecting his own welfare. Considering that iron, copper, lead, coal, limestone, marble, manganese, porcelain clay, salt, and many other minerals, are profusely imbedded in our soil, and that these substances are essential to the development of the human race, by what legerdemain of logic is it to be shown that this close proximity of supply to demand is not an indication, almost imperatorial in its emphasis, that demand should seek its supply on the spot? It will hardly be maintained that the boundless presence of these resources has been a matter of pure chance rather than of deliberate design. If by design, then what can be the meaning of that design, unless it be that man, obeying the divine mandate to "be fruitful and multiply, and replenish the earth, and subdue it," should find the means of satisfying his needs wherever he might settle? Protection runs parallel with this broad purpose, in a double sense; for it not only incites our people to utilize the resources which impregnate their own soil, but erects a barrier against those who would entice our people to neg-

lect the resources under their own feet, in order to develop and use the resources which lie under the feet of other men, in other and distant countries. — 11. *Competition increased by protection.* Adequately defensive duties on imports, while minimizing the destructive manifestations of foreign rivalry, secure the maximum amount of wholesome competition; for, if the tariff be too much reduced, foreign competition, flooding in according to its own pleasure, will prostrate and ruin the native establishments, whereupon all the competition left will consist of that between foreigners for the possession of our market; but, if the tariff barrier be raised to the protective point, domestic industry will revive, and competition will be increased by that between our home producers, and by that between our home producers and the foreign producers, thus insuring a threefold competition, moving in legitimate channels, and acting with a maximum of combined force to reduce prices to consumers. Protection, therefore, does not foster (as is alleged) but antagonizes monopoly. — 12. *Protection to either foreigner or native is unavoidable.* To abolish protection to home industry, would be to take sides, in the most positive and damaging manner, with foreign capital against domestic labor. The inevitable operation of the repeal would be to give the fullest practicable force and effect to the advantages which foreign manufacturers possess over our own, by removing the barrier which stands between our producers and the destructive competition of alien producers. Foreign interests and native interests are set before congress as objects of choice, and congress is asked to choose the former in preference to the latter: the benefit and welfare of other countries rather than the benefit and welfare of this country. What can a scheme be, which takes away from domestic producers, to whom it naturally belongs, the possession of the home market, in order to bestow it as a free gift upon foreign producers, except a scheme which withdraws protection from a class at home to confer it upon a class abroad? To repeal the laws which punish crime, is to protect criminals; and to legislate out of existence the protection which guards and sustains American industry, is to transfer the protection to European industry. A tariff too low for home protection thus becomes a law to protect transatlantic manufacturers against the rivalry of our manufacturers in the latter's domestic market. The issue between the protectionists and the free traders, when reduced to its seminal principle, dwindles to simply this, whether we shall protect our own labor and capital or those of other nations. Doing the latter may be symbolized as dismantling our forts, leveling our breastworks, and disarming our troops, in the face of an invading enemy, leaving him at his leisure to reap all the fruits of unopposed conquest. The pretense that the government is to be, or can be, indifferent in the struggle for the mastery between our own arts and industry and the antagonist arts and industry of other lands, is as preposterous as to pretend that the government is to be indifferent in the case of hostilities between this and any foreign power. No revenue law was ever yet enacted, in any country, which did not, in some way, directly or remotely, affect the rights and interests of labor for better or for worse. There is no neutral ground upon which legislation can stand in respect to material development; the inevitable influence of statutory provisions, especially of those regarding taxation, must be, as common sense and all experience teach, to make or mar, to help or harm, to reinforce or antagonize, industry. Insomuch as the productive elements of society find careful and increasing protection in the general course of legislation, national, state and municipal, what just reason exists why any person should advocate the idea of leaving those fundamental elements of prosperity to take care of themselves when the government comes to levy duties on imports? Why should they be left out of favorable consideration at that exact point, and nowhere else? What is there about the arts of reproduction which should make them an exception to the general rule of protection? Some imports are advantageous; some are not, as immoral books or licentious pictures. To discourage the mischievous class of articles, and to promote the beneficial class, is to discriminate between different kinds of trade, that is, different kinds of production. This regard to the public welfare is, as it should be, the ruling motive of our tariff system. — 13. *The national constitution expressly authorizes protection.* Andrew Jackson said, in his second message to congress, Dec. 7, 1830: "The power to impose duties on imports originally belonged to the several states. The right to adjust those duties with a view to the encouragement of domestic branches of industry is so completely identical with that power, that it is difficult to suppose the existence of the one without the other. The states have delegated their whole authority over imports to the general government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the states, the right to exercise it for the purpose of protection does not exist in them; and consequently, if it be not possessed by the general government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely can not be the case: this indispensable power, thus surrendered by the states, must be within the scope of the authority on the subject expressly delegated to congress. In this conclusion I am confirmed as well by the opinions of Presidents Washington, Jefferson, Madison and Monroe, who have each repeatedly recommended the exercise of this right under the constitution, as by the uniform practice of congress, the continued acquiescence of the states,

and the general understanding of the people." The constitution specifies that "the congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States"; "to regulate commerce with foreign nations"; and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof." These clauses vest in congress almost unlimited power of taxation. As regards imports, save the exception involving state inspection laws, and, besides, the requirement of uniformity in duties, the senate and house possess the same supreme authority over the whole subject as was possessed by the several states before it was surrendered by them into the exclusive hands of the general government. When they parted with their undoubted and unquestionable right, each for itself, and lodged it in the national constitution, they endowed the new organism with all powers and functions in the premises which they could themselves have exercised individually. Had the transfer to congress, by the states, of control over the subject been of a modified or restricted character, the evidences of such a fact assuredly would have appeared in conclusive form in the articles of union. The words in which the qualified authority was delegated would have been specific and positive, and the limits of its extent would have been defined with rigid exactness, leaving no room for ambiguity or misapprehension. The very absence of confinement within bounds justifies the logical sequence that none was intended; for certainly a restraint so important would not have been left to implication or construction. Evidence to the same effect is to be found in the debates on the constitution, which took place in the several state conventions called to ratify or reject the proposed change of government, for there the belief was generally entertained that the grant of power over national taxation was peremptory and supreme. Indeed, the surrender by the states appeared to some minds so excessive and impolitic that they presented it as a serious argument against ratification. All were deeply anxious for a system which would avoid the inefficacy of a mere confederacy, such as they already had, but they felt a dread of passing into the opposite extreme of a monarchical consolidation. Those conflicting wishes and fears led to a protracted, intense, exhaustive scrutiny of reasons for and against every important suggestion of change. Never before were political institutions adopted with so much deliberative assent, with such thorough adjustment in the relations of the various parts, or with so complete an understanding of the nature of the work. Reciprocal protection against contingencies of foreign interference and encroachment was the foundation of the new governmental structure, and it would be grossly illogical to suppose that the protection of domestic industry, so intimately connected with the prosperity of the state, was purposely, negligently or ignorantly excluded from the plan. Congress, therefore, having entire control over duties on imports, and this control being coupled with the power and obligation of providing for the common defense and general welfare, without any reference whatever to a revenue standard, the conclusion is irresistible that both those who framed and those who ordained the constitution granted in it full authority to legislate for the protection of native industry by creating tariff barriers. The phrases "to regulate commerce" and "regulation of commerce," which occur in that instrument, were not accidentally chosen, or used in any vague, loose or indefinite acceptation, but had been constant formulas of expression in the long controversy between the colonies and the mother country, from the time of the stamp act onward, and had acquired, by repeated discussion, and by legal and parliamentary usage, a fixed and precise meaning. Our revolutionary forefathers, people and statesmen alike, also Englishmen, regarded these phrases as synonymous with what we now term protection. When, consequently, in 1787, the federal convention selected these phrases to express the power over commerce granted to the new government, in what other than this familiar and customary sense could such modes of speech have been employed? James Madison, Daniel Webster, Rufus Choate, and others of our great men, have declared, in the most deliberate, specific, positive manner, that the language in the constitution was intended to convey the very authority in question; an authority to be exercised, not held in abeyance. So, too, was the grant interpreted by the first congress, which contained fourteen of those who had been members of the federal convention, its president, George Washington, having been elected chief magistrate of the United States, and another delegate, Alexander Hamilton, appointed secretary of the treasury. It is not logically supposable that these patriots were either ignorant of the design of their own work, or capable of a plain, palpable, direct infraction of the organic law; yet the one or the other horn of this dilemma must be occupied by those who deny the constitutional power and obligation of protection; for the first tariff act, approved July 4, 1789, declared, in so many words, that one of its purposes, one of its objects, one of its inducing motives, was "the encouragement and protection of manufactures." Next year, when still higher duties were imposed, the same avowal was renewed. The only legitimate conclusion from all these circumstances is, that power to protect home industry was put in the constitution in pursuance of a set design to put it there. Before the Union was formed, the people demanded the insertion of that power; the people expected to find that power in the instrument; the convention conferred that power in words familiar to the people from childhood as expressing that power; the people adopted the constitu-

tion, believing that power was in it; and the very first congress, at its first session, in its first act of general legislation, proceeded to exercise that power in express terms, with avowed intent to give it practical shape. These are historical facts, which it would be folly to dispute: hence the only sort of a tariff on imports which conforms to both the letter and the spirit of the fundamental law is a protective tariff. — SOME PRACTICAL RESULTS. The general result of the protective system is to develop and cheapen production until its superabundance flushes over into the channels of foreign commerce. To accomplish this outcome the protection must be adequate, stable, prolonged. Alternate changes from this system to its opposite, as has been the case in the history of the United States, arrest the movement, more or less, according as the abandonment of the defensive principle is partial or complete. Only a very few articles have been both fully and steadily protected. In those instances the tendency to ultimate exportation has been most operative and conspicuous. The universal law which governs exports is that nothing, except coin and bullion, or bonds and stocks, tends to go abroad until there is a surplus of domestic production above domestic consumption. There is no incentive to export any commodity whatever until the home demand is satisfied, and an excess remains to seek a foreign market. Hard times may diminish the home demand; still, nothing will be exported save what would surfeit that demand, be it languid or active. Brazil exports coffee, and China exports tea, because each country has more than enough of its special product for the satisfaction of its own wants. For this reason Great Britain exports iron and steel, cottons, woolens, linens, tin plate, and other manufactures. For this reason France exports silks, wines and beet sugar; the United States, breadstuffs, provisions, raw cotton and tobacco; Australia, wool; Cuba, cane sugar; and so on to the end of the list. It is plain, therefore, that we can arrive at the point of exportation only by so developing the home production that there shall be something in excess of the domestic supply. Without protection, either natural, as in the case of newspapers, or artificial, as in the mass of cases, such an expansion of productive capacity can not take place. This is the teaching of experience no less than of theory. From 1840 to 1864 we did not export a dollar's worth of our own woolen manufactures. The beginning of export has been reached under our system of protective duties. This initiatory export, with its increase, clearly evidences a highly developed woolen industry, and a growing surplus above our own wants of the grade and kind of fabrics exported. Under a steadily fostering tariff, a gradual yet accelerated progress is originated, by which establishments multiply, production enlarges, rivalry intensifies, prices diminish, superfluity arises, exportation commences. Such legislation is essential, therefore, to create that fullness of home supply which must always precede any tendency to seek a foreign outlet. — *The cotton crop of the United States tariff-protected into existence and export.* In 1789, when congress first imposed duties on imports, all the cotton manufactured in the American mills came from other countries, principally from the West Indies. Only an insignificant quantity of the staple, locally consumed in the household industry of those days, was grown in the south; so little, indeed, that one of the representatives in congress from South Carolina declared that the production of cotton was *contemplated* in his state and in Georgia, and, "if good seed could be procured," he hoped it might succeed. Edward Everett, in a public address delivered in October, 1831, said: "In 1794, when Mr. Jay negotiated the treaty with Great Britain, it does not seem to have been known to that distinguished statesman that cotton was raised for exportation in the United States; and he accordingly admitted it among the articles not to be exported from the United States in American bottoms. Even as late as 1796, I find in the journals of congress, that a petition from the proprietors of a cotton mill on the Brandywine, who prayed for the repeal of the duty on the raw material, and the increase of that on cotton goods, was rejected by the committee of commerce and manufactures, on the grounds that the existing duty afforded sufficient protection, and that 'to repeal the duty on raw cotton imported would be to damp the growth of cotton in our own country.'" Hence, the duty of three cents per pound in the first tariff act was laid, not so much to encourage and protect, as to create the existence of the staple in this country as a regular and an important crop. That duty (except during the war of 1812 and awhile afterward, when all the permanent duties were doubled) was continued unchanged from July 31, 1789, to Dec. 1, 1846, or a consecutive period of fifty-seven and one-third years, whereupon it was abolished as having ceased to have either protective or revenue force. In the fiscal year 1848, the first complete one after the removal of the duty, we exported, according to the commerce and navigation report of the United States for that year, 7,724,148 pounds of sea island, and 806,550,283 pounds of other raw cotton, together valued at $61,998,294; and imported 317,742 pounds, valued at $6,814, of which we re-exported 51,001 pounds, valued at $4,727. Since then we have enormously increased the crop, and annually have found a foreign market for all we could spare. In this case, protection, steadily and amply applied, accomplished far more than was hoped for at first, and was instrumental in creating, developing, and establishing an agricultural industry of wonderful and the most wide-reaching importance. — *Axes protected to exportation.* The manufacture of axes and other edge tools was commenced at Hartford, Conn., in 1826, by the brothers Collins, who were the first to supply the markets of this country with cast steel axes, ready ground for use. Until then such implements had always been

imported. By the tariff of 1828 a protective duty of 35 per cent. was levied upon imported axes. Under this protection the Collins company introduced labor-saving machinery, much of which was invented, patented and constructed by themselves. Ultimately their axes altogether superseded the foreign article, on account of superior quality and greater cheapness. In 1836 foreign and home-made axes were selling side by side, in the American market, at $15 to $16 per dozen, at which time foreign producers, finding they could make no money at those rates, and that our establishments could not be broken down, withdrew from the competition, abandoning the entire market to our own manufacturers. Then, other domestic makers having meanwhile entered the field, home rivalry and improved methods continued the decline of prices. Axes were selling, in 1838, at $13 to $15.25 per dozen; in 1839, at the same; in 1840, at $13 to $14; in 1841, at $12 to $14; in 1842, at $11 to $14; in 1843, at $11 to $12; in 1844, at $11 to $11.50; in 1845, at $10.50 to $11; in 1846, at $10 to $11; in 1847, at $9.50 to $10.50; in 1848, at $8 to $10; and in 1849, at $8 to $10. These quotations are copied from the finance report of the United States for 1849, and they show a constant decline of prices, even after the pressure of foreign competition had been entirely withdrawn. Now, we are exporters of axes, and are wresting from the English one market after another. Said the "Sheffield (Eng.) Telegraph," as far back as 1874: "The steel of an American axe is so superior to that of an imported axe that no pioneer who understands his business will ever carry any other with him into the wilds." Similar testimony might be given by the page. A recent letter from an Australian to an English house, published for the information of the trade, says, "It is perfectly useless to try to oust American axes from the market, unless the competing article is at least as good in all points of view, and lower in price as well." The same letter further says, "The Anglo-American axes are invoiced at 54s. per dozen, while the best American (the 'Hartford') are put on board at 48s. 9d. for the same average weights. Furthermore, the casing on English axes costs 4s. to 5s. per dozen: on the American, *nil*. It is, therefore, plain that the trade must go to America, unless a very large reduction in the price of the English goods can be made." Thus has long-continued protection placed American axes at the head for quality of material, style of finish, and cheapness of price, with surplus at home and growing exportation. Similar illustrations may be drawn from locks, scissors, watches, fire arms, shovels, hay forks, agricultural machinery, tools, saws, and many other articles. The necessary corollary is, that protection, adequate in extent and sufficiently prolonged, will lead to equal results as regards the great mass of our manufactures.—MOST FREQUENT OBJECTIONS ANSWERED. 1. *The import duty is added to the price of the home-made article.* This is the corner-stone of the argument against protection. On it is built the charge, as variously formulated, that prices are enhanced to consumers for the benefit of the domestic manufactures; that taxes are levied to serve as bounties paid to privilege; that the many are plundered to enrich the few; that the tariff is a scheme of spoliation. Really, however, there is no greater falsity than the dogma, that, whenever a duty is imposed, the amount of duty is added to the price, not only of the foreign article imported, but also of the similar article manufactured in this country; the fact being that the tariff barrier merely shields and permits the natural price, which varies in different countries, according to the variation of its component elements, just as the natural price of wheat in the United States is made up of cheaper components than the price of wheat in England; and just as the natural price of pig iron in England is made up of cheaper components than the price of pig iron in the United States. Our wheat can undersell English wheat: hence the ruinous effect of our free competition upon English agriculture. On the other hand, English pig iron can undersell our pig iron: hence the ruinous effect of her competition, when not restrained, upon our manufacture. The only way to guard the natural price from destructive encroachment from abroad, is to erect the tariff barrier, behind which healthy competition, skill and invention will co-operate to bring down the articles to the lowest point at which a profit can be made. This is the universal law of domestic prices under a system of protective duties. It explains all the phenomena about which there is so much dispute. For instance, would a duty of $100 per ton on imported pig iron increase the price of domestic pig iron by that sum? Is there anybody so rash as to insist that there would be such an enhancement? If not, for what reason not, if the duty is always added to the price of the home-made article? This is one of the predicaments into which the free-trade dogma forces its votaries; but the law of prices above stated does not encounter any difficulty whatever. The explanation under that law would be, that the duty of $100 per ton would shield and permit the natural price of pig iron in this country, and such price would rise no higher even though the duty should be increased to $200, to $500 or to $1,000, or be reduced to $10. But if the duty should be cut down to $3, $2 or $1 per ton, or to any other sum too small to shield and permit the natural price, the home price would fall; and if the competing foreign price should be low enough to compel an abatement of all the profit contained in the natural price of the native article, or to cut below productive cost, then the effect would be to stop the domestic manufacture, and hand the market enjoyed by it over into the hands of the foreigners, or else the chief component of productive cost, which is wages, would have to be so reduced as to give some remuneration to capital. When a tariff duty does not, or could not, exert any influence whatever in sheltering and allowing the natural price, as in the

cases of raw cotton, ice and newspapers, its imposition is a work of supererogation; but we can not have healthy and prosperous industries at home unless the natural prices of their products are adequately protected against those aggressions from abroad which possess overmastering power. Persons who denounce tariff protection are therefore compelled to take the untenable position that they are unwilling to permit the existence of natural prices for American products; or, to state the case in another form, are opposed to the continuance of all domestic industries which can be undersold in our market by foreign competition. To go before the people on that basis of appeal for their votes, is very different from going before them to get their support of the proposition, that consumers are taxed by the amount of the duties added to the home prices for the enrichment of our manufactures. Nor is this the whole of the predicament. If the duty is added to the price of the home-made article, then the conclusion is inevitable that the repeal or the decrease of the duty will reduce the home price by the amount of the duty removed; hence, when in the summer of 1879, the American mills were selling steel rails at $40 per ton, the repeal of the duty of $28 per ton would have brought the home price down to $12 per ton, although the English mills could not then sell equal rails at less than $22 per ton in the English market, and although $12 would not have nearly paid for the raw materials of manufacture, to say nothing of wages. What value, theoretic or practical, can belong to a dogma which involves absurdity like this as an unavoidable corollary? Nor is this all. Many articles of home production, which are dutied in our tariff, are bought by our consumers as cheap as, or cheaper than, the equivalent articles can be bought in foreign countries. How is it possible, in those cases, to add the duty to the home price? Jaconet sells (May, 1882) wholesale for 6¼ cents a yard, and can not be had for less in Manchester. Abroad the price of cod-liver oil is $1.30 a gallon, the duty is 40 per cent., and the price here is 80 cents a gallon. A long list of such instances might be presented, all flatly contradicting the free trade dogma about the incidence of duties on imports. A theory which allows for no exceptions, yet encounters a multitude of them, must be a huge fallacy. Finally, if the import duties are added to the prices of the home-made articles, and thus, as is alleged, organize robbery by law, how is a revenue tariff without protection to be defended on principle? Such a tariff must levy duties, and these, according to the theory, must constitute robbery to that extent. This must be the position occupied by those who espouse the dogma about prices, unless the extreme view be adopted of excluding from the tariff charge everything, of whatsoever kind, produced in the United States. But then the revenue raised would be wholly inadequate to the needs of the government. Here, consequently, is a very puzzling dilemma, one horn of which is robbery, and the other horn a deficit. — 2. *Free speech, free press, free soil, free men! why not free trade?* Because what has come to be styled in the discussions of the day, and in the demands of the anti-protectionists, as "*free* trade," is the instrument, not of freedom, but of slavery. The adjective "free" does not necessarily dignify, improve, ennoble, purify or sanction anything to which it is applied. Good men and women reprobate the use of liquor in treating on election days, as a vicious and corrupting device to influence voters; yet the intoxicant so used is styled "free liquor." We may, therefore, repeat the formula, with the following variation: Free speech, free press, free soil, free men! why not free liquor? The answer, as before, is because it is the instrument of slavery, not of freedom. Again: Indiscriminate love, or the love of one man for many women, and of many women for one man, would debauch society; yet this sort of love is advocated by a class of persons who call it "free love." Once more the formula may be varied, thus: Free speech, free press, free soil, free men! why not free love? Because it is the instrument, not of freedom, but of slavery. Trade is not made really free by chaining it to the epithet *free*. Free trade no more emblemizes or establishes freedom than a pure fraud emblemizes or establishes purity. Free men under free trade between nations are put in bondage, losing their freedom by becoming the slaves of trade. If trade is made literally free by coupling the two words, why is there so much talk in England about "one-sided free trade" and "fair free trade"? Whatever is truly and properly free can not be one-sided, and must be fair; yet these descriptives are employed to designate that very system of free trade which we are asked to copy, and which we are told is so beneficial in itself that England can not afford to surrender it, even although it should be rejected by all other countries. It is a very unsound use of logic to base an argument in favor of an economic policy upon the ambiguity of a word in its different connections. The formula given is only one of those carelessly phrased propositions; one of those fallacies and non-sequiturs, which are continually passed off upon the unthinking as first-class truths; one of those adroit, pungent, sparkling sophisms, making war for the wrong in the name of the right, which are apt to dangerously impress such superficial minds as are unaccustomed to independent thought. — 3. *Every man has a natural right and should be free to spend his own money in his own choice of a market.* Every right has its duty, and the two limit each other. Thus, everybody has a right to love, but that right is restricted by laws, both human and divine. No man has a right to love his neighbor's wife; there duty interposes an impediment, while law erects a barrier and provides a punishment. A man has a right to marry, but not to marry more than one woman, at least in any civilized country. His

marrying right is a right with fixed boundaries or restraints, which he can not transgress without doing an injury to society, and subjecting himself to just penalties. A man has a right to choose his religion, but his right is limited by the proviso that his religion shall not be such as to require an invasion of the rights of others, as, for instance, Mormonism, which exists in its polygamous form in defiant violation of law, and needs to be remorselessly crushed out for the good of the community in general. It is the same in regard to spending one's own money. The right to spend is not an absolute right; like other rights it is hedged in by duties or obligations, which measure, determine and restrict its exercise. No one, for illustration, has a right to spend his money in getting somebody else drunk, with a design to unsettle the latter's judgment so as to take advantage of him in sharp bargain-making, or to trick him out of his signature or out of his vote. It is not right to spend one's money in building a dam across a stream, by which water will be backed up over other people's land without their consent. It is wrong to spend one's money in any way which encroaches upon the rights of others. Even the right to life has its limitations. He who commits murder forfeits his right to life. The right to happiness is bounded by the duty of conduct consonant with the attainment of happiness. There are no rights without corresponding obligations; and any argument which treats of the rights as absolute, that is, set free from obligation, is obliged to lead to fallacious conclusions, as in the case of the proposition that every man has a natural right and should be free to spend his own money in his own choice of a market. — Rights are of two sorts: natural and conventional. To breathe, to eat, to live, are natural rights. To spend one's money, and the general acts of buying and selling, with the great mass of what are called rights, are conventional, fixed either by statute or constitution, or by custom, which is only another name for the common or unwritten law. Money itself is a conventional creation for the benefit of society by overmastering the intricate difficulties, embarrassing delays and sluggish movements of pure barter—the condition before money was agreed upon as a medium for effecting exchanges. A conventional right is necessarily subject to the regulating terms of the convention or general agreement, whether by law or custom, which created it a right. What is a conventional right in one country may be a conventional wrong in another. In some places a man may spend his money in ways or on objects prohibited in other places. A man may lawfully spend his money in Louisiana for a lottery ticket, but to spend his money in that way in Illinois is to violate a legal provision. It is a false assumption that the right to spend one's money is a natural, not a conventional, right—is a right like that to breathe, to walk, to think, or to live. It is nothing of the kind, but wholly conventional. Whenever a man enters a community, and becomes one of its integral units, he must submit himself to the conventional rights which he finds in operation there. He can not set up his individual judgment, however wise and superior he may consider himself, as the determiner of his measure of acquiescence in those rights; he must submit until he can bring over enough of the other judgments to his style of thinking to precipitate the desired change in the conventional rights. — The argument for a protective tariff rests upon the experience that the spending of one's own money for foreign goods, when it dooms laborers at home to idleness, and leaves our own good raw materials unused, and our own natural resources to remain undeveloped, is detrimental to the mass of the people. No one has a right to spend his money in such a way as to injure the community in which he lives. Every time this country has had a tariff which encouraged the importation of manufactures from other countries, the result has been disastrous to our domestic industry. Wages have gone down, many thousands of men have been thrown out of employment, and the activities of production have been reduced to sluggishness and embarrassment. Exactly the contrary have been the circumstances under every tariff enacted with the effect of protecting American labor and capital against encroachment from foreign aggression. Are we to be told that men have a natural right to spend their own money in their own choice of a market, despite the fact that such spending may inflict adversity upon the nation, impoverish its resources, deplete its revenue, weaken its political power, impair its credit, and perhaps render it unable to successfully wage a defensive war for the preservation of its existence? The policy of a protective tariff is vindicated by the prosperity, strength, vigor and safety which it confers upon the country. — 4. *Protection is the reign of selfishness, and it antagonizes the brotherhood of man.* The Bible says: "But if any provide not for his own, and especially for those of his own house, he hath denied the faith, and is worse than an infidel." Thus we are taught that the duty to selfhood precedes and outranks the duty to otherhood. Every man's mind must be itself educated; every man's character must be itself formed; every man's affections must be themselves cultivated, disciplined, purified; every man's condition must be itself raised, before his mind, character, affections and condition can attain to their utmost usefulness to society, not only at large, but especially at home, where the circumstances of daily intercourse multiply his obligations and preferentially employ his duty. Communities are not elevated pecuniarily, mentally, morally, or religiously, by a process which involves the whole mass as a single entity, but through individual action, the advance realized by each integral unit contributing its share to raise the general average, and every retrograde movement of any one of the units detracting from and lowering that average. In every man there must be a large development of internal power before there can be

a large development of external power. No more than an individual can a nation exert great strength outwardly until such strength exists inwardly. Every person, every city, every county, every state, every people, must look first to its own welfare, to its own improvement, to its own benefit. This is the great law of universal progress. Whenever it is violated it deranges the conditions of normal advancement. Even Christianity was for the Jew first, then for the Gentile. The gospel was preached to all the world, but the beginning was at Jerusalem. God has wrought the law of selfhood into every fibre of man's constitution, but selfhood and selfishness are distinct, not identical, the latter being the perversion of the former, bearing toward it the same relation that lust bears toward love. It is beyond controversy, because the testimony of all experience in all ages and countries is, that man's individual feelings are stronger than his sympathetic emotions; hence the maxim that "self-preservation is the first law of nature." To breathe is not more natural than to love first and preferentially one's self, one's own wife, one's own children, one's own kindred, one's own country. If this were not so, what would become of self-improvement, of family, and of patriotism? The assertion of selfhood is inseparable from human nature. It is the gift of God, and therefore must be beneficial in its exercise. Only when it is abused does it degenerate into selfishness, as love in its abnormal and debased manifestations becomes lust. Indeed, were man differently constituted—if he felt another's woes more than his own—this world would be turned into a scene of universal confusion and of still greater suffering. Then everybody, actuated by a self-sacrificing desire to look after the welfare, safety and benefit of others, would vastly neglect to look after his own welfare, safety and benefit. The very sentiment which would seek to render assistance would prompt its refusal by the intended recipient; for the unconquerable tendency would be to give, not to receive, and, in receiving rather than conferring, that tendency would be antagonized. Society would thus fall into inextricable disorder. Instead of diminishing misery, such a condition would augment it, until the earth became a rack for the incessant torture of human sensibilities, and extinction of the race ended the scene of wretchedness and anguish. It is the wisdom of God that selfhood should be the guide. That has given the situation as it is, with its capacities and opportunities of progress. The argument against the protective system virtually is, that it does not permit the abnegation of self to be substituted for this selfhood. But the sweeping away of that system—the abolition of custom houses and tariffs—would not get rid of this selfhood. It is not in the power of man to dethrone self, nor is it desirable, even could it be accomplished. Selfhood was bestowed by Infinite Wisdom to be exercised, not frustrated or perverted. Protection offers it a fair field for its functional activity. Home industry outranks foreign industry as home folks outrank strangers. Free trade, instead of fostering and developing selfhood, would degrade and misapply its proper faculties and inclinations, transforming it into aggressive and unrestrained selfishness. Suppose congress should remove all the restrictions on imports, how could that cultivate the spirit of brotherhood? Our manufacturing industries would be partly crippled, partly ruined, partly extinguished. Immense amounts of fixed capital would be irrecoverably sunk. Many ten thousands of our skilled workmen would be thrown out of employment. All this would happen because it has happened aforetime, when import duties have been reduced below the level of protection; much more, then, would it happen if those duties should be removed altogether. Unrestrained foreign competition, remorseless as monopoly, would be let loose upon this country. How could such circumstances induce a wider, deeper, fuller application of the doctrine of the brotherhood of man? Whatever strengthens the appeal to the instinct of self-preservation weakens the incentives to sympathetic action. In a shipwreck the spirit of brotherhood is generally trampled ruthlessly under foot in the wild scramble for individual safety. When, at the cry of fire, panic seizes upon an audience, the spirit of brotherhood vanishes on the instant, and an intense struggle of each for self takes possession of the scene. These examples illustrate the principle. To abolish the tariff, to tear down the custom houses, or to withdraw protection from the import duties, and thus to bring risk, loss, danger, fear, grief, hunger, misery, to the homes of a multitude of our people, would not yield the fruits of brotherhood, but those of selfishness. All the circumstances which centre the emotions upon self would be reinforced at the expense of the sympathetic feelings. As a scheme to promote brotherhood, free trade would be not only idle and nugatory, but in its operative forces the very reverse of what would be intended. Labor at home would be wronged, depressed, victimized; and, as whatever harms labor anywhere tends to harm it everywhere, even European labor would be ultimately harmed by the reflex influence from the harmed condition in this country. It is protection, not free trade, that cultivates and strengthens the brotherhood of man.—5. *Industry will thrive best when it is let alone.* This dictum became American free trade doctrine in the days of Robert J. Walker, who said, in his annual report for 1845, as secretary of the treasury: "*Let them alone* is all that is required of man; let all international exchanges of products move as freely in their orbits as the heavenly bodies in their spheres, and their order and harmony will be as perfect, and their results as beneficial, as in every movement under the laws of nature when undisturbed by the errors and interference of man." This argument from analogy is supremely fallacious, because the assumed analogy is not legitimate, but forced. Human beings can not, even if they would, exer-

cise any influence or control whatever over the motions of planets and suns; but God has commanded man to vanquish the forces of nature, so far as these appertain to our own globe; a command found in the words, "Be fruitful and multiply, and replenish the earth, *and subdue it*," as addressed to our first parents. From that day to this, interference, persistent interference, with the natural order of things, interference for the purpose of obtaining a complete mastery, has been an imperative law of man's progress to higher and still higher levels of social, political, industrial, moral and even religious excellence. There is no such thing as letting industry alone, without going back to barbarism, to the lowest depths of human degradation, privation and wretchedness. "Strictly speaking," declares Say, "there is no act of government but what has some influence on production." We know of no writer on political economy, entitled to be considered an authority, who disputes Say's proposition. Accordingly, it is quite obvious, that, in regulating duties on imports, and in all other legislation, the industry of the country will necessarily be affected for the better, or for the worse; it will either be promoted and bettered, or be embarrassed and depressed, whether, in making the laws, we take it into consideration, or disregard it wholly. We can not, then, let it alone without ceasing to make or have any laws. We *must* legislate, and *must* administer the laws, in respect to industry, and so either promote or depress it, or, by ceasing to have laws, relapse into barbarism, and, by so doing, affect industry in the utmost degree possible, that is, annihilate it. The let-us-alone dogma is, therefore, saying in other words, shoot at random without taking aim, and you will be sure to hit the mark, or, refuse medical treatment under all circumstances, and people will be kept in the best of health. The declaimers in favor of letting industry alone, raise their absurd cry in the face of the fact that all the positive and useful knowledge we possess, all the accumulations we have realized from the productive forces, whatever of empire we have achieved over material objects, and the whole of the civilization we enjoy, have resulted from *refusing to let things alone:* by interfering with their natural order in the most obtrusive manner; by interrupting and turning aside their spontaneous tendencies; by compelling matter to assume new proportions, to take on predetermined relations, and to exercise unaccustomed functions; by forcing the natural agents to become the obedient servants of man; in other words, *by subduing the earth, in compliance with the divine command.* We dig down into the bowels of the ground, bring coal to the surface, confine it in adaptable receptacles, and compel it to surrender gas, with which we light our cities. The let-alone policy would never do that. Water has a natural tendency to seek a general level, but we refuse to leave it to flow as it will, and pump it up into reservoirs, distribute it through pipes over a wide area, and supply it to the people within their very dwellings. What has the let-alone doctrine to do with such a purpose? For centuries electricity flashed only in the lightning, or illuminated the northern sky with the aurora borealis; but man harnessed this subtle force to ingenious devices of inventive mechanism, and converted it, speeding along lines of telegraph, into the errand boy of commerce. How many years would it take the let-alone plan to accomplish that? We tunnel mountains to provide a passageway for railway trains; we span broad streams with bridges to afford easy and speedy access between the opposite banks; we burrow under rivers to facilitate the movement of people and of vehicles; we lay telegraphic cables across the ocean to secure instant communication between distant continents; we cut a vast canal through the width of an isthmus, thus connecting seas by navigable waters, and obtaining a quick transit for large vessels, by which is effected a saving of months of time and many thousands of miles of transportation; we go up in balloons, and explore the secrets of the upper atmosphere; we send down a cunningly constructed apparatus into the depths of the ocean, map out the altitudes and the depressions of the bottom, and determine the character of its substance; we devise immense telescopes, and lay bare to human vision the mysteries of the heavenly arcana. It is by thus getting the mastery over nature, by literally subduing the earth, not by letting things alone, that the progress of our race has been realized. Our boasts are about our *triumphs over obstacles*, not about our *omissions to do.* Every advancing step of this progress has been signalized by an increased persistency of interference. We refuse to let iron ore alone beneath the surface, where it has been placed by nature; we dig it out; we mix it with other materials; we melt the mass down; we produce pig iron. Then we refuse to let it alone in that form; we convert it into bar iron. Still we refuse to let it alone; we turn it into steel. Next, we refuse to let the steel alone; we cast it into cannon; we shape it into tools; we use it to armor-plate ships of war; we transform it into watch springs. One act of interference is only a stepping-stone to another act of interference. In like spirit we refuse to let alone anything which human influence can reach, from a speck of dust floating in the air to the morals of a community. Actively and incessantly disturbing the customary courses of nature, we develop the sour crab apple into the mellow, delicious fruit of the cultivated orchard; we marry one sort of plant to another, and produce a new variety; we diversify the external appearance of flowers by artificial applications, and make these changes permanent in aftergrowth; we domesticate certain wild animals, and improve their breed. Each successive generation witnesses a considerable increase in the accumulation and aggregate of these interferences, and each in consequence secures the attainment of a higher level of civilization. How, then, can it be said with

truth that industry will thrive most when it is least cared for in the tariff laws? Why should it be abandoned at that exact point, but nowhere else? Industry must be protected in the laws which levy duties on imports, no less than in the other laws, if it is expected to augment, to be diversified and to prosper; for it surely can not expand under a policy of indifference, inaction, impotence and folly, such as is involved in the let-alone doctrine.—6. *Protection has for its essence obstruction, and for its object scarcity.* This allegation is flatly contradicted by experience. In the seventy-one and a half years beginning with 1790 and ending June 30, 1861, our net imports aggregated $7,488,263,258; in the twenty years ended June 30, 1881, $9,117,531,264, or over 21¼ per cent. more of value in about 28 per cent. of the time. Our net imports in 1860, after thirteen years and seven months under the revenue tariff system, amounted to $335,233,232, or to $10.66 per capita; but, in 1880, after twenty years and three months under the protective policy, our net imports had increased to $741,501,725, or to $14.78 per capita. The idea of obstruction as the essence of protection is signally refuted by these statistics. In the seventy-one and a half years, our domestic exports aggregated $6,854,339,383; in the twenty years, $11,091,223,908, or $4,236,884,525 more in fifty-one and a half fewer years. Our domestic exports amounted to $373,189,274 in 1860, or to $11.87 per capita; but, in 1880, they had increased to $833,294,246, or to $16.61 per capita; a gain of $4.74 per capita. As, averaging our domestic exports, each head of population had this additional value to send abroad, and as exports always consist of what the people have in surplus after the satisfaction of their own wants, it is an audacious and foolish crossing of swords with the truth to charge that tariff protection in this country has led to scarcity. There is no escape from the proofs offered by these figures. They show, beyond room for doubt, that net imports and domestic exports augmented faster under the protective than under the revenue system, even distributed and measured per capita, the growth of commerce and trade being far more rapid than the growth of population. Are these evidences that the defensive policy restricts either imports or exports so as to tend to scarcity? Rather, do they not contradict such a theory with all the conclusive authority of positive knowledge? Our short mathematical refutation of the absurd dogma of the free traders is complete. With a prodigality of abundance in plain sight every day, and in all directions, almost forcing itself upon recognition, it is effrontery to raise the cry of "scarcity," and to stigmatize a system of legislation which is concurrent with such prodigious realizations as the skeleton in the closet of the nation; as the curse which sits by their firesides; as the frowning omen of calamities and still greater "*scarcity*" to come. The marvel is, that a doctrine so preposterous should have found a lodgment in any intelligent mind.—BIBLIOGRAPHY. The literature of the subject is very copious, mainly in the form of pamphlets. Far the greater part of both the minor publications and the books has now only stray existence in private collections and in the libraries of public institutions. Among the most valuable works to be occasionally procured at the second-hand book stores are *Essays on Political Economy*, by M. Carey, Philadelphia, 1822; *Propositions Concerning Protection and Free Trade*, by Willard Phillips, Boston, 1850; *National System of Political Economy*, by Frederick List, Philadelphia, 1856. The most important treatises not out of print are as follows: *Principles of Social Science*, 3 vols., 8vo, *The Slave Trade, Domestic and Foreign*, *Harmony of Interests*, and *Unity of Law*, by Henry C. Carey; *American Political Economy*, by Francis Bowen; *A Manual of Political Economy*, by E. Peshine Smith; *The Tariff Question*, by E. B. Bigelow; *Essays designed to elucidate the Science of Political Economy*, by Horace Greeley; *Protection a Boon to Consumers*, *The Solidarity of the Industries*, *The Protective Question Abroad*, and *The Protective Question at Home*, by John L. Hayes; *Protection to Native Industry*, by Sir Edward Sullivan; *Sophisms of Free Trade*, by Sir John Barnard Byles; *Speeches and Letters on Industrial and Financial Questions*, by William D. Kelley; *Speeches on the Tariff Question and on Internal Improvements*, by Andrew Stewart; *Questions of the Day, Economic and Social*, and *Conversations on the Principal Subjects of Political Economy*, by Dr. William Elder; *Social Science and National Economy*, and *Political Economy, with Especial Reference to the Industrial History of Nations*, by Robert Ellis Thompson; *How Western Farmers are Benefited by Protection*, by David H. Mason; *Outlines of an Industrial Science*, by David Syme; *The Premises of Free Trade Examined*, and *Reviews of Sundry Free Trade Arguments*, by George Basil Dixwell. A very large amount of valuable information is to be found in Alexander Hamilton's celebrated *Report on Manufactures*, made to congress in 1791, and printed in his collected works; also, in the congressional debates on the tariff from 1789 onward, and in the reports of the house committee on commerce and manufactures, and the committee of ways and means.*

DAVID H. MASON.

* In the above article the argument for protection is given. The principles advocated by the writer of it are at variance with those demonstrated in the article on FREE TRADE, as well as with the body of doctrine contained in the various articles of this work, whether political or politico-economical. It may be thought, that, on this account, the article should have no place here; and something may be said in favor of that view, since the Cyclopædia is a scientific work; and a consensus of political economists may be said to exist as to the truth, and therefore as to the expediency, of the principles of free trade. But, in the present condition of the public mind in the United States, when so many are looking for light, it was thought best not to exclude the argument for protection, which now has a living, and always will have an historical, interest. Readers of the Cyclopædia, we presume, open its pages in search for truth. On the question of free trade and protection we have furnished them with an article on both sides. As a further contribution to what is still a matter of controversy with many in this country, we here

PROTESTANTISM. (See CHURCHES, PROTESTANT.)

PRUSSIA. The kingdom of Prussia was composed, before 1866, of many separate pieces of territory. The largest, situated in the east of Germany, comprised the provinces of Prussia, Pomerania, Brandenburg, Posen, Silesia and Saxony; the other, situated in the west, comprised the provinces of Westphalia and of the Rhine. We have embraced in each of these two pieces of territory certain detached domains, but so small in

give a summary of the case between free traders and protectionists from a very recent work by an eminent French economist, Emile de Lavelaye. Says M. de Lavelaye: "Colbert, the celebrated French statesman, once asked a merchant what was the best way to promote trade, and the latter answered: *Laissez faire; laissez passer* (see LAISSEZ FAIRE) *i. e.*, let it alone. The words were taken up by J. V. de Gournay, and afterward became the watchwords of advocates of freedom of commerce, now called free traders. — What, indeed, can be conceived more natural than to allow every man to buy and to sell where he can buy and sell with greatest advantage to himself, whether in his own country or out of it? We can excuse a state when it imposes an entry duty on certain kinds of goods, to procure a revenue, although such a duty is a bad kind of tax; but to impose duties under pretext of protecting home industries, is a measure both iniquitous and contrary to the general interest. — By forcing consumers to buy of protected manufacturers dearer than they could buy in a foreign market, the government imposes a tax on consumers in favor of the protected manufacturers, a compulsory buying which has in it all the elements of injustice. In this compulsion and injustice consists the protective system. — But, say the advocates of protection, protective duties are imposed to favor labor, and consequently to favor the working class. — *Error* 1. The economic end sought is not to increase but to diminish labor. If I can get a number of yards of linen in a foreign market by one day's labor, it is contrary to that economic end to force me to spend two days' labor in order to acquire it. To force one to increase his labor without increasing the product, is what Bastiat rightly called *Sisyphism*, since it is to strain humanity in a useless effort, like Sisyphus, who was condemned to roll a rock, which always fell back again, toward the top of a mountain. The economic end to be sought is an increase of wealth and a decrease of effort. — *Error* 2. It is not rendering a service to workmen to drive them into mammoth factories, by force of law and contrary to nature. Look at Italy at the present moment. What a pity that the tariff there has dragged workingmen and workingwomen from the field and from labor in the open air in that land of beauty, with its mild climate, to harness them twelve or fourteen hours in gloomy factories, while they keep time with the uniform movement of machinery. — Free trade, by applying to nations the principle of the division of labor (see DIVISION OF LABOR) assures them the benefit of that division, and thus greatly increases their well-being. — If, in a family, each of its members is employed in doing what he can do best, it is evident that the aggregate product, and, as a consequence, the share of each member of the family, will be the greatest possible. If, on the other hand, each is compelled, by legislative restriction, to devote a part of his time to a kind of work to the doing of which he is not adapted, all and each will be more poorly provided. Let us apply this to nations. If each of them employs its powers in those branches of labor which the nature of the country occupied by it specially favors, it will carry to the market a maximum of products obtained by a minimum of labor; and the consequence will be that the well-being of humanity will be increased in proportion to the increase in the productiveness of the labor of each country. The man who, wishing to be sufficient to himself, should endeavor to manufacture or produce everything he needed, food, shoes, clothes, furniture and books, would clearly be very ill-advised. Would the nation that imitated him be less so? If my land, which is sandy, is better adapted to the growing of rye than of wheat, the least onerous way for me to get wheat is not to cultivate it myself, but to obtain it in exchange from those who have clayey land. This very evident truth shows the absurdity of the protective system, which would compel me, whether or not, to cultivate wheat on sand. — But, say the partisans of protection, foreign countries will inundate us with their products. Vain fear: foreign countries will not give us their goods for nothing. In payment of theirs, they will want ours. Commerce is always an exchange of products against products. As many products must leave our ports as enter them. If more enter them than leave them, so much the better: for in that case foreign countries pay us a tribute, and we may increase our consumption. If more leave our ports than enter them, so much the worse; for then, it is we who pay the tribute. — Protectionists want to buy little and sell much, in order that foreign countries may be compelled to pay the excess of their purchases in coin. What a contradiction in these aims! How can the different nations, exchanging with one another, always sell more than they buy? Plainly impossible. — The principal cause of the progress of industry, is the competition of persons engaged in industry, each of them striving to manufacture better and cheaper articles and thus to monopolize the custom. The more generally the influence of competition is felt, the greater will be the advantage of all. Hence competition should not be restricted within the limits of a state, but extended from country to country. — Monopoly engenders inertia, and protection routine. On the contrary, the manufacturer who is compelled to perfect all his wares, will conquer the market of the world in his endeavors to keep the national market. What is the effect of a railroad connecting two countries? To facilitate exchanges between them. What is the effect of entry duties on foreign goods? To hamper exchanges. How does it happen that the same men, at the same moment, do two things the effects of which are so completely opposed? — You spend forty or fifty millions of francs to bore a tunnel through the Alps, and at both ends of that tunnel you, Frenchmen, and you, Italians, station a custom house officer, who, by the taxes he levies, destroys in great part the utility of that marvel of engineering skill. Inexplicable contradiction! — A consistent protectionist should demand the destruction of machinery; for free trade and machinery have exactly the same effect: they diminish the labor necessary to obtain a given product. Thanks to machinery, the Frenchman can obtain coal at less cost; thanks to foreign countries, he can get it cheaper: the result is identically the same to him. — Would you, Frenchmen, exclude foreign countries, then break your machinery. In both cases, you would have to put forth a stronger effort to procure the same quantity of coal. — Capital spontaneously takes the direction of the most lucrative employment. Protection directs it toward a less lucrative employment, causing the difference to be paid by a tax levied on consumers. Production is diminished by so much. — A last argument is resorted to by the protectionists. For the objects of prime necessity, they say, wheat and iron, for instance, a country can not depend on foreign nations: since in time of war it could neither feed nor defend itself. Answer: There is no instance in which a people in time of war wanted the necessary things. In our days such want is less to be feared than formerly: firstly, because of railroads, which facilitate revictualing; and then because the treaty of Paris of 1854 has provided that neutral ships may continue to transport the goods of the belligerents. Hence the hermetic blockade of a state has become more impossible than ever. Is it wise to inflict an injury permanent and certain on one's self, in order to escape another which is remote and improbable? — There are some things which free traders have not seen. To suppress labor, and not to increase it: such is the end. Free trade attains this end just as machines do. Hence both are a good. — But, it will be said, there are men who live by the labor of their hands; and if you suppress them they have nothing left but to disappear. Free trade, like machines, may, therefore, cause a displacement of workmen, for they must leave the place in which the tariff forced sterile labor on them, to go where, with less effort, they will obtain more products. This is what happened in France, when the revolution of 1789 did away with the internal tariffs which

extent that they scarcely deserve mention. The war of 1866 gave to Prussia, with the electorate of Hesse, which was situated between the provinces of the east and the west, as if between the tree and the bark, Schleswig-Holstein, Hanover, Nassau, Frankfort, and some small districts; so that the Prussian state, including Lauenburg and the two principalities of Hohenzollern, now forms a compact whole, with an area of 137,066 English square miles. The area of Prussia in 1740, when Frederick the Great ascended the throne, was 2,160 geographical square miles; 3,539 geographical square miles at his death, in 1786; 5,551 at the death of Frederick William II., in 1797; 5,725 before, and 2,859 after, the peace of Tilsit; and 5,086 after the peace of 1815. Lastly, in 1865, it had an area of 5,104 square miles.—In 1865, before the several annexations to it, the population of Prussia was about 19,000,000; it had been 10,402,631 in 1816, 12,308,498 in 1825, 13,556,000 in 1834, and 16,181,185 in 1846. The census of 1871 gave the number of inhabitants as 24,693,066.* Prussia forms part of the German empire, and its king is the emperor of Germany.—I. *Constitution.* Circumstances, which now belong to history, postponed until 1847 the fulfillment of the promises made by the ordinances of Oct. 27, 1810, May 22, 1815, and Jan. 17, 1820. A part of these promises, however, was fulfilled in 1823 (ordinance of June 5), by the creation of the provincial estates, divided into four orders—princes and lords, knights (equestrian order), towns, country. In 1842 (ordinance of Jan. 21), the provincial committees (*Provincial-Ausschüsse*) were established; they were to be elected by the estates, and consulted in certain cases by the government. Finally, a decree of Feb. 5, 1847, established a "united diet," composed of the eight provincial representative bodies. This "united diet" (*Vereinigter Landtag*) was convoked April 11, 1847, and generally carried on its deliberations in two *curiæ*, the one composed of princes and lords, and the other of the three other orders. This first session had produced great effects in the country, when the revolution of 1848 broke out. The national assembly, convoked by the royal patent of May 13, 1848, did not succeed in drawing up a constitution. It was dissolved Dec. 5, 1848, and on the same day the king granted a constitution and an electoral law. The two chambers instituted by the new constitution assembled at Berlin, Feb. 26, 1849, recognized in the address to the crown the constitution thus granted, and immediately set about revising it. But the second chamber was dissolved April 27, 1849, and after the promulgation of a new electoral law, dated May 30, 1849, chambers were elected, which assembled Aug. 7, 1849. With the parliament thus reconstituted anew, the revised constitution of Jan. 31, 1850, was deliberated upon; the king and the chambers took the oath to support it, and it was published in the official collection of the laws and ordinances of the kingdom. It is this fundamental act, modified in some of its parts by subsequent laws, which we have here to analyze, taking into account, of course, its subsequent modifications. In case of conflict between them,

separated the old French provinces. Abolish the tariffs which in our day separate the different provinces, and the same fact may be reproduced. The displacement effected, the men will be everywhere better supplied, for their labor will be more productive, but they will perhaps be differently distributed, which will not be done without hardship. The conclusion is: do not cause workmen to come into existence in a place in which nature has not accorded them sufficient remuneration. But when they exist, reform your tariffs with foresight and prudence.—Much has been said of a system of temporary protection. No one has given a better exposition of this system than a German economist, Frederick List, the initiator of the customs union (*zollverein*) of Germany, which led to the political union of that country. 'The final end,' he says, 'is universal free trade; but in order that it may bring to each state, and consequently to the human race, the greatest possible good, it is necessary that each people should turn its natural resources to the best advantage. An exclusively agricultural country is necessarily a backward country: instance, Poland in the olden time. Doubtless it is bad that privilege should cause artificial industries to spring up, but there are many industries natural to a country which will not be developed in it, unless they are protected in the beginning. Hence the best way to reach free trade and to derive the greatest profit from it is temporary protection.'—Such is List's opinion. Adam Smith and J. S. Mill expressed the same opinion: I admit neither the premises nor the conclusion. An agricultural country is not necessarily a backward country. If Poland was formerly a backward country, as List pretends it was, it was because a frivolous aristocracy, employed in amusements, disposed of the net revenue, and did nothing to instruct their serfs or themselves. In no country in the world were intellectual and moral culture, comfort and happiness so general as in New England before protection developed manufactures on a large scale.—People are in the habit of measuring the industry of a country by the mass of products which its industry produces. Wrongly so. Never did civilization shine more brightly than at Athens, where arts and letters attained the highest point of perfection, but where industry remained in its infancy. Protection is no longer necessary in our day, as in the time of Adam Smith. Discoveries and processes are immediately known everywhere. Capital and the spirit of enterprise are ceaselessly in search of natural wealth to exploit it, wherever it is to be found.—Temporary protection becomes permanent for the reason that the protected interests enter into a coalition and oppose all reform." Compare preceding article.—ED.

* The census returns of Dec. 1, 1875, showed that at that date there were in Prussia 12,692,370 males and 13,050,034 females, being an excess of only 357,664 females, less than in most other European states; in 1880 there were 13,414,866 males and 13,864,245 females. During the nine years from Dec. 1, 1871, to Dec. 1, 1880, the ratio of increase amounted to 1.13 per cent. per annum. The census of 1880 gives the average density of the population at 199 per English square mile. The variation, however, is considerable, the density being highest in the manufacturing districts of Düsseldorf, in the Rhine province, where it is nearly four times the average, and smallest in the district of Köslin, Pomerania, where it amounts to but three-fifths of the average. There are a great number of towns (1,289) officially enrolled as "Städte," most of them of very limited population, spread all over the kingdom. As in nearly all other states of Europe, so in Prussia, there is a strong movement toward concentration of the population in the towns. At the census of Dec. 1, 1871, the total population of the 1,289 towns of the kingdom was 7,968,545, and that of the rural communes (*Landgemeinden*), 37,987 in number, 16,637,652. Compared with the preceding census of Dec. 3, 1867, the increase in the towns amounted to 466,909, or 6.22 per cent., and that in the rural communes to but 167,951, or 1.02 per cent. Thus, while the town population increased at the rate of rather more than 1½ per cent. per annum, the rural population grew but at the rate of ½ per cent. per annum.—S. M.

the constitution of the empire controls the Prussian constitution. — *Fundamental rights.* All Prussians are equal before the law; the nobles have no privileges. Public offices are accessible to all citizens who fulfill the conditions provided by the laws. Personal liberty is guaranteed; no citizen can be deprived of it except in the cases and according to the forms prescribed by the laws. The domicile is inviolable; domiciliary search, the seizure of papers and letters, can take place only in cases provided by law. No one can be brought under exceptional jurisdiction. Penalties must have been provided for by law (they have no retroactive effect). Property is inviolable; expropriation can not take place except compensation is made. There is no such thing as civil death or confiscation. — Freedom of worship is guaranteed. The enjoyment of civil and political rights is independent of the religious belief professed by the citizen (law of July 3, 1869). Religious communities or corporations can not be declared civil persons except by a law. Each religious body administers its own affairs and its own property; it freely enjoys its institutions and endowments; the relations of the faithful with their clergy of all grades are not subject to any restriction, only the publication of religious regulations is subjected to the rules imposed on all kinds of publications. — Every Prussian has the right freely to express his thoughts by words, writing, printing and drawing. Censure is abolished, and no restriction of the liberty of the press can be established, except by a law. Citizens may assemble freely, and are not obliged to obtain an authorization to so assemble, but without arms and in an inclosed place; they may form associations and societies for any object not contrary to the law. The right of individual petition belongs to every Prussian; authorities or corporations alone have the right of collective petition. The secrecy of letters is inviolable; the law determines the exceptions required by criminal procedure and by the circumstances of war. Seigneurial jurisdictions and other privileges connected with the land are suppressed, and can not exist within the limits of the kingdom. — *The King.* The person of the king is inviolable. All official acts must be countersigned by a minister, who assumes the responsibility of them. The king alone has executive power, appoints and dismisses ministers, causes the laws to be promulgated, and decrees the ordinances (cabinet orders, *kabinetoorder*) necessary for their execution. He is commander-in-chief of the army; he has the right to declare war, and to conclude peace or treaties. Only treaties of commerce, and those which impose a burden upon the state, are subject, in order to be valid, to the approval of parliament. We must add that the king of Prussia has now lost this right, as it is the emperor who declares war. The king has the right of pardon, but can not exercise it in favor of a minister, except at the request of the chamber which impeached him. He convokes and prorogues parliament, and dissolves the second chamber. In the latter case the elections must take place within sixty days, and the convocation of parliament within ninety days. — Succession to the crown is in the order of primogeniture, in the Hohenzollern family, and in the male line only. The king attains his majority at eighteen. He takes the oath of fidelity to the constitution in the presence of both chambers. — The funds of the *fideicommissum* of the crown continue the proprietor of the annual revenue of 9,649,121 francs, drawn from the revenues of the domains and forests under the law of Jan. 17, 1820, an annual revenue which was increased by the law of April 30, 1859, an annual revenue which has a budget appropriation of 1,875,000 francs a year. The royal palaces, with the furniture and works of art contained in them, as well as the diamonds and all property acquired by purchase or inheritance, belong to the royal family in its own right, and not to the nation. — Since 1871, the king of Prussia is emperor of Germany; this is not a remunerated office, as there is no *imperial* civil list. The heir apparent alone is entitled his imperial highness; the other princes of the *royal* house have the title of royal highness. — *The ministers.* The ministers have the right to participate in the proceedings in the two chambers, and must be heard whenever they demand it. But they do not vote, unless they are members of the chamber. They may be impeached by each chamber for a violation of the constitution, malversation in the administration of the public moneys, or for treason. The supreme tribunal, consisting of the united chambers, are the judges in cases of this kind. Although there is a president of the council, the ministers are not jointly responsible; the king may even retain a minister who has been many times in the minority, the constitution not expressly requiring the king to dismiss him. The king, however, has been obliged more than once to yield to the pressure of public opinion. — Since the creation of the German empire many ministers find themselves serving two masters: the empire (German) and the state (Prussian). The empire has no minister of war, no minister of the navy, no minister of finance, but those of Prussia. But they have no right to take part in the proceedings of the Reichsrath, except by reason of their being members of the Bundesrath. The chancellor covers them with the mantle of his responsibility. — *The parliament.* The parliament, called the Landtag, shares the legislative power with the king. Financial laws must be presented in the first place to the chamber of deputies; the chamber of lords must approve the budget, or reject it as a whole. It is only to maintain public security or to organize aid in case of calamity, that the ministry can, on its joint responsibility, proclaim regulations having the force of law, while the chambers are not in session; these regulations must contain nothing contrary to the constitution, and must be submitted for the approval of parliament at its next session. Each chamber has, like the king, the initiative in the making of the

laws; that is, the right to introduce bills. — The king convokes parliament every year in ordinary session (in January), and afterward as often as circumstances require it. Each chamber draws up its own rules and governs itself; it appoints its president and secretary. The sessions are public. No decision can be made if a majority of the members is not present. The members of the two chambers are the representatives of the whole people (and not each of his own district); they vote as their conscience directs, and are not bound by an imperative commission or instructions. They are not bound to give any reason for their vote. No member of the chamber can be prosecuted during the time the chambers are in session, unless he be taken *flagrante delictu* or immediately after. The consent of the chamber is necessary to continue the prosecution. — *The chamber of lords.* According to the law of May 7, 1853, and the ordinance of Oct. 12, 1854, modified by the ordinances of Nov. 10, 1865, Oct. 26 and Nov. 16, 1867, the chamber of lords is composed as follows: 1. Princes of the blood who have reached their majority, and upon whom the king confers the right to sit in the chamber. 2. Hereditary members, to wit: the heads of the houses of Hohenzollern-Hechingen and Hohenzollern-Sigmaringen; the heads of eighteen houses formerly sovereign; sixty-seven princes, counts and lords appointed by the king; in all, in 1867, eighty-seven hereditary seats. 3. Members appointed for life: *a*, the titularies of the four great offices of the province of Prussia; *b*, the persons appointed by the king upon the presentation of the following corporations: the three foundations (*stifter*) admitted in 1847 to make part of the *curia* of the lords, one member for each foundation; the eight colleges (*verbände*, or *unions*) of counts possessing equestrian property, one for each college; the representatives of eleven families of great landholders; the colleges of landholders, whose families have been established for a long time upon their property, to the number of ninety members; the nine universities, one for each university; the forty-three cities upon which the king has conferred the right of presentation (most of them present the burgomaster, who ceases to be a member of the chamber when he loses or abandons his municipal functions—the burgomasters are elected for from six to twelve years, according to the cities); and the persons whom the king calls on to sit in the chamber of lords (in 1867 there were sixty, but the number varies). — The number of the members of the chamber of lords is not limited. They must be thirty years old. They receive no salary or indemnity of any sort. — *The chamber of deputies.* The chamber of deputies is composed of 432 members. The election is of two degrees. Every Prussian twenty-four years of age, enjoying civil and political rights, not living on alms, and having lived in the commune for at least six months, is a primary elector. The electors of each district are divided, according to the amount of direct taxes they pay, into three classes, so that each class represents one-third of the total amount of the taxes of the district. Each of these divisions, or classes, appoints a third of the electors allowed to the district. There is an elector of the second degree for every 250 inhabitants; and the districts must be combined in such a manner as to include a population corresponding to six electors of the second degree. The total number of the latter is about 73,000. The primary elections, as well as the elections of the second degree (nomination of deputies), are made by public vote; the vote of each elector is officially recorded. An absolute majority of votes is necessary to make an election valid. In the hall in which the elections take place, there can be no discussion nor any decision made. The elections for the Reichstag are direct and secret. — All Prussians thirty years of age, enjoying civil rights, and who have lived in Prussia at least a year (if naturalized) are eligible to the chamber of deputies. The deputies are elected for three years. They receive mileage and compensation during their stay at the seat of government. The deputies to the Reichstag receive no indemnity (gratuitous service being the counterpoise to universal suffrage and universal eligibility). Frequently the same person is both a deputy to the Prussian parliament and a deputy to the German parliament, in which case he is paid in one capacity, and serves gratuitously in the other. — II. *Administrative Organization.* The administrative organization of Prussia is considered in many respects a model; it is very centralized, and yet self-government has a large part in it. The administration proper is represented by the ministers, who direct the central administrations; by the superior presidents in the provinces; by the governments (whose organization we shall explain further on) of the *Regierungs-Bezirke*, governmental districts or governments, corresponding to the French departments; by the directors of the districts, called *Landsräthe*, equivalent to the French sub-prefects, but intrusted with much greater power; finally, in a certain measure, by the bailiffs (*amtmanns*) and the burgomasters, also by the *Schulze*, or administrators of the commons (*Gemeinde-Vorsteher*), corresponding to the French mayors. Self-government resides in the provincial estates, corresponding, to a certain extent, to the councils general of the French departments, but embracing the province; also in the district, the canton and the commune, but not in the department (governmental district). —The treatises on German administrative law and the royal almanacs still speak of the council of state, and tell how it is composed (princes, ministers, certain high functionaries, etc.). But as the constitution of 1850 confides no functions to it, it scarcely functions at all. The king can convoke it and ask its advice, but this advice does not bind the ministers; it has no peculiar privilege or prerogative. The first council of state dates from 1604; its modern reorganization dates from March 20, 1817, when, in the absence of a national representation, it was invested with the preparation of

laws. The year 1848 abolished it, but it was re-established by royal ordinance, July 4, 1854. — We must also speak of the "secret cabinet" (*das geheime Cabinet*), of which mention is often made in the journals. Before 1808 this cabinet had an influence which annulled that of the ministers. In 1810, under Chancellor Hardenberg, the powers of the cabinet were diminished; after 1822 the cabinet recovered all its influence, which the constitution of 1850 lessened, but did not succeed in destroying completely. At bottom it is only a secretaryship of the king, a committee of secretaries, whose members are functionaries of a high rank, and who prepare the work for the king. — *Administration.* The ministers, as we have said, are at the head of the administration; their number is at present nine: of justice, war, the navy, finances, of foreign affairs, the interior, worship and instruction, commerce and industry (including public works), and agriculture. There is, besides, a minister of the king's household, but he does not form a part of the council of ministers, or rather, he is not a political minister, or, as they say in Prussia, a "minister of state." Various services are directly subordinate to the ministry of state (council of ministers), such as the official journal, the archives, printing, various others, and notably the commission of examination for future functionaries. To be a functionary it is necessary to have studied three years at the university, to have passed a period of instruction and preparation for the public service, and to undergo a new examination, called the *state examination*, before the commission. The candidate then obtains the title of assessor, which confers the right of being employed and compensated, but some time elapses before a place with the title of councilor can be had. The functionaries of lower grade and simple employés are likewise obliged to pass an examination, but naturally the requirements here are not so great. — As to the internal organization of the public services, some are organized into bureaus, that is, they have a chief, a sole functionary, and employés; but most of these services have councils or committees, in which the president often has a great preponderance, but in which each councilor has his powers (*decernat*) clearly defined. — At the head of each of the eleven provinces (Prussia, Brandenburg, Posen, Pomerania, Silesia, Saxony, Westphalia, the Rhine, Schleswig-Holstein, Hanover, Hesse-Nassau) is placed a superior president (*Oberpräsident*) as an organ of the government, and whose powers are rather political than administrative. In case of urgency he can take any step which the circumstances demand; but ordinarily he has to do chiefly with the relations with the provincial estates, of which we shall speak further on, the affairs which concern many governments (district governments, departments, called sometimes, but wrongly, regencies), the surveillance of the provincial authorities depending on the various ministries; he is, besides, first president of the government which administers the district (*Bezirk*) in which he resides. — Each province is divided into several governmental districts (*Regierungs-Bezirk*); for the six of Hanover, the name of *Landrosties* has been preserved; their total number is thirty-five or thirty-six, if Berlin is counted as a government district. The Hohenzollern country stands apart. These governments, which correspond to the French prefectures, are composed of a certain number of functionaries, each charged with a service for which he is responsible; these functionaries form a council (often divided into two or three parts), which meets several times a week; its decisions are signed by the president of the council and the directors of the divisions. The three divisions are: 1, interior (police, communal affairs); 2, worship and instruction; 3, finances. These are collective administrations (German: *Collegial*). The powers of the governments differ little from those of the French prefectures. It should be remarked, however, that the *council of schools*, which forms a part of the government (*Regierung*) and renders useless the academy inspector, the council of construction, and others, fulfills the duties of certain functionaries of the French departments, such as engineer-in-chief, director of direct taxes, and those of the chiefs of division and of the bureau of prefectures. — The *circle* (*kreis*) corresponds to the French arrondissement, and the representative of the administration is called the *Landrath* (literally, country councilor) corresponding to the French *sous-préfet*. However, it would be more exact to call him the *mayor of the arrondissement*, for he is appointed by the king from a list of candidates presented by the estates of the circle (*conseil d'arrondissement*); he must be a landed proprietor; he represents the circle vis-a-vis of the government, and the government vis-a-vis of the circle. He is, however, paid from the funds of the state. — The bailiffs of the cantons should also be considered as having part in the administration, because they are appointed by the superior president, and have administrative powers; the burgomasters, or mayors, who are appointed by the king, upon the presentation of the municipal council, should perhaps be ranked here also; but practice is not always conformable to the rigorous classifications of abstract science. We shall now describe the organs of self-government in Prussia, remarking that the most important of these is the *Landtag* (the parliament), of which we have already treated above. And first of the provincial organs, of those of the circles and communes. — *Self-government.* The organs of self-government in Prussia are: 1, the provincial estates; 2, the communal diets (*Communal-Landtag*); 3, the districts; 4, the cantons, or bailiwicks; 5, the communes. The administrative organization has not the character of symmetry and unity that it has in France; it preserves the traditional peculiarities of the provinces and localities, so that it is difficult to give an exposition of it in broad outline. — The provincial estates were created by the law of June 5, 1823. In each of the eight provinces

then existing, a diet was established, made up of the lords on whom the king had conferred an individual (*viril*) vote, of the deputies of the great landed proprietors or of the possessors of equestrian property, of the deputies of the cities, and of the deputies of the country. The number of members varies in the different provinces; but everywhere the cities and the country have the majority. The provincial diets meet every two years; they sit in the chief town of their respective provinces. The government submits to them such laws of general interest as it deems proper, and most of the laws of local interest. The diet elects its president, who bears the title of *Marschall*, and the government is represented by a commissioner These powers were extended after 1866, in consequence of the annexations which took place at that time. The old electorate of Hesse was put in possession of the treasury of the ex-elector, whose revenues amounted to 300,000 thalers; the diet of the province of Hanover received in 1868 a grant of 500,000 thalers a year, and the old duchy of Nassau an income of 142,000 thalers and a capital of 46,380 thalers, provided by the funds formerly belonging to Nassau; finally, the law of April 30, 1873, gave to the old provinces, as well as to Schleswig-Holstein and to the city of Frankfort, a grant provided for in the budget of the state, amounting altogether to the sum of two millions. Various acts have extended the powers of the provincial diet, which has the right to acquire and to manage all provincial property; it is specially charged with public assistance in so far as it is incumbent upon the state (asylums for the insane, for deaf mutes, subsidies to poor communes, etc.); it superintends the construction and maintenance of highways and roads, and can, if needs be, levy additional taxes for this purpose. It is the organ of the province.—The "communal diets" are representative assemblies for territories less than a province; in this only do they differ from the provincial estates. Thus Hesse, Nassau and Frankfort together form a province, but each of these territories has its communal diet (the word communal is not synonymous here with municipal, but means *of common interest*). Brandenburg is divided into several *Landschaften;* it is detached from other provinces. This division of territory is based on historical souvenirs. —The pivot of the system of self-government is the arrondissement. The *Landrath* (sub-prefect), who represents the government, and who is charged with the administration proper, presides over the council, or better, the *diet* of the arrondissement. This diet is composed of at least twenty-five members, but most frequently of thirty; the number depends on the number of the population. Election takes place by estates or orders, that is, the cities, the large landed proprietors and the rural communes, constitute so many electoral colleges (*Wahlverbände*), and each college appoints its representatives. The great landed proprietors and the rural communes elect each the same number of representatives. The vote of the representatives of the country is divided by the deputies of the cities, who are almost everywhere smaller in number. The arrondissement diets or councils have extensive powers; they administer the arrondissement, which is charged with the powers or prestations incumbent, in France, in part upon the department and in part upon the commune, and which are too numerous to be enumerated here. Of course, a certain number of the decisions of the district council must be confirmed by the superior authority.—Below, and in certain respects it must be said *in*, the arrondissement, is the canton, or bailiwick (*Amtsbezirk*). The bailiwick has existed for a long time in the provinces of Hanover and Westphalia (and, if we are not mistaken, in Nassau). It was established, in 1873, in the provinces of Brandenburg, Prussia, Pomerania, Silesia, Saxony and Posen. A royal ordinance of 1867 (Sept. 22) had continued the provosts who existed in Schleswig-Holstein. The bailiffs, provosts or heads of the canton are a sort of cantonal mayor, presented by the diet of the district, and appointed by the president of the province. They are paid from the funds of the bailiwick, and their powers have to do with the police, which is exercised in the name of the king, with the maintenance of means of communication, and, in general, with the execution of the laws and of the administrative regulations. They are aided by a council, in which each commune is represented.—As to its municipal organization, Prussian legislation distinguishes between the cities and communes which constitute an arrondissement themselves, cities which form part of an arrondissement, and the rural communes; moreover, the municipal laws differ according to the province. There are nine legislative groups, and in each group a distinction is made between the city municipalities and the rural municipalities: 1, the six provinces of the east; 2, a certain part of Pomerania; 3, Westphalia; 4, the Rhenish province; 5, Schleswig-Holstein; 6, Hanover; 7, Hesse; 8, Nassau; 9, Frankfort. Perhaps there are also peculiarities in the old landgraviate of Hesse, in the Bavarian communes annexed in 1866, Prussia professing a greater regard for tradition than for uniformity. We may add, that, everywhere, the autonomy of the cities is greater than that of the rural communes. —The administration of cities is regulated in the six eastern provinces, not including the government of Stralsund (Pomerania), by the organic law (*Städte-Ordnung*) of May 30, 1853; in Stralsund by the law of May 31, 1853; in Westphalia, by the organic law of March 19, 1856; in the Rhenish province, by the organic law of May 15, 1856. These laws apply only to the cities of more than 2,500 inhabitants. They have some principles in common, and notably the following: the city commune forms a corporation, which freely administers its own affairs by the organ of an executive committee called the town magistracy, assisted by a city or municipal council (*Stadtverordneten-Versamm-*

lung). In the Rhenish province a burgomaster (mayor) and two or three deputies take the place of the magistracy. The magistracy is always composed of a burgomaster, as president, and several councilors, some of whom, as well as the burgomaster, receive a compensation. They are elected by the municipal council, but in cities of 10,000 inhabitants and more, their election must be confirmed by the king; in the others, by the governments. The burgomaster and the paid councilors are elected for twelve years, the others for six years. The number of the members of the municipal council is in proportion to the size of the city; they are appointed by the municipal electors, divided into three classes, each of which chooses a third of the members of the council, one-half of whom must be landed proprietors. The term of office is six years, but the council is renewed one-third every two years. — Every Prussian twenty-four years of age, who has lived in the city for at least a year, punctually and fully paid his taxes, who has a house within the territory of the commune, or carries on an industry of a certain importance, and is inscribed for at least fifteen francs upon the register of the class taxes or the revenue register, is a burgher, and has the right to vote at municipal elections. — The powers of the magistrate and of the municipal council somewhat resemble those of the mayor and municipal council in France. The surveillance of the state is exercised, in the large cities, by the governments, and in the small, by the *Landraths*. Both may annul illegal municipal decisions, those which involve an exceeding of power, or which cause prejudice to the state; they may also, if they see fit, insert in the budgets the obligatory expenses which the municipal council has refused to insert in them. A municipal council can be dissolved by royal ordinance, but in this case another council must be elected within six months. The approval of the superior authority is necessary: 1, to validate the alienation of urban real estate, or of objects having a particular historical, artistic or scientific interest; 2, to contract a loan; 3, to levy communal taxes; 4, to change the mode of the enjoyment of a communal right. — The ordinance of Sept. 22, 1867, for Hanover, and that of March 25, 1867, for Frankfort, differ in some details from the preceding. — We now come to the rural communes. In the six eastern provinces, to which the law of 1873, concerning the arrondissements, of which we have given a brief analysis, applies, the rural communes consist, on the one hand, of villages, and in part of great landed properties. In 1872 these six provinces included 25,446 communes, 14,152 landed estates enjoying municipal rights, and 82 localities which did not form part of any municipality; in all, 39,680 communes and localities. Most of the communes are small, as the following figures show: Rural communes with less than 100 individuals, 5,305; with from 100 to 500, 15,676; with from 500 to 1,000, 3,493. Landed estates with less than 100 individuals, 7,682; with from 100 to 500, 6,260; with from 500 to 1,000, 186. Localities with less than 100 individuals, 78; with from 100 to 500, 4; with from 500 to 1,000, 186. The rest of the communes and landed estates have more than 1,000 inhabitants.— The rural communes are administered by a head called the *schulze* (mayor), assisted by two deputies or aldermen; they are elected by the inhabitants of the commune, and confirmed by the *Landrath* on the recommendation of the bailiff. The *schulze* may have a salary allowed him from the municipal funds. He administers the affairs of the commune, convokes the communal assembly, directs its deliberations, and executes the decrees. He must aid the bailiff in the exercise of police duties, and provide the proper means in case of urgent necessity; he is, according to the expression of the law, the local authority. — In the landed estates which constitute a commune, the proprietor represents the local authority. He exercises authority in person, or by a substitute approved by the *Landrath*. On the other hand, he is liable for all the expenses which are incumbent on a commune. — In the province of Westphalia, bailiwicks have been established composed of many rural communes. Each commune preserves its own particular interests; it is administered by a chief, assisted by landed proprietors paying a certain amount of taxes (the amount required is rather large) whose decisions must be approved by the bailiff, often by the superior authority, in order to be valid. The bailiff, as well as the chief of the commune, exercises his functions gratuitously. The bailiff is appointed by the king, upon the presentation of the *Landrath*, from among the inhabitants of the district; if there is no person in the neighborhood capable of properly exercising this function, a paid bailiff not belonging to the locality may be appointed. — In the Rhenish province there are paid burgomasters at the head of the cantons, which form large communes, having their municipal council, without prejudice to the individuality of each village, which has its chief, and the inhabitants of which assemble to deliberate upon their particular interests. The burgomasters are assisted by a council. — III. *Finances*. The good administration of the finances of Prussia is proverbial. During many centuries it had princes who took care of its pennies; the immediate successor of Frederick the Great, Frederick William II., alone, made a break in the series. Fortunately, his reign was short (1786–97), and his son, Frederick William III., devoted himself to paying off the debts, by practicing the strictest economy for many years. The oldest accounts preserved are on the civil list of Joachim Frederick for the year 1606. This prince had only 40,000 thalers revenue, which did not prevent him from undertaking the construction of a canal. Under George William the domain revenues of the elector reached, in 1622, 211,527 thalers, but in consequence of the devastations of war they fell (account of 1638) to 23,440 thalers. On the accession of the great elector (1640) the whole of the revenues of the state were valued at

400,000 thalers; on his death (1688) the receipts were valued at 2,500,000 thalers. His son, Frederick III., who became in 1701 the first king of Prussia, under the title of Frederick I., brought the revenues up to 4,000,000 thalers. He died in 1713. Frederick William I. (1713–40) reached the sum of 6,917,192 thalers (he introduced various taxes), and the amount in the *treasury* was 8,700,000 thalers. Frederick the Great (1740–86) had, in the last year of his reign, 20,000,000 thalers revenue, and at his death, the *treasury*, despite the wars and public works which he had undertaken, was found to contain 55,000,000 thalers. This money Frederick William II. set himself to work to dissipate; he reduced certain taxes, so that Frederick William III. (who died in 1840) had, in 1797, a revenue of only 20,499,383 thalers. We know the vicissitudes through which the Prussian monarchy passed, during the period which terminated with the year 1815. In 1821 the receipts rose again to 50,000,000 thalers net (costs of collection deducted); in 1844, to 57,677,194 thalers net, and 74,981,330 thalers gross. From this year (1844) onward, the budget gave the gross product of the taxes, but in the case of the postoffice and other revenues, only the net revenue of the postoffice was inserted. In 1854 it exceeded 100,000,000, the account balancing at 107,990,069 thalers; in 1866, the last year preceding the increase of territory, it was 168,929,873 thalers. The annexations brought the figures up to 210,620,043 thalers (budget of 1867), of which 168,929,873 were for the old provinces, 22,589,700 for Hanover, 5,749,000 for the electorate of Hesse, 4,882,303 for Nassau, and 7,671,303 for Schleswig-Holstein; the rest for the small additions to the frontiers. From 1868 to 1873 we have the following figures: 1868, 159,757,064 thalers; 1869, 167,536,494; 1870, 168,251,372; 1871, 172,918,937; 1872, 197,059,940; and 1873, 206,802,643 thalers. — When, from 210,000,000 in 1867, the total of the budget fell suddenly, in 1868, to 159,000,000, it was because the establishment of the *Norddeutsche Bund*, which became in 1871 the German empire, had exacted a great alteration, a part of the revenues and expenses of the kingdom of Prussia being transferred to the confederation. The total of the Prussian revenues thus transferred to the federal German budget was (budget of 1868) 62,173,346 thalers in receipts (customs and indirect taxes, sugar, brandy, 29,616,401; salt, 9,547,737; postoffice, 15,783,899; telegraphs, 1,594,275, etc., etc.), and 100,254,789 thalers in expenses (salt, 2,866,344; postoffice, 13,945,500; telegraphs, 1,737,230; army, 72,994,740; navy, 8,428,975; consulates, 102,000; civil pensions, 180,000). These changes are due to the fact that the German empire has charge of the foreign affairs, of the army, of the navy, and of the postoffice and telegraphs, and that its own revenues consist of customs duties, duties on salt, the postoffice, and some sources less productive; finally, that the federated states have to cover the deficit by a matriculate contingent, an obligation which is incumbent also upon Prussia. The following is the Prussian budget, as it has been presented since 1868; we shall analyze that of 1873, passed March 24, 1873 (a little later than usual):

GROSS RECEIPTS, IN THALERS.

Receipts collected by the ministry of finance:		
Domains (9,475,100) and forests (14,540,000), the trust fund of the crown (2,573,099) subtracted		21,442,001
Product of the redemption of rents and sale of domains		830,000
Direct taxes:		
Land tax	13,055,000	
House tax	4,867,000	
Tax upon incomes of more than 1,000 thalers	7,000,000	
Tax upon incomes of less than 1,000 thalers	13,264,000	
Industrial tax (patents)	5,402,000	
Railway dues	2,343,000	
Miscellaneous	125,000	
		46,056,000
Indirect taxes:		
1. Imperial taxes:		
Customs 19,577,900, of which there were turned into the treasury of the empire 17,759,900, leaving for the Prussian treasury (the equivalent of its expenses)	1,818,000	
Sugar (gross 10,475,380), remains to Prussia	419,000	
Salt (gross 6,068,260), remains to Prussia	36,390	
Tobacco (gross 120,020), remains to Prussia	18,000	
Brandy (gross 12,840,910), remains to Prussia	1,926,140	
Beer (gross 2,876,640), remains to Prussia	431,500	
Total imperial taxes	4,649,030	
2. Taxes collected for Prussia alone:		
Tax on the grinding of corn	1,750,000	
Slaughter-house tax	2,526,400	
Stamps (the taxes were reduced in 1872)	10,000,000	
Prussia's share in the German stamps	265,940	
Tolls on roads	1,525,880	
Tolls on bridges and canals	600,000	
Miscellaneous	678,450	
Total taxes collected for Prussia alone	17,345,970	
Total indirect taxes		21,995,000
Lottery		1,340,300
Naval commercial institution (*Seehandlung*)		2,500,000
Bank of Prussia		2,002,000
The mint		344,000
Printing of the state		398,000
General administration of the finances (the principal items of which are revenue of the old treasury, 5,250,000; excess of the receipts 1871, 9,273,920)		20,169,650
Total of the collections of the ministry of finance		117,006,951
Receipts collected by the ministry of commerce (of which the principal items are mines, manufactories, salt works, 29,958,548; state railways, 46,965,100)		76,835,633
Collections of the ministry:		
Of state (sale of the bulletin of the laws)		41,750
Of justice (costs, fines, etc.)		14,005,000
Of the interior (work in the prisons, collections of the ordinances of the authorities, etc.)		981,679
Of agriculture (product of the schools, of the stud, etc.)		1,055,480
Of worship, instruction and public health		166,284
Total receipts		210,042,767

— *Domains and forests.* The state is proprietor of 1,148 farms or rural domains, comprising a productive surface of 354,819 hectares, not including a quantity of small properties or parts of properties, the area of which is not known, but which, to judge from the provinces from which we have returns, must surpass in extent 200,000 hectares, and yield about 4,000,000 francs of farm rents, and besides a sum of 10,000,000 francs of perpetual rents, due by cultivators for lands which were formerly abandoned to them. There are, besides, about 3,000,000 hectares of state forests. With the exception of a revenue of 9,649,121 francs, drawn from the whole of the domains in favor of the crown, these latter were declared, in 1820, the property of the state, and pledged at the same time as a mortgage to its creditors. What remains of the revenues of the domains and forests, after the payment of the income of the crown, is devoted to the payment of the interest of the public debt. The rural domains are farmed out by *adjudication*, ordinarily for eighteen years, and produce a farm rent, the amount of which rises with the price of commodities. In 1849 an average obtained was 1 thaler 5 sgr. 7 pf. per *morgen*, or 17 fr. 76 c. per hectare; in 1856, 20 fr. 40 c.; in 1869, 34 fr. 56 c. From 1869 to 1873 the average was still higher. The rents fixed upon the portions of land, and which we have qualified as perpetual, must, however, be discharged by amortizement in forty or fifty-six years; they are also redeemable, entirely or in part, at the choice of the debtors. The amount of these redemptions may be estimated at 3,000,000 francs a year. The expenses of administration and other expenses absorb about 15 per cent. of the gross revenue of the domains, and about 47 per cent. of the product of the forests. The expenses of the administration of the forests are so high, because they include the expenses of cultivation, of the cutting and transporting of the wood to the markets. — *Direct taxes.* The land tax is levied in the different provinces in accordance with old traditions. It thus weighs very unequally upon immovable property. To effect an equalization of the burden, the laws of May 21, 1861, prescribed a new assessment upon general principles, applied everywhere in the same manner. This distribution of the burden was finished at the ascribed time, but it operated only in the old provinces. The tax is levied upon the net product of immovable property. Landed estates not built on, in these provinces, yield the treasury a sum of 10,000,000 thalers, or 37,500,000 francs; by adding to this the product of real estate built on, which is 7,000,000 francs, the land tax rose in 1865 from 38,000,000 to 45,000,000 francs. — The tax upon classified income and the class taxes (law of May 1, 1851) are personal taxes levied upon the income. For this purpose tax payers are divided, according to their incomes, into several classes, the amount of income for each class being fixed by law. The classification is made by commissions of tax payers appointed by the communal authorities, so that, in fact, the tax payers classify themselves. The tax upon classified revenue is paid only by persons with an income of more than 1,000 thalers a year, while the class tax is due from all tax payers who do not live in cities subject to the tax on the grinding of corn and the tax on the slaughtering of animals (tax on flour and meat). There is in Prussia an income tax, but this tax has a different name, according as the tax payer has more or less than 1,000 thalers income. The rate of the tax also differs; it is about 2 per cent. for the class tax, and 3 per cent. for the tax on classified income. The term *class* has the following signification: instead of demanding so much per cent. of income, a poll tax is demanded, graduated according to the wealth of the tax payer; tax payers are, therefore, grouped into classes, according to the amount of their income (for example, 1,000 to 1,100, 1,100 to 1,200, etc.), and poll taxes are demanded proportionate to the income. The result is, that for 1,150 thalers income, as much is required as for 1,101, or 1,199. — The industrial or license tax (law of May 30, 1820) is levied upon the exercise of the industrial and commercial professions. The different localities are, for this purpose, divided into four categories, of which the first three embrace the cities of a certain importance, while the fourth comprises all the other communes. The first three categories are determined by the number of the population; the localities belonging to the fourth category are joined together in unions corresponding to the circle (*kreis*). The license is always a distributed tax. The contingent is fixed in a lump for a city or circle; it is then divided among those engaged in industry according to the importance of their business. — The tax upon railways (law of May 30, 1853) is levied upon their net proceeds. The tariff is as follows: when the income from shares is 4 per cent. net or less, the tax is one-fortieth of the income; when the dividend exceeds 4 per cent., the tax is one-twenty-fourth for the excess between 4 and 5 per cent., one-tenth for what exceeds 5 per cent, and up to 6 per cent., and two-tenths for the part of the dividend which exceeds 6 per cent. — The land, class and patent taxes are collected by collectors, who receive allowances for collection, while the tax upon classified incomes is collected by the pay offices of the circle (the receivers of finances), and the tax upon railways by the provincial pay-offices of the government (receivers general). — *Indirect taxes.* The customs duties, the tax upon salt, brandy, malt, native sugar and tobacco, coming within the jurisdiction of the empire, we have nothing to do with here. We shall speak here only of taxes purely Prussian. — The stamp duties (law and tariff of March 7, 1822, modified in 1869 and 1873) are in part fixed and in part proportional. To the first are subject all instruments submitted for registration, or which are presented to the public authority, such as passports, playing cards, periodicals, so long as stamps had to be affixed to them; to the latter, unilateral instruments concerning objects

of a value of at least 187 fr. 50 c., as well as inheritances, judicial acts, etc. — To the taxes on the grinding of corn and slaughtering of animals (law of May 30, 1820) are subject eighty-three cities (the number is diminishing) of a certain importance, designated by the law of May 1, 1854, and exempted, for this reason, from the class tax, but not from the tax on classified income. It is a tax on consumption collected at the gates of the cities, and levied upon flour and meat, whatever may be the form under which these commodities enter the city. The tariff is 5 francs per 100 kilogrammes of wheat, 1 fr. 25 c. per 100 kilogrammes of other cereals, and 7 fr. 50 c. per 100 kilogrammes of meat. The tax upon meat may be replaced by a tax per head upon the cattle which enter the cities. A third of the tax upon the grinding of corn is given to the respective municipal funds. The share of the state amounts to a total sum of 12,000,000 francs. A great number of these cities have also been authorized by the state to add additional taxes to these. — The tax upon the cultivation of the vine (law of Sept. 25, 1820) is not important. Wine is subject to a duty of from 90 c. to 4 fr. 38 c. (according to the quality) per *eimer* (70 litres) of wine produced. It is charged to the producer, and is, so to speak, a supplementary land tax; it is therefore wrong to include it among indirect taxes. — The tolls of roads and bridges have been strongly attacked for some time, but they do not lack defenders. — *Other resources of the department of finance.* We group under this designation the lottery, the bank, the naval commercial institution, the mint, and the general administration of the finances. The first three, established by Frederick the Great, have undergone many changes since. — The lottery (law of May 28, 1810, and regulation of May 1, 1841) is divided into four classes; it is renewed twice a year, so that there are eight drawings in the year. The number of chances in each lottery, at 195 francs a chance, is 95,000, and the number of prizes, 84,000. The state collects from this gain 15 5-6 per cent.; and besides 2 per cent. is accorded to the collectors charged with the sale of the tickets and the payment of the prizes. — The naval commercial institution (*Seehandlung*), instituted in 1772 to encourage maritime commerce (law of Jan. 17, 1820), is but an institution of credit and of commerce, intended principally to effect the purchase of salt abroad, and to take charge of certain public affairs which require commercial operations. This institution has been often and many times justly attacked; some demand more publicity, while others do not wish a banking house carrying on business with the funds of the state. The *Seehandlung* having many times controlled the issue of laws, it has been said that it made a profit at the expense of the state. Bergins, author of a "Treatise on Finances," echoes this singular reproach (pp. 388, 389). Would people have preferred to see a banker making this profit? For, what the *Seehandlung* gains, the state receives; and in this case it performs the office of a public service, as if it were a section of the ministry of finance. We do not wish to defend the *Seehandlung*; we are only trying to do justice to the value of an argument. Let us add, that the *Seehandlung* turns only a fixed sum into the treasury of the state, and figures only in the receipts, and not in the expenditures. Certain deputies have demanded that the *Seehandlung* should turn in, every year, the whole of its gains, instead of increasing its capital by the surplus; but it would be perhaps better to abolish that institution than to enfeeble it. — The gross proceeds of the mint, from the coinage, are an item in the receipts, and are absorbed by the expenses of manufacture and administration. — *Collections of the department of commerce, of industry and of public works.* These comprise the mines, manufactories and salt works, the state railways and the royal manufactory of porcelain. The mines, manufactories and salt works of the state are so numerous and so important that their gross product amounted, in 1873, to: mines, 20,309,680 thalers; manufactories, 6,702,950; and salt works, 1,674,660. There are also various products which reached a total of 1,200,000 thalers; in all, about thirty millions; but about 80 per cent. was absorbed for the expenses of exploitation and administration. The state collects, besides, a tax of 6 per cent. on the gross product of the mines of individuals (law of May 12, 1854), which has been for a series of years about 2,000,000 thalers. The manufacture of porcelain is a right of the state. — In the railway system of Prussia the following distinction must be made: 1. the railways of the state; 2, the lines which have been subsidized by the state, which, besides, assumed certain obligations; 3, the lines to which the state guarantees a minimum of interest; 4, the lines acquired by the annexation of Hanover and other territory; however, the budgets confine themselves to an enumeration of the lines, indicating separately the proceeds of each of them. The net product of the railways, augmented by a sum of about 5,000,000 francs, is applied to the payment of the interest and the liquidation of the public debt contracted for the construction and acquisition of railways. — *Collections of the other ministerial departments.* The collections of the ministry of justice are the most considerable. They consist of the costs of trials and of judicial acts, and reach a figure large enough almost to cover the expenses of the administration of justice. The receipts of the department of agriculture are made up from redemption of servitudes and of other real estate burdens (consolidation of estates), and of the revenues of the public studs; they cover, except about 2,500,000 francs, the expenses of the ministry. The receipts of the department of the interior comprise fines, taxes on passports, and the products of workhouses and houses of correction. — *Expenditures of the state.* The expenditures of the state are divided into *ordinary* and *extraordinary*, or, to use the Prus-

sian phraseology, into permanent and accidental (*einmalige*). The following is the table of the expenditures of 1873, corresponding to the table of receipts given above:

ORDINARY EXPENSES.

A. Cost of collection and exploitation.		Thalers.
Ministry of finance		19,451,095
To wit:		
Domains	2,186,750	
Forests	7,583,000	
Direct taxes	2,351,000	
Indirect taxes	6,883,500	
Lottery	24,875	
Mint	278,200	
State printing	214,700	
Ministry of commerce		53,456,068
Manufacture of porcelain	148,000	
Mines	14,805,423	
Manufactories	6,243,004	
Salt works	1,155,730	
Other industries	656,096	
Total	23,008,253	
Railways	30,447,815	
Ministry of state		48,370
Total costs		72,955,463
B. Complements to the civil list		1,500,000
Public debt (comprising therein 11,989,134) for the debt of the railways		25,898,800
Expenses of the chambers		307,800
Ministry of state		547,611
Ministry of foreign affairs		135,600
Ministry of finance		31,566,005
Ministry of commerce (of industry and public works)		11,508,981
Ministry of justice		19,459,530
Ministry of the interior		9,766,396
Ministry of agriculture		2,796,043
Ministry of worship, education and health		10,092,017
Extraordinary expenses, divided among the different ministries		23,450,239
Grand total		209,844,485

The absence of the ministries of war and of the navy, in the above table, will be noticed: this is because their services depend now upon the empire, and figure in the latter's budget. The council of Prussian ministers includes, however, the ministers who direct these services. — The dotation of the crown includes the deduction from the product of domains and forests already mentioned, and which amounts to 2,573,099 thalers with the premium upon gold. This deduction was decreed to the civil list, when the king abandoned the domains of the crown to the state, as a hypothecation in favor of the creditors of the state (law of Dec. 17, 1808, law of 1810, and law of Jan. 17, 1820). This civil list was increased 500,000 thalers by the law of April 30, 1859, and by that of Jan. 27, 1868, by a million, so that the whole of the dotation of the royal crown is 4,073,099 thalers, or 12,219,297 marks, in the new German money. — We speak, a little further on, of the public debt. The extraordinary expenditures are applied chiefly to public works of all kinds, to improvements, to the redemption of servitudes with which the domains and forests of the state are charged, to the improvement or extension of useful institutions, etc. — *Public debt.* The events of the first fifteen years of this century imposed upon Prussia a rather heavy debt; it amounted in 1820, when peace allowed liquidation to be begun, and regulation to be undertaken, to 206,733,171 thalers bearing interest, and 11,242,347 thalers of paper money. A sinking fund was created; economy reigned in the administration, and in 1848 the debt was reduced to 122,942,765 thalers. The events of the times, on the one hand, and the construction of numerous railroads, on the other, increased the debt, in 1858, to 225,776,838 thalers, and in 1867 to 270,661,195. At the end of 1868, after the addition of the debts of the annexed provinces, the figures were as follows (the railway debt being included in the total debt):

PROVINCES.	Total Debt.	Railway Debt.
	Thalers.	Thalers.
The old territories	357,857,422	134,706,812
Hanover	22,146,050	16,868,730
The electorate of Hesse	15,406,500	15,207,600
Nassau	20,340,628	16,532,286
Hesse-Homburg	131,429	----------
Schleswig-Holstein	377,092	----------
Total	416,259,121	183,312,428

To this must be added 18,250,000 thalers of debt not bearing interest, or of paper money. We have seen above that this debt was 11,242,347 in 1820; it remained at that figure till 1850. At that time an issue of 9,600,000 thalers was made, which brought the circulation up to 20,842,347 thalers. In 1851 ten millions more were issued, but in 1856 the circulation was reduced five millions, and in 1857 ten millions more, and it remained 15,842,347 thalers until 1867. — The debt of 1868 required an expenditure of 25,704,930 thalers, of which 10,002,486 was for the railway debt. The sinking fund in these twenty-five millions comprised the amount of 8,178,433 thalers. As the construction of railroads continued, and as, with every loan, the dotation of the sinking fund was increased; and as, besides, the interest of the redeemed debts continued for ten years to increase this fund, the burden was found rather heavy; or, as was also said, the amortizement was too rapid. Perhaps this state of things would have continued, but, the year 1869 showing a deficit, the minister of finance decided to propose a bill for the *consolidation* of the debt. This bill, a little modified, became a law Dec. 19, 1869 ("Prussian Official Journal," of Dec. 24). To understand this law, we must keep in mind that all the Prussian debt, which was composed of 115 different titles, was subject to obligatory amortizement. There were annually redeemed at the Bourse, as far as the funds intended for that purpose would allow, the funds (or rather, the capitals) the market price of which was below par. As for other titles, they were drawn by lot as obligations (the coupons were numbered and payable to the bearer). The consolidation consisted in the exchange of nineteen kinds of titles, twelve at 4½ per cent., and

seven at 4 per cent., for new titles at 4½ per cent., the obligatory amortizement of which was suspended till 1885, and is to be optional with the state after that date. That is to say, until 1885 the titles of the consolidated debt can be redeemed only at the Bourse, at the market price of the day, and only by means of the budget surplus which is especially intended for that purpose. From Jan. 1, 1885, the government may resume the amortizement by means of drawing by lot and at par. To attract the holders of titles at 4 per cent. a premium of 1 per cent. was offered them. The operation was applied to a sum total of 223,436,175 thalers, which became reduced to 217,551,000 thalers, since 800 thalers of capital at 4½ per cent. were given in exchange for 900 thalers at 4 per cent. The rest of the debt was maintained under the former system. The operation, by reducing the liquidation funds from 8,666,140 to 5,243,285 thalers, set free for other purposes the sum of 3,422,855 thalers. The consolidation, which transformed the capital debt into an interest debt, was so successful, that, disposing of the great surplus of receipts, six million thalers for 1870 and more than nine million thalers for 1871, and the 4½ having passed par, the minister of finance could ask of the chambers the authority to resume, as far as this remainder was concerned, the former mode of amortizement. — We shall now sum up the situation of the debt on Jan. 1, 1872, according to the report of the commission of surveillance, established by the law of Feb. 24, 1850:

Debt bearing interest.	Thalers.
Debt of Prussia, before 1866	354,793,184
Debt of the states annexed in 1866	61,164,001
Total	415,957,185
From these figures must be deducted the amount proceeding (except 9,286,200 thalers) from railway loans, the proceeds of which cover the interest and liquidation of the capital employed	196,858,145
Left to the charge of the state	219,099,040
Debt not bearing interest.	
Paper money (*Cassenscheine*)	18,250,000

— In 1873 Prussia contracted a loan of 120 millions of thalers for the construction of new railroads.* — IV. *Army and Navy.* Whatever may be the interest which is attached to the organization of the Prussian army, we can only relate its history from the accession of King Frederick William III. In the first year of his reign, in 1797, he laid down in a law, the principle of obligatory personal military service; but this law contained at the same time such a great number of exemptions and privileges, that the service was exclusively confined to the lower classes. The misfor-

YEARS.		Revenue.	Expenditure.
		Mark.	Mark.
1874	Ending Dec. 31	695,097,700	695,097,700
1875	Ending Dec. 31	694,484,900	694,484,900
1877 (15 mos.)	Ending Mar. 31	808,072,700	808,072,700
1878	Ending Mar. 31	657,520,344	657,520,344
1879	Ending Mar. 31	713,857,764	713,857,764
1880	Ending Mar. 31	711,500,758	711,500,758
1881	Ending Mar. 31	913,070,400	913,070,400

— The revenue in the financial estimates of Prussia, is divided under seven heads, representing the various ministerial departments. Receipts from state railways form the chief source of revenue, and, next to them, the direct taxes. In recent years the income from railways and other state undertakings, such as mines, has been largely increasing, showing a tendency to become a far more fruitful source of revenue than all taxation, direct or indirect. — In the budget estimates for the year ending March, 1883, the sources of revenue were given as follows:

Sources of Revenue.

	Mark.
1. Ministry of agriculture, domains and forests:	
Income from domains and forests	73,128,214
Various	7,000,340
Total	80,128,554
2. Ministry of finance:	
Direct taxes:	
Land tax (*Grundsteuer*)	40,188,000
House tax	28,056,000
Income tax	28,827,600
Class tax (*Klassensteuer*)	25,146,100
Trade tax (*Gewerbesteuer*)	18,662,000
Railway dues	2,986,000
Miscellaneous	568,000
Total	144,458,700
Indirect taxes:	
Share of imperial customs and taxes	19,089,690
Succession tax (*Erbschaftsteuer*)	5,200,000
Stamps	16,500,000
Bills of exchange	70,440
Bridge, harbor, river, or canal dues	2,200,000
Fines, etc.	53,300,000
Miscellaneous	2,051,870
Total	98,562,000
State lottery	4,043,300
Naval commercial institution (*Seehandlung*)	3,000,000
The mint	236,820
Miscellaneous	127,863,384
Total receipts of ministry of finance	378,159,204
3. Ministry of public works:	
Mines, produce of	60,160,148
Furnaces, iron mills, forges, produce of	19,172,536
Salines, produce of	5,461,970
State railways	369,150,547
Miscellaneous	8,841,682
Total receipts of ministry of public works	462,786,883
4. Ministry of justice	6,596,000
5. " the interior	3,592,383
6. " commerce and industry	298,608
7. " public instruction and ecclesiastical affairs	2,283,813
8. " state	689,310
9. " foreign affairs	4,500
10. " war	667
Total estimated revenue	934,589,917

* The estimates of public revenue and expenditure submitted by the government to the chambers are always prepared to show an even balance, without surplus or deficit; but in recent years the former has been constant, as a rule, and the latter an exception. The surplus of the five years from 1870 to 1874 varied from £1,425,000 in 1870, to £4,158,000 in 1872, reaching its maximum in the latter year. But there were deficits in 1875, in 1876 and in 1877. — Up to the end of 1876 the finance estimates were for the calendar year, but it was then decided that henceforth they should be, as in Great Britain, for financial years ending March 31. The first financial year under the new arrangement commenced April 1, 1877, so that the preceding accounts were for a period of fifteen months, commencing Jan. 1, 1876, and ending March 31, 1877. — The budget estimates of revenue and expenditure of Prussia were as follows, during each of the seven years, 1874-81:

tunes which Prussia suffered in 1806 were the cause of great modifications in its internal organization. It was necessary to supply the material strength which it had lost by the creation of new moral strength, so that the reform extended to all public services. Napoleon, having restricted the effective force of the Prussian army in active service to 42,000 men, certain illustrious generals, like Scharnhorst and Gneissenau, and an eminent statesman, the baron von Stein, consulted as to the means of giving to Prussia the power and authority which she had enjoyed before the war of 1806. To accomplish this aim, it was necessary to increase, as much as possible, without awakening suspicions, the number of soldiers, and to thus prepare to be ready at the first signal given by circumstances. The royal ordinance of Aug. 6, 1808, established a system, according to the terms of which the regiments in active service should discharge from time to time a certain number of well-drilled soldiers, and replace them by as many more, whom they should instruct, and discharge again at the end of a given time, to receive an equal number of new recruits. In this way, little by little, a drilled reserve was formed, amounting to a total of 150,000 men. In 1811 dépôts of instruction, so-called, were organized, whose real purpose was to increase the number of active officers, in view of an imminent war. These preparations allowed, in 1813, an army of 200,000 men of troops of the line to be placed in the field, and the provinces organized an auxiliary army, composed of able-bodied men who had not served, called the *landwehr*, and which the provinces equipped and armed at their own expense. —The landwehr, springing almost spontaneously from the patriotic ardor of the people, was proclaimed the fundamental principle of the future military organization of Prussia. On Feb. 9, 1813, the king abolished all exemption from conscription, and, Sept. 3, 1814, a royal ordinance established the new organization of the army as follows. The land force comprised: 1, the active army; 2, the first *ban* of the landwehr; 3, the second *ban* of the landwehr; 4, the *arrière-ban*, or *landsturm*. The active army is the practical military school of the nation; it comprises: 1, individuals who wish to embrace a military career and to pass the examinations for ensign and officer; 2, those who present themselves voluntarily to satisfy the law; 3, able-bodied young men, aged from twenty to twenty-five years, without exception. (There are, however, some cases of exemption.) The length of service is three years under the flag; then the soldier, sent to his home on renewable leave of absence, passes into the reserve, of which he forms a part for two years. The first ban of the landwehr, destined to maintain the standing army, comprises the soldiers who leave the reserve after having

—The expenditure in the financial estimates of Prussia is divided into ordinary (*fortdauernde*) and extraordinary (*einmalige und ausserordentliche*) disbursements. The ordinary is subdivided into current expenditure (*Betriebs-Ausgaben*), administrative expenditure (*Staatsverwaltungs-Ausgaben*), and charges on the consolidated fund (*Dotationen*). In the estimates for the financial year ending March 31, 1883, the branches of expenditure were as follows:

Branches of Expenditure.

		Mark.
Current expenditure:		
1. Ministry of	agriculture, domains and forests	37,080,230
2. "	Finance	37,759,535
3. "	Public works	344,915,267
Total current expenditure		419,755,032
Administrative expenditure:		
1. Ministry of	Finance	36,736,613
2. "	Public works	16,569,612
2 *a*. "	Commerce and industry	1,515,075
3. "	Justice	78,762,100
4. "	The interior	40,402,367
5. "	Agriculture, domains and forests	11,314,550
6. "	Public instruction and ecclesiastical affairs	50,622,067
7. "	State	2,967,792
8. "	Foreign affairs	500,570
9. "	War	107,472
10. "	General administration of finance	127,074,410
Total administrative expenditure		366,575,628
Charges on consolidated fund:		
Addition to the "Krondotation" of the king		4,500,000
Interest of public debt, inclusive railway debt		87,094,613
Sinking fund of debt		20,480,094
Annuities and management		1,914,641
Chamber of lords		171,360
Chamber of deputies		1,200,520
Total charges on consolidated fund		115,361 228
Total ordinary expenditure		901,691,888
Extraordinary expenditure		32,898,029
Total expenditure		934,589,917

—In the budget for 1883-4 the revenue and expenditure were expected to balance at 1,089,583,000 mark. The expenditure for the army and navy is not entered into the budget of Prussia, but forms part of the budget of the empire.—The public debt of the kingdom, inclusive of the provinces annexed in 1866, was, according to the budget of 1882-3, as follows:

ITEMS.	Amount.	Amortisation.
	Mark.	Mark.
National debt bearing interest:		
State treasury bills	107,666,100	7,070,508
Consolidated debt at 4½ per cent	526,827,150	----------
" " 4 "	1,159,225,000	----------
Non-consolidated loans	88,694,100	6,995,498
Preference loan of 1855	20,850,000	1,545,000
War debt of the Kurmark and Neumark	1,948 860	165,801
State railway debt	40,476,088	1,396,637
Debt of provinces annexed in 1866	88,994,182	3,306,655
Total national debt bearing interest	2,029,681,430	20,480,094
National debt not bearing interest:		
Floating debt, called "Schatz-Anweisungen"	30,000,000	
Total national debt	2,059,681,430	

The charges for interest and management of the debt amounted to 87,620,651 mark in the financial year 1882-3. For the budget year 1883-4 it was reported that a loan of thirty-two million mark would be required. The interest on the debt would have to be increased by eighteen million mark; and it was expected, that on April 1, 1883, the total debt would be 2,640 million mark, to which would be added 1,860 million, to be issued in treasury bonds, in consequence of the nationalization of the railways. The total debt of Prussia would thus amount to 4,500 million mark, or £225,000,000.—S. M.

completed their five years of service; they form a part of it for seven years, and are obliged to present themselves at the musters and at the periodical exercises in their cantons. The second ban, who are charged with going to the defense of fortified places, are likewise subjected to a service of seven years, but are not bound to take part in the cantonal exercises, they are only reviewed from time to time by the military authority of the district. The arrière-ban, finally, are simply a home guard. Thus was the army constituted by the law of Sept. 3, 1814. A supplementary law, published April 21, 1815, assigned to each division of the landwehr its territorial circumscription, and regulated its division into (three) battalions, and its general administration. — Such was the primitive organization of the Prussian army. Later, it was resolved to place the landwehr in a more intimate connection with the line, by forming brigades composed of a regiment of the line and a regiment of landwehr. The line and the landwehr had the same equipment, the same armament, and officers of the line were detached to serve in the ranks of the landwehr, and *vice versa*. But this fusion, instead of creating a strong and rational whole, produced a system which was in contradiction with the spirit of modern times and with the exigencies of practice. The line would often be despoiled, at a decisive moment, of its best officers and under officers, and besides be obliged to share its supplies with the landwehr. In assembling the latter, the country was suddenly deprived of a great number of workmen; the mechanic, the workman, and the cultivator of the land, were snatched from their customary occupations. Becoming soldiers again after an absence from the corps of from three to six years, these men formed a body of troops to whom the experience which arms of precision and modern tactics demand, was lacking. — These military arguments found their corollary in reasons of equity and of public economy. "Personal conscription," that is to say, the obligation of *every* Prussian to serve in the regular army, could never be applied in all its rigor, and had become an illusion altogether. Just as in 1848, when the population of the kingdom amounted to 11,000,000, the annual contingent remained fixed at 40,000 men at a time when the census gave a population of 18,500,000; it was afterward raised to 63,000 men. A drawing of lots, introduced in 1820, liberated annually almost 74 per cent. of the male population: a very considerable advantage, if we remember that those to whom fortune had not been favorable (about 26 per cent.) were subjected to nineteen years' service, while also remaining subject to all civil charges. Cramped in their movements by the obligation to join the army, they could only with hesitancy enter upon certain careers, and could, consequently, contribute only in a measure relatively restricted to the increase of the nation's fortune. On the other hand, the support of the families, whose heads were called to active service, was charged to the cantons and communes, which involved them in debt in an almost insupportable manner. Finally, the division of the army into eight corps, corresponding to the eight provinces of the kingdom, might have had as an effect the distribution in an unequal manner, and therefore unjust, of the burdens of all kinds which a partial mobilization of the army imposes on a country. In such cases, the province had to furnish all that it could in men, in horses, in provisions, while the others were freed from all payments, and scarcely perceived the agitation which reigned among their fellow-citizens. Such a military system could no longer be maintained. It was necessary to change the very long duration of service of a limited number of the inhabitants to a shorter service supported by a larger part of the population. In other words, it was necessary to increase the annual contingent, and to diminish the obligations of the landwehr, of which the year 1859 had shown the weak side. — In this year, the king of Prussia, while maintaining the officers and under officers of the infantry, and of some regiments of cavalry of the landwehr, sent back the oldest classes to their homes, and ordered a supplementary levy. In 1860 the government finished the new organization; it at the same time presented to the chambers a bill, which the ministry withdrew at the end of the session without its having been discussed. The principal features of that bill may be summed up as follows: Every Prussian owes military service from the age of seventeen. The land force comprises the standing army and the landwehr. The navy is composed of the permanent navy and of the naval militia. The permanent army and navy are always bound to be ready to enter on a campaign. The obligatory time of active service on land and sea is fixed at eight years. Of these eight years, the soldiers of the cavalry pass the first four years in the regular army, those of the other branches and of the navy the first three years, and those in the train of the army the first six months. The rest of the time they are on renewable leave of absence. The landwehr and the maritime militia are intended to sustain the army and navy. After the eight years of service are ended, the men enter the landwehr or the naval militia; one figures upon the lists of these for eleven years, but in no case beyond one's thirty-ninth year, and he can be called to active service only in time of war. Young men, fulfilling certain conditions of capacity, who enlist voluntarily and equip themselves at their own expense, serve for one year only, after which they pass to the landwehr. This provision was sustained by the law proposed in 1860, and which was adopted despite the chamber. As for the present organization, it will be found in the article GERMAN EMPIRE, the Prussian army and the German army being now subject to the same law. — *Navy* (see GERMAN EMPIRE).—V. *Judicial Organization.* Offenses against police regulations are judged by police tribunals, composed of a single judge, who

can inflict a penalty as high as six weeks' imprisonment and 187 francs 50 centimes fine; misdemeanors are within the jurisdiction of the correctional tribunal, composed of three judges; crimes are tried by a jury. — The left bank of the Rhine and some localities of the right bank have preserved the French civil legislation, while almost all the rest of the monarchy is subjected to the Prussian code. From this, differences in the judicial organization of the various provinces result. These differences may be thus summed up: 1. While the jurisdiction of the Rhenish tribunals is restricted to the cognizance of litigated cases, and while extra-judicial acts, such as wills, etc., are reserved to ministerial officers, notaries, sheriffs, etc., these acts are placed among the prerogatives of a special chamber of the tribunals, which unites with the judicial chamber only to judge important cases. 2. The Rhenish tribunals can pronounce judgment only in case the matter in controversy has been brought before them by the parties to the suit or by the public ministry; the other Prussian tribunals can act officially and without the matter in controversy being so brought before them. 3. While in the Rhenish districts the public ministry extends its surveillance over the whole of the administration of justice, including the ministerial, their jurisdiction is limited, in the rest of Prussia, to affairs pending before the tribunal and to matrimonial affairs. 4. In the Rhenish province the execution of judgments is made by the agency of a sheriff; elsewhere in Prussia, directly by the tribunals. — A distinction is drawn between the ordinary tribunals and special tribunals. The former are tribunals of the first resort; there are forty-six in the province of Prussia, twenty-nine in Brandenburg, twenty in Pomerania, fifty-three in Silesia, twenty-six in Posen, thirty-one in Saxony, twenty-nine in Westphalia, nine in the Rhenish province, etc. The jurisdiction of most of these tribunals comprises a circle (district, or arrondissement), the others are established in cities of more than 50,000 inhabitants. Moreover, the tribunals of the Rhenish province extend their jurisdiction over about a whole governmental district. But the judicial jurisdictions do not always correspond with the administrative division of the country. The tribunals of the first resort form twenty-six jurisdictions of courts of appeal, from which the Rhenish province, which has only two resorts (like France), can appeal to Berlin, where the supreme court sits, forming a third, for the rest of the kingdom. In the Rhenish province there are 125 justices of the peace. It is the supreme tribunal which settles the conflicts of jurisdiction which may arise between the tribunals; the conflicts between the tribunals and the administration are regulated by the tribunal of conflicts, composed of the president of the council of ministers, of some councilors of the supreme tribunal, and of some functionaries of the administration. — The special tribunals are: the tribunals of commerce, the judges of which are elected by the chief merchants, and the *conseils de prud'hommes* elected by employers and workmen; the university tribunals, which extend their jurisdiction over students, and which can inflict a penalty as high as four weeks' incarceration; the customs or fiscal tribunals; the military tribunals (courts-martial); finally, the tribunals charged with the regulation of compensation due for the purchase of servitudes. — To be a judge, it is necessary to have studied law for three years, to have passed a first examination, then to go through a stage of trial, and pass a second examination both theoretical and practical. Conditions of capacity less rigorous are imposed upon prothonotaries and ministerial officers. The latter are appointed by the ministers; the presidents appoint the inferior agents. The judges are appointed by the king; they are irremovable, or at least their salary can not be taken away from them, except in case of crime or misdemeanor. Each tribunal has its posts more or less well endowed; a person begins with the lowest salary, and rises, by seniority and in proportion as vacancies occur, to a higher salary. — VI. *Church and state.* The liberty of Christian religions has been established in Prussia since the last century. Frederick the Great wished *every one to work out his salvation in his own way.* The code of 1794 recognized this principle in a solemn manner, and the constitution of 1850 confirmed it, and even applied it in a broader way by extending it to Israelites. This act expressly permits the establishment of reunions for the exercise of worship in common. These reunions (or parishes) from the time they are established, possess the rights of a recognized private society, but acquire the rights of a corporation only by a law. Each religion administers its institutions as it wishes. — The 24,500,000 inhabitants of Prussia were in 1874 about thus divided among the principal religions: Protestants, 16,000,000; Catholics, 8,000,000; Israelites, 320,000. The rest are divided among many less numerous sects. The Catholics form the majority of the population in the Rhenish province, in Posen and in Silesia; in the other provinces the Protestants are the more numerous.* — The king is the supreme bishop of the Protestant religion in Prussia. In principle the constitution of 1850 gave worship its independence, but the complete application of the principle of independence was not attained until 1873. It was limited,

* At the last census, taken Dec. 1, 1880, the Protestants in Prussia numbered 17,645,868, being 64.69 per cent. of the total population of the kingdom, and the Roman Catholics 9,206,283, or 33.24 per cent. The number of Jews was 363,790, or 1.334 per cent. of the population at the date of the census. There were, at the census of Dec. 3, 1867 (the last in which religious statistics were ascertained in the fullest manner) 9,317 Protestant ministers, and 7,690 Roman Catholic priests, including chaplains. The Protestants at the same date had 11,365 churches, and 1,594 other religious meeting places, while the Roman Catholics had 6,164 churches, and 2,833 chapels, besides 259 convents and monasteries. The higher Catholic clergy are paid by the state, the archbishop of Breslau receiving £1,700 a year, and the other bishops about £1,135. The incomes of the parochial clergy mostly arise from endowments.—S. M.

in 1850, to the separation of internal matters from external matters. The former were confided to a superior evangelical council (*Oberkirchenrath*) independent of the minister of worship, that is to say, functioning side by side with him. Within the jurisdiction of the superior council are eight provincial consistories, which operate under its authority, and which are presided over by the superior presidents; they include among their members a general superintendent, who represents the minister of worship. The external matters are administered, as formerly, by the minister of worship and by the governments of the districts (the prefects). In matters of a mixed nature the ecclesiastical and the administrative authorities deliberate in common. — The internal matters include dogma, the liturgy, discipline, the synods, and theological instruction. The candidates for the evangelical ministry must have studied theology for three years in a university; they must pass an examination, and are appointed by the *patron* (the state or the possessor of the seigniory), or elected by the parish. The provincial consistories and the superior evangelical council are appointed by the king. — The external affairs consist in the surveillance over the property, the establishments and the institutions of the various churches, in the exercise of the patronate of the state, which confers upon it besides a direct influence over the administration of these establishments, over the appointment of the administrators of the church lands, and over all that relates to the material interests of the parishes. — The internal organization of the Protestant, or Evangelical, religion, promised by the constitution, has its foundation in the communal and synodal regulation of Sept. 10, 1873, which established *councils of ancients*, and district and provincial synods, as well as a general synod. These regulations enter into all possible details, even to prescribing that they shall commence their meetings with a prayer. — The Catholic religion is much more independent of the state than the evangelical religion. There is not even a concordat. The bull *De salute animarum*, dated July 16, 1821, and accepted by royal ordinance of Aug. 23, 1821, is not a treaty, although it was preceded by negotiations. It settles the boundaries of the dioceses, it regulates what relates to the *election* of archbishops and bishops by the chapters of the cathedrals (with papal approval), and treats of the endowment of the sees, by right of indemnity for the secularization of the property of the church effected in 1810. The state had reserved its rights, and notably that of acting as intermediary in the relations between the bishops and the holy see. In 1840 the state abandoned this right. Article sixteen of the constitution of 1850 abolished it, and allowed the bishops to correspond directly with their superior. — The bishops enjoyed in Prussia very extended rights, and the government favored them in a very special manner. But, although the reason is not very clear, a conflict arose between them and the government in 1870, after the proclamation of the infallibility of the pope, which was about coincident with the Franco-German war. The conflict threatened to become more and more envenomed, the government demanding that the clergy should recognize the supremacy of the state, while the priests, and, above all, the bishops, professed that the orders of the sovereign pontiff took precedence of the laws of the country. To combat the ultramontane spirit without meddling with the internal matters of religion, the government proposed and the chambers passed many laws, of which the following is a very brief analysis. — *Law of May* 11, 1873. This law applies to Catholic priests as well as to Protestant pastors or ministers; it exacts that every ecclesiastic appointed to a parish shall be German, and that he shall have studied theology regularly, either in a university or in a higher ecclesiastical seminary furnishing an equivalent instruction, and whose plan of studies shall have been approved by the minister. Before entering the seminary, or being enrolled in the university, the pupil has to pass an examination to prove that he has made his humanities. The professors of a small or of a large seminary, although priests, must show their capacity by an examination. In case of transgression, the state can refuse the subsidies or endowments. The ecclesiastical superiors (bishops, for example), before proceeding to an appointment, must present (make known the name of) the candidate, to the superior president of the province, and wait thirty days; if there is no objection, the appointment may be made. Objection may be taken: 1, if the candidate has not passed through the required course of study; 2, if he has committed any crime or misdemeanor; and 3, if his previous conduct authorizes the government to think that he will not submit to the laws of the country. The nominations made contrary to these provisions are null and void; the state can keep back the salary of bishops (the German text says only, "of those who appoint"), and inflict fines upon them, as high as 1,000 thalers, if they leave the places vacant. The above provisions have no retroactive effect, only a delay of a certain time is fixed for foreign priests to be naturalized. — *Law of May* 12, 1873. This law regulates what concerns the discipline of the various Christian churches. No disciplinary punishment can be inflicted, except by a German authority. It may consist of fines, of imprisonment (detention in a house of *demeritants*), or even of recall; but when it exceeds a maximum fixed by law, it must be approved by the superior authority, to whom a written decision giving the reasons therefor must be submitted. An appeal may be taken, in certain cases mentioned, to a superior ecclesiastical tribunal, whose members, to the number of eleven, are irremovable. — *Law of May* 13, 1873. This law applies equally "to all churches and all religions," and forbids the publication of internal disciplinary measures (excommunication, etc.). These measures must not be dishonoring, under penalty of a fine of from 200 to 500 thalers, and of imprisonment for not

over a year. There is question here of measures taken against laymen; the disciplinary penalties against ecclesiastics are regulated by the law of May 12, 1873. — *Law of May* 14, 1873. This tells how one may *leave* a religion (the law does not say *change* a religion; its language is broader), and regulates the civil consequences which may be attached to this change. This law frees also an Israelite landholder from contributing to the expenses of the Christian religion. — A law of February, 1874, established civil marriage in Prussia, and various decisions recognized as Catholic the ecclesiastics who do not accept the infallibility of the pope. A decree of the superior tribunal (July, 1873) declared that it did not belong to a tribunal to distinguish between dogmas, and to decide which are characteristic; it was sufficient for the "Old Catholics" to declare themselves Catholic, to be considered as such. — The liberal régime which existed before 1870 in regard to convents and religious bodies caused these institutions to multiply in Prussia, so that certain inconveniences resulted. However, petitions were addressed to the chamber of deputies of Prussia, and the question was thoroughly treated in a report of the eminent professor Gneist, of the university of Berlin (session of 1869, document No. 221). We are obliged to refer to that for the explanation and discussion of principles, limiting ourselves here to giving some statistical information borrowed from that document.

	No. of Stations.	No. of Members.	No. of Novices and Lay Brothers.
Religious orders of men	63	450	320
Communities of men	22	267	65
Religious orders of women	41	612	312
Communities of women	690	4 497	867
Total	826	5,826	1,564

Ample details will be found in the above mentioned report. By a decision of June 15, 1872, the minister of public instruction excluded, for the future, the members of religious orders from all participation in the instruction in public schools. The order of Jesuits was, moreover, completely banished from Germany by the law of July 4, 1872. For the continuation of this subject see GERMAN EMPIRE. — The Israelite religion is not subject to any surveillance on the part of the state, which has also not granted it any subsidy. It administers its affairs with perfect freedom. The communities form generally recognized private societies; some, however, have received corporate rights. — VII. *Public Education.* The importance of education has been recognized for a long time in Prussia, and in the seventeenth century the government took measures to extend its benefits. The code of 1791 declared that schools and universities were public establishments, which could be opened without the authorization of the state charged with their surveillance. This code was the point of departure for quite a liberal legislation, which the constitution of 1850 developed. "Science and instruction," it said, "are free; education for the young shall be furnished by public schools. Parents can not deprive their children of the degree of instruction which the public primary school is charged with conferring. All persons who can prove before the authorities their morality, their capacity and their knowledge, may teach or open schools. All public or private establishments, whose purpose is instruction, are subject to the surveillance of the state. In establishing public primary schools, the difference of religion must be taken into consideration as much as possible. Religious instruction is given in them under the direction of the churches or religious associations (dissenting parish). The direction of the external interests of the public primary schools, in which instruction must be gratuitous, belongs to the communes, which must also sustain the expenses of their establishment and maintenance. The state intervenes only when the commune is unable to fulfill this duty, and within the limit of the want. A law shall regulate all that concerns public instruction, and, meanwhile, the existing organization will be preserved." — Such are the principles put forward by the constitution of 1850; the new law promised by the constitution was presented Nov. 2, 1869, but it was not adopted. Till it shall be otherwise arranged, the primary (or elementary) school is placed under the local authority, and its support is in charge of the members of the *school commune*, including all the heads of households, while the *political commune* includes only the inhabitants possessing a property or a revenue sufficient to entitle them to be municipal electors. The heads of households are required to contribute to the support of the school in proportion to their means,* not including the school fee due from the parents. The expenses of building a school house are charged to the municipal funds, with subsidies from the lords or proprietors of noble properties, if there are any, and finally of the state. — But if instruction is not yet entirely gratuitous, despite article twenty-five of the constitution, it has for a long time been obligatory. All children who do not receive at home the prescribed instruction must attend the primary school, under penalty of a fine and even of imprisonment for the parents. — The number of schools, of teachers and of pupils in Prussia, for the dates mentioned, may be gathered from the following table:

	In 1816.	In 1846.	In 1864.
Number of schools	22,479	24,746	26,466
Number of instructors	25,045	33,332	36,656
Number of pupils to each instructor	51	73	80

* What is called gratuitous, is the abolishment of the school payment, and its replacement by a school tax. Actually there is a mixed combination, which seems to answer the purpose. Therefore the government has demanded, but in vain, the repeal of article twenty-five, which prescribes gratuitous education.

According to a table published in 1869 by the *Zeitschrift* of the bureau of statistics, there were, in the primary schools: 12.8 per cent.; in 1825, 13.5 per cent.; in 1828, 14.6 per cent.; in 1831, 15.2 per cent. of the male population. It remained the same in 1861; in 1864 we find 16.9 per cent. For the year 1872, Brachelli estimated the number of primary schools at 34,700, and that of scholars at 3,650,000. In 1870 there were in Prussia seventy-six normal schools, fifty-six of which were Protestant and twenty Catholic. Since 1860, eleven normal schools belonging to the former religion, and five belonging to the latter, have been established. — Secondary instruction is represented by schools of different natures and different degrees. The 204 *gymnasiums* (lyceums) were attended in the winter of 1870–71 by 52,657 pupils, not including the 5,885 pupils of the preparatory schools, which makes one pupil in 468 inhabitants (the elementary classes not included). The thirty-three *progymnasiums* (colleges) had 3,443 pupils, besides 335 pupils of elementary classes. The seventy-six *realschulen* (schools of exact sciences) of the first rank had 20,026 and 2,620 pupils; those of the second rank had 2,950 and 1,002 pupils; the higher city schools, fifty-nine in number, final examination in which entitled the pupil to enter the military service a year earlier than provided by law, were attended by 7,093 pupils, not including 1,818 pupils in the elementary classes; the twenty which did not enjoy this right had 1,317, and seventy-four pupils. The total number of pupils receiving secondary instruction was 89,275 (the elementary classes included); that is, one pupil in 276 inhabitants. These numbers indicate those who remained till the close, but, in reality, the attendance was 99,102 and 15,584; that is, 114,686 pupils, one in 215 inhabitants. — Superior instruction belongs to the universities of Berlin, Königsberg, Greifswald, Breslau, Halle, Bonn, Göttingen, Kiel, and Marburg. Münster may be added, although three faculties only are represented there. Paderborn and Braunsberg have faculties of Catholic theology (besides those which are annexed to many universities). Berlin, Königsberg and Düsseldorf have academies of the fine arts, and there are, in addition, agricultural academies, military and naval schools, and other institutions which it would be tedious to enumerate. The universities had, in 1873, about 8,000 matriculated students, and 1,600 to 1,800 young men who are simply authorized to follow the courses. In 1873 these universities had 404 professors in ordinary (incumbents), 166 extraordinary professors, and 241 *privat-docenten* (free professors); 50 masters taught the languages, etc. — The surveillance of the state over education is exercised by the minister of public instruction, and the different authorities dependent upon him. Such are the provincial colleges (committees), the district governments (prefects), and the school inspectors. The inspection is generally exercised by the priest or pastor. In consequence of the strife between the state and the church (chiefly, but not entirely, the Catholic church), by the law of March 11, 1872, which accentuates the right of the state to the surveillance of instruction, laymen have been appointed, but they still constitute the minority. In execution of the same law, a royal ordinance of April 18, 1873, made the opening of schools or boarding schools depend upon an administrative authorization. It is not probable that this authorization will be granted to religious congregations. (See ministerial decree of June 15, 1872.) — The number of professors, students, etc., at the Prussian universities, during 1882–3, was as follows:

UNIVERSITIES.	Teachers.		Students (Summer of 1882-3).						Attendants at Lectures (Summer 1882-3).		Matriculated Students (Winter 1882-3.)
	Total.	Ordinary Professors.	Theology.		Jurisprudence.	Medicine.	Philosophy.	Total.	Non-matriculated.	Total.	
			Evang'l.	Catholic							
Berlin	241	68	385	--------	1,063	653	1,799	3,900	1,095	4,995	4,678
Bonn	128	62	96	61	299	186	507	1,149	41	1,190	973
Breslau	123	55	108	129	327	352	616	1,532	150	1,682	1,495
Göttingen	119	59	174	--------	191	153	565	1,083	13	1,096	1,063
Greifswald	66	35	105	--------	57	344	153	659	11	670	662
Halle	107	49	389	--------	143	193	652	1,377	37	1,414	1,406
Kiel	72	39	66	--------	47	126	142	381	18	399	354
Königsberg	91	44	126	--------	152	205	380	863	13	876	856
Marburg	78	47	103	--------	103	176	384	766	8	774	756
Münster	33	17	--------	116	--------	--------	210	326	10	336	304
Total	1,058	475	1,552	306	2,382	2,388	5,408	12,086	1,396	13,432	12,547

— VIII. *Resources.* Agriculture is very much advanced in Prussia. There is a rivalry between the government, the agricultural associations, and even simple individuals, to forward the progress of agriculture and the raising of stock. Many of the most illustrious German agriculturists, Albert Block, Thaer, Koppe, are Prussians. The flourishing condition of agriculture in Prussia, despite a rather ungrateful soil and a relatively cold climate, is due to various causes; but, among those which have exercised the greatest influence, we must mention the abolition of serfdom in 1807, and the regulation, by the edicts of September, 1811, of the relations between the former lords and their freed serfs. The point was to give to these latter their share of the land, which they had cultivated from father to son, and at the same time take into account the rights of the lords.

The division had to be made amicably; and in those cases where there was a disagreement, the peasants, having the hereditary usufruct of an agricultural property, gave up a third to the lord, while the peasants who cultivated on other conditions gave up a half. These provisions could be fulfilled either by actually giving up a half or third of the land, or by preserving that portion, and paying an annual rent in corn or in silver. Special agents were appointed to put these arrangements into execution according to the views of the government ("consolidation of property"). The effects of this agrarian law were then completed by a series of measures, which bore their fruits. We will cite but one proof among many. In 1858 there were 762,157 agriculturists working their own properties, against 33,218 farmers, *métayers* and stewards. To this number must be added 421,544 heads of families, who carried on agriculture as an accessory industry. — The area of the kingdom is divided as follows, among the different branches of cultivation: arable lands and gardens, 50.1 per cent.; meadows and pastures, 18.3; forests, 23.1; total, 91.5 per cent.; lands not cultivated, 8.5 per cent. — The territory prior to 1866 (102,000,000 hectares) was divided into 1,099,333 properties, of less than five *morgens* (in all, 2,227,812 *morgens*); 617,420 properties, of five to thirty *morgens* (8,428,751 *morgens*); 391,596, of 30 to 300 *morgens* (35,918,017 *morgens*); 15,079, of 300 to 600 *morgens* (6,048,222 *morgens*); 18,302, of more than 600 *morgens* (41,117,312 *morgens* in all). The *morgen* is equal to .8897 acres. The produce of the land does not appear to be so high as might be supposed from the advanced state of agricultural processes. The average yield of wheat is estimated at 9 *scheffels* per *morgen;* of rye, at 8.60; of barley, at 10.75; of oats, at 13.25; of buckwheat, at 7.17; of pease, at 6.50; and of colza, at 8.60. The average production is 19 million hectolitres of wheat, 69 of rye, 12 of barley, 55 of oats, and 176 of potatoes. — The Rhenish province is superior in fertility to all the others. It produces the greatest quantity of wine; out of 500,000 to 600,000 eimers, 450,000 to 550,000 are produced in the Rhenish province. On the other hand, this province is much less rich in live stock; the provinces of Prussia, Pomerania and Posen are the richest in cattle. According to the census of 1873, there were in Prussia 2,274,053 horses, 926 mules, 8,751 asses, 8,600,672 horned cattle, 19,589,624 wool-bearing animals, 4,272,901 hogs, and 1,474,586 goats. — Prussia is rich in mines. The total value of production was estimated at 59,312,950 thalers in 1867 (the new provinces included); at 62,221,708 thalers in 1868, and at 66,473,517 in 1869. By the aid of 110,168 workmen, 480,690,512 quintals (50 kilogrammes) of coal were extracted in 1869; also 119,551,211 quintals of anthracite (by 14,912 workmen), and considerable quantities of minerals (57,911,389 quintals), of stones, and other mineral materials. The total number of miners was 188,606, having to support 331,476 women and children. In 1869, four kilogrammes of gold and 1,638 kilogrammes of silver were extracted. In 1871 Prussia produced 23,874,268 quintals of unwrought cast iron, 5,689,944 quintals of merchandise in cast iron, 1,840,159 quintals of sheet iron, 157,443 quintals of tin, 1,091,042 quintals of iron wire, 3,664,064 quintals of steel, and a proportionate quantity of bar iron. The importation of unwrought iron, amounted, in the same year, to 11,849,410 quintals, and that of wrought iron to 5,664,747 quintals; the exportation amounted to 4,137,844 quintals of unwrought iron, and to 6,357,001 quintals of wrought iron. — The production of zinc amounted to more than 1,200,000 quintals of unwrought zinc, to 350,000 quintals of carbonate of zinc, and 350,000 quintals of sheet zinc; that of lead to 365,000 quintals; that of copper to 50,000 quintals. Nickel, arsenic and some other metals in less extent are also found. — The textile industries are quite important, especially in the western part of the kingdom. There were in 1861, 651,145 spindles of carded wool, 47,153 spindles of combed wool, 398,071 spindles of cotton, 106,508 spindles of flax. The number of looms was in all 190,715, of which 30,392 were for tissues of silk and half silk, 76,993 for tissues of cotton, 42,667 for tissues of flax, 31,880 for tissues of wool or half wool, 2,315 for hosiery, 4,244 for ribbons, and the rest for various things. In these figures are not included 276,266 looms which are in operation only during the intervals between other labors, and principally for domestic wants. These figures (which were the most recent in 1873) have much increased since; and if we take into account the annexations, they may be considered as having doubled. — Among other important industries we will cite the 254 sugar manufactories, which transform into sugar twenty-five metric quintals of beet root (1873), producing about 8 per cent. of brown sugar; the 8,638 distilleries, which used (1872) 5,800,000 scheffels (55 litres) of grain, and more than thirty-one million scheffels of potatoes; the 8,326 breweries, great and small, which produce beer, a part of which is exported. It is proper also to mention the tanneries, paper factories, bushel making, and other like industries.— Transportation by land in 1873 was facilitated by 13,680 kilometres of railway, and by an excellent net work of highways and roads; the rivers and canals are also numerous and well kept. — The commerce of Prussia embraces, for exportation, agricultural products (cereals, brandy, wool, etc.), minerals, tissues, and some other merchandise; for importation, above all, colonial commodities, cotton and other materials and objects of luxury. Besides, almost all raw or manufactured products figure upon the tables of commerce. It is not possible, however, to give the amount of exports and imports, nor the total value of the commerce of Prussia, because its territory is confounded with that of the *Zollverein*. (See this word.) We can only know what has entered by the frontiers or the bureaus of Prussia. The institution of the Zollverein has been eminently useful to Prussian

commerce, as well as to German commerce in general, and a part of its progress is due to it. This progress, very perceptible already, can only increase by the suppression of the last vestiges of the guilds (*Zünfte*), by the multiplication of associations of credit, and the advancement of chemistry and mechanics. (Compare GERMAN EMPIRE.)* MAURICE BLOCK AND DE STE.

* The following table shows the quantities and value of coal and of lignite (*Braunkohle*), the quantities in 1,000 tons, and the values in 1,000 mark, in the various provinces of Prussia during the year 1880:

PROVINCES.	Coal.		Lignite.	
	Quantities in 1,000 tons.	Value, in 1,000 mark.	Quantities in 1,000 tons.	Value, in 1,000 mark.
Brandenburg	.....	.....	1,695.2	4,118
Posen	.....	.....	38.7	106
Silesia	12,656.8	57,187	417.8	1,469
Saxony	35.1	313	7,436.6	23,289
Hanover	414.5	2,744	1.0	4
Westphalia	14,871.0	67,816	.....	.....
Hesse-Nassau	100.2	919	167.4	830
Rhine	14,095.3	81,638	128.2	350
Total	42,172.9	210,617	9,874.9	30,166

The following table shows the quantities and value, in 1,000 tons and 1,000 mark, of the iron and copper ore produced in Prussia in the year 1880:

PROVINCES.	Iron Ore.		Copper Ore.	
	Quantities in 1,000 tons.	Value, in 1,000 mark.	Quantities in 1,000 tons.	Value, in 1,000 mark.
Silesia	669.4	2,355	7.1	50
Saxony	53.1	238	405.6	10,748
Hanover	385.8	1,010	18.1	681
Westphalia	943.5	8,213	44.8	258
Hesse-Nassau	620.0	3,807	1.5	59
Rhine	1,007.5	9,509	3.8	198
Total	3,679.3	25,132	480.9	11,994

Not included in the tabular statements given above are zinc and tin ores, salines, and other mineral produce. Gold and silver ores are likewise found in Prussia, the quantities amounting to 206,000 tons, and the value to 3,812,000 mark, in 1880. The total mining produce of the kingdom amounted to 577,304,000 tons, and the value to 314,936,000 mark, or £15,746,800, in the year 1880. — The production of the most important mineral, coal, in Prussia, after vastly increasing for about thirty years, from 1840 to 1871, reached its limit at the latter date, when there came to be an apparent exhaustion of the fields. But the years 1875 and 1876 again showed a large increase in production. The following statement gives, after official returns, the quantities of coal, exclusive of lignite (*Braunkohle*), raised in the kingdom during the period from 1838 to 1880:

YEARS.	Annual Average.	YEARS.	Annual Average.
	Tons.		Tons.
1838–41	2,901,713	1864	21,197,266
1842–46	3,817,190	1869	29,775,781
1847–51	5,027,690	1871	32,843,288
1852–56	8,571,070	1873	32,347,909
1857–61	13,037,015	1874	31,988,683
1862	16,908,520	1876	43 364,968
1863	18,330,779	1880	42,172,975

The coal mines in the Ruhr-Düsseldorf district, which extend over more than ten miles in length, contribute nearly one-half of the total produce, while the coal pits of the river Saar, situated in the southwestern angle of the Rhenish province, and which extend their strata into Bavarian and French territory, furnish about the sixth part of the coal produce of Prussia. The coal raised in Prussia amounts to 93 per cent. of the total coal production of Germany. — Prussia has a very large and complete system of railways. On May 15, 1882, the length of the system open for traffic was as follows:

	Length, in kilometres.
Railways owned by the state	14,843
Owned by private companies:	
Under state administration	2,394
Under private administration	3,745
Total	20,982
English miles	13,048

In 1878 the lines owned by the state had a length of only 4,939 kilometres, while those owned by private companies extended to 12,860 kilometres. — All the lines of the former territories of Hanover, Hesse, and Nassau are owned by the state, and the whole of the railways of Prussia will in time become national property. — S. M.

PUBLIC DEBTS. (See DEBTS, NATIONAL, STATE AND LOCAL.)

PUBLIC LANDS OF THE UNITED STATES. The United States has always been favorably situated as regards land, one of the three important factors in production. There has ever been open to the settler an almost unlimited quantity of rich and uncultivated soil, on which he may locate, and take such part as the law allows at a cost which makes it rather a gift than a purchase. The economic effects of this are too evident to require any extended notice. It has permitted an unexampled growth of population without that pressure upon the productive capacity of the soil for the necessary food which is so marked in older countries; it has offered to the inhabitants of the more densely settled countries of Europe an opportunity to improve their condition by emigration, little or no capital other than what is necessary to reach the land being required; it has in this way attracted the labor, skill, and accumulated experience from those countries, and thus applied them to developing the internal resources of this nation, permitting an advance in industry and commerce commensurate with the extension of agriculture; it has, in a measure, regulated the wages of labor, maintaining them at a higher level than they would otherwise have attained, not only by furnishing an abundance of cheap food, but by offering to the workingman an opportunity of increasing his returns should his wages in industry fall below what he might obtain from cultivating the land; it has made the United States the cheapest market for food products, and has brought the European nations to its doors for their supplies; and, finally, it has made us a nation of landowners, and thus not only a strong nation, able to assimilate the vast number of immigrants which annually come to its shores, by giving them a direct interest in the stability and maintenance of its institutions, but also a nation in which a marked distinction of classes is impossible, one man being as good as another, and all possessing equal rights. The laws which govern the transfer and disposition of property have also tended to produce this

result, and "free trade in land" is almost absolute. This, for the most part, results in placing the land in the hands of those who intend to cultivate and develop its productiveness, and thus insures a rich return from it. — From the very beginning, there has been an abundance of cheap and fertile land. The original thirteen states contained 341,752 square miles, or 218,721,280 acres, but the claims recognized in the definitive treaty of peace with Great Britain in 1783 increased the extent of territory to 830,000 square miles, or 531,200,000 acres. Since that time the national domain has been more than quadrupled. In 1803, 1,182,752 square miles, or 756,961,280 acres, were purchased from France, and in 1819 a further tract of 59,268 square miles, or 37,931,520 acres, was purchased from Spain. The annexation of Texas, in 1845, brought 274,356 square miles, or 175,587,840 acres, and in 1850 a purchase from Mexico added about 522,568 square miles, or 334,443,520 acres. In 1850 lands to the extent of 101,767 square miles, or 65,130,880 acres, were bought from Texas; in 1853, 45,535 square miles, or 29,142,400 acres, from Mexico; and in 1867, 577,390 square miles, or 369,529,600 acres, from Russia. Since 1803 the total area of territory, purchased and annexed, is 2,763,636 square miles, or 1,768,727,040 acres. As many of these various transfers contained matters in doubt or in litigation, the results do not exactly agree with the details. — The greater portion of this land was unoccupied save by Indian tribes, who subsisted chiefly by hunting and fishing, and therefore had left almost untouched the natural fertility of the soil and the rich mineral deposits beneath it. The original settlers who came to these shores took possession by right of discovery, and claimed exclusive title and possession for the governments they represented, a claim which was, according to the ideas then prevailing, good as against all other individuals or governments. But the Indian tribes, which were at the time settled upon the territory, also claimed exclusive possession and occupancy as sovereign and absolute proprietors. This possession was in a measure recognized. "It was deemed a right exclusively belonging to the government in its sovereign capacity to extinguish the Indian title, and to perfect its own dominion over the soil, and dispose of it according to its own good pleasure. * * This principle, in the view of the Europeans, created a peculiar relation between themselves and the aboriginal inhabitants. The latter were admitted to possess a present right of occupancy, or use in the soil, which was subordinate to the ultimate dominion of the discoverer. They were admitted to be the rightful occupants of the soil, with a legal as well as just claim to retain possession of it, and to use it according to their own discretion. In a certain sense they were permitted to exercise rights of sovereignty over it. They might sell or transfer it to the sovereign who discovered it, but they were denied the authority to dispose of it to any other persons; and until such a sale or transfer, they were generally permitted to occupy as sovereigns *de facto*. But notwithstanding this occupancy, the European discoverers claimed and exercised the right to grant the soil, while yet in possession of the natives, subject, however, to their right of occupancy: and the title so granted was universally admitted to convey a sufficient title in the soil to the grantees in perfect dominion." (1 Story Comment., p. 8.) This principle was adopted by the United States, and its exclusive right to extinguish the Indian title, by purchase or conquest, has never been judicially questioned (Kent); and further, no lands already occupied by Indians have been thrown open to purchase or settlement until the title of the tribes has been duly extinguished. — The ultimate title to the land resided in the sovereign; and when the colonies revolted, this title became vested in the states. The constitution of New York (1846) recognized this principle: "The people of this state, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the state," and the exercise of the right of eminent domain is based upon it. With lands already settled, and subject to private ownership, the states also came into the possession of unoccupied territory, as yet public property, which had been in very general terms granted to individuals or to associations by royal charters. This public land was ceded by the states to the federal government, and formed the nucleus of the public domain. While the national domain contains about 4,000,000 square miles, the public domain which has been acquired by the government of the United States, to be disposed of under and by the authority of the national government, has amounted to 2,894,235 square miles, or nearly three-fourths of the total area of the country. — The title to this land became vested in the United States, whether it was obtained by purchase, cession or annexation. The federal constitution provides, that "Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state." (Art. IV., § 2.) But is this absolute? Would congress have the power to dispose of the public land in any way that may appear good at the time? In the short sketch of the history of legislation pertaining to the public lands, it will be seen that almost every conceivable method of disposing of them has been adopted, but the United States has never assumed the position of landlord (save as respects mineral lands, an experiment which ended so disastrously to the interests of the government as to be speedily abandoned). It has rather been a trustee, to whose care the management of this important trust was given. The deed of cession entered into between New York and the United States expressly provided that the ceded lands and territory were to be held "to and for the only use

and benefit of such of the states as are, or shall become, parties to the articles of confederation." The cession of Virginia was made on the condition that the lands "shall be considered a common fund for the use and benefit of such of the United States as shall become members of the confederation, * * and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatever." As regards the purchased lands, they followed the same rule, as they had been paid for out of the national treasury, whose only source of income was from general taxes levied upon the people of the states. The United States was bound to hold and administer these lands as a common fund, and for the use and benefit of all the states, and for no other use or purpose whatever. To waste or misapply this fund, or to divert it from the common benefit for which it was conveyed, would be a violation of the trust. — The public land is held and disposed of in the expectation that new states will be created. The federal constitution recites that "new states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the congress." In the articles of confederation the eventual establishment of new states within the limits of the Union appears to have been wholly overlooked, although the possible admission of Canada was provided for. Under the constitution the power of congress is absolute, save for the above restrictions. "The power to expand the territory of the United States by the admission of new states is plainly given; and in the construction of this power by all the departments of the government, it has been held to authorize the acquisition of territory not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a state, and not to be held as a colony, and governed by congress with absolute authority; and as the propriety of admitting a new state is committed to the sound discretion of congress, the power to acquire territory for that purpose, to be held by the United States until it is in a suitable condition to become a state upon an equal footing with the other states, must rest upon the same discretion. It is a question for the political department of the government, and not the judicial; and whatever the political department of the government shall recognize as within the limits of the United States, the judicial department is also bound to recognize and to administer in it the laws of the United States, so far as they apply." (Supreme Court U. S., in Dred Scott *vs.* Sandford, 19 How., 393.) — But land is not valuable without capital and labor to make it productive; though it is one of the important instruments of production, it is not profitable when left to itself. It must be improved and its fertility developed in certain lines by the application of labor or the results of previous labor. At first the public lands were regarded as a source of revenue. "It is now no longer," said the Federalist in 1788, "a point of speculation and hope, that the western territory is a mine of vast wealth to the United States; and although it is not of such a nature as to extricate them from their present distresses, or for some time to come to yield any regular supplies for the public expenses, yet it must hereafter be able, under proper management, both to effect a gradual discharge of the domestic debt, and to furnish for a certain period liberal tributes to the federal treasury." But in time the conservative policy adopted in the first years of the republic was gradually broken down, and the lands ceased to be an object of revenue, and began to be disposed of, chiefly with a view to settlement and cultivation. Originally selling only in townships, congress has disposed of the soil in smaller and smaller portions, until at length it sells in parcels of no more than forty acres. Large grants have been made without compensation to states, corporations and individuals, for all manner of reasons, many of which were of a very questionable character; donations which could not but open the door to abuses, and tempt dishonesty, jobbery and logrolling to secure them. The liberal policy of disposing of the lands has been shamefully abused, and the public lands have ever formed a point of attack from those who profit by the meanest and most corruptible characteristics of the legislator. — In spite of fraud, the land policy has resulted in making this nation what it is, as its greatness depends upon the products of the soil. There is still an abundance of rich land easy of access and open to the first comer, and the wave of immigration which floods the country proves to how great an extent the privilege is appreciated. Census after census gives evidence of the immense development of the resources of the country; and were it not for a restrictive commercial policy, no nation on the face of the earth could attain the wealth and power that this nation is capable of securing, and no country could afford a better field for enterprise. As it is, this is so now to a great extent, but it is capable of almost indefinite extension. The country is still comparatively sparsely settled, and there is no necessity of offering any special inducements to settlers. The area of settlement, population, and average density of settlement, or number of persons to a square mile, at each decade, are shown in the following table:

YEARS.	Area of Settlement.	Population.	Av. Density of Settlement.
	Square Miles.		
1790	239,935	3,929,214	16.4
1800	305,708	5,308,483	17.4
1810	407,945	7,239,881	17.7
1820	508,717	9,638,453	18.9
1830	632,717	12,866,020	20.3
1840	807,292	17,069,453	21.1
1850	979,949	23,191,876	23.7
1860	1,194,754	31,443,321	26.3
1870	1,272,229	38,558,371	30.3
1880	1,569,570	50,155,783	32.0

— As to the future, I can not do better than to quote from one of our clearest thinkers and writers on political questions. "If you will think clearly, you will see that what we want, for the future, is not more people, but more land. If we should receive no further additions of population from Europe, we are now so numerous and so prosperous that our numerical increase will be very rapid. But we shall constantly receive great numbers of European immigrants, and these, who readily adapt themselves to our customs, are a welcome addition, and quickly become a part of us. For their descendants and ours, it would be a great advantage if we could secure still more vacant or sparsely settled territory, provided that these new lands were, by their climate and productions, fitted for settlement by our own people. * * Thus, as we want land, and not people, sound policy tells us not to annex territory which has already an independent and tolerably dense population." (Nordhoff's "Politics for Young Americans," 198.) It would be impossible even to guess in what direction further supplies of land must be sought. Cuba and San Domingo have been thought of; and our relations with Mexico are becoming very close, and American enterprise and capital are going there. On the north the rich grain fields of Manitoba and the Red River valley are being occupied, so that there is little prospect of any extension of dominion with a view of securing unoccupied land there. — More than twelve years before the definitive treaty of peace with Great Britain the question of boundaries had given rise to discord among the states, and it was due to their jealousy that a public domain, as distinguished from the national domain, was formed; the latter, however, including the former. So long as the colonies were subject to Great Britain, and were governed, directly or indirectly, by parliamentary control, the question of boundaries did not assume any great importance, and whatever conflicts did arise were, as a rule, referred in the last resort to the king and parliament for determination, and their decision was acquiesced in. Moreover, such disputes were local in their character, concerning only the colonies between which the dispute existed, while the other colonies remained indifferent spectators to the contest. But when the colonies became independent states, and assumed the control of the lands within their respective boundaries, and when they came into closer political relations with one another, in which extent of territory and population exerted a great influence in determining the relative importance of the states, then the question of boundaries and extent of royal grants became a burning question; then it was that the congress of the confederation was early forced to take action with a view to settle peaceably what might create feuds and threaten the disruption of the already too loosely connected governments which had succeeded the colonial administrations. Prior to 1781 but six of the original thirteen states, viz., New Hampshire, Rhode Island, New Jersey, Pennsylvania, Maryland and Delaware, had exactly defined boundaries. Within these geographical divisions all right and title to the public domain became vested in the new states, and this held true in the cases of those states whose boundaries were not definitely determined. But here a conflict of authority arose over the vast extent of territory in the west. Some of the states, guided by grants that had from time to time been made to court favorites or others, claimed to extend to the Mississippi river; while others claimed to the Pacific ocean. As little was known of the character of the country, the same territory had been covered by more than one grant, and, being claimed under two or more charters of equal validity, no real determination could be reached, because the terms of the charters were irreconcilable, and each state was determined to maintain its claims. The treaty of 1783 declared the national territory to extend from the Atlantic ocean westward to the Mississippi river, and from a line along the great lakes on the north, southward to the 31st parallel and the southern border of Georgia. This area embraced about 830,000 square miles, of which but 341,752 were included in the thirteen original states. — The movement to secure a cession to the confederation of the western territory, originated among those states which had no claim or title to such territory, and which regarded with a jealous eye their more extensive and more powerful neighbors which claimed to stretch across the continent. And, when the articles of confederation were presented to the various states for ratification, this question formed one of the most difficult to solve. Thus New Jersey ratified the articles only in the belief that the candor and justice of the states would in due time remove as far as possible the inequality in size that then existed. In February, 1779, the legislature of Delaware memorialized congress on the subject, and desired "that a moderate extent of limits should be assigned for such of those states as claim to the Mississippi or South sea; and that the United States in congress assembled should and ought to have the power of fixing their western limits;" and the suggestion was then made that the states should cede to the confederation such claims, to be a common estate for the good of all. And in December, 1778, Maryland instructed her delegates not to agree to the confederation unless an article was added providing for such a limitation of boundaries and the erection of a public domain. Nor did the congress itself refuse to take any action on the question. For by an act of Oct. 30, 1779, the states were requested to "forbear settling or issuing warrants for unappropriated lands, or granting the same during the continuance of the war," a measure that was called out by the opening of land offices, and the granting of lands and bounties by some of the states. The first state to take any decisive action was New York, the legislature of which, in March, 1780, gave to congress the power to limit and restrict her western boundaries, and furthermore, to assume the title to all lands not included within such bound-

aries, and to use them for the benefit of the states as it (congress) should see fit.— This resolve of the New York legislature anticipated congress; for it was not until September, 1780, that any action was taken on the various instructions, acts and resolutions that had been sent in; but the report then presented forms an important point in the history of the public domain. Without undertaking to pass upon the merits of the policies as expressed in the instructions or declarations, the committee conceived "that it appears more advisable to press upon those states which can remove the embarrassments respecting the western country, a liberal surrender of a portion of their territorial claims, since they can not be preserved entire without endangering the stability of the general confederacy"; and "earnestly recommended to those states which have claims in the western country, to pass such laws, and give their delegates in congress such powers as may effectually remove the only obstacle to a final ratification of the articles of confederation." This report was sent to the legislatures of the several states, and was followed, in October, 1780, by an act providing for the acceptation and care of such unappropriated lands as might be ceded by the states to the confederation, and for the disposition of the same for the common benefit of the United States. These measures resulted in Maryland's ratifying the articles, and in the acceptance by congress of the cession made by New York. The earlier grants made to the confederation were nominally large in extent, but actually very limited, as they were made subject to existing claims and grants under state laws, and to extensive reservations. The government formed under the constitution succeeded to the title of all territory granted to the confederation, and further cessions were made to it, the last being that of Georgia, in 1802. The areas of these sessions, and also the extent of the public domain as it was on April 30, 1803, are shown by the following table:

STATES.	Sq. Miles.	Acres.
Massachusetts (estimated)*	54,000.00	34,560,000
Connecticut (disputed) and western reserve and fire lands (estimated)†	40,000.00	25,600,000
New York and Massachusetts cession (actual)	315.91	202,187
Virginia cession (disputed and undisputed) exclusive of Kentucky and including area of western reserve and fire lands	265,562.00	169,959,680
South Carolina cession	4,900.00	3,136,000
North Carolina cession, nominal, because the area of Tennessee was almost covered with reservations	45,600.00	29,184,000
Georgia cession	88,578.00	56,689,920
Total actual state cessions to the United States for public domain	404,955.91	259,171,787

* This area was also claimed by Virginia, and was included in her cession.

† These western reserve and fire lands, amounting in all to about 4,300,000 acres, were also ceded by Virginia. By "fire lands" are meant such as were donated by Connecticut to those of her citizens who had suffered by fire and raids during the revolution.

—No further increase of territory occurred until the purchase of Louisiana from France. The question of the right to navigate the Mississippi river had come before the congress of the confederation, and while its importance was recognized, a proposition was made to cede the right to a foreign nation for a pecuniary consideration. Spain at that time owned the Louisiana territory, and it was natural to make the offer to that nation, with a further hope that she would then recognize the revolutionary government of this country. And although such a resolution empowering the representative of the United States in Spain to enter into a negotiation of that character was actually passed by congress, it was never acted upon. A treaty was in 1795 contracted between this country and Spain, by which certain commercial advantages were secured by the former; but difficulties between the two nations were continually arising, and threats of closing the Mississippi to all traffic were made. Spain had, in the meantime, extended her territory so as to include what is now comprised in Florida, Alabama, Mississippi, Louisiana, and a part of Texas and Mexico. In October, 1800, by the secret treaty of San Ildefonso, Spain ceded to France "the colony or province of Louisiana, with the same extent it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaty subsequently entered into between Spain and the other states." The stipulations of the treaty were not carried into effect before 1803. The question of allowing Napoleon to gain such a territory in this country was seriously and with no little anxiety considered in and out of congress. The few years during which the trading privileges had been enjoyed, showed how important, if not essential, it was to secure the free navigation of the Mississippi to American merchants. And holding guard over the mouth of that important channel of internal commerce, it was deemed too great a risk to allow the territory to fall under the dominion of a power with which other questions had almost led to open war. During the years 1798–1800 commercial intercourse between France and the United States was almost wholly suspended, and the treaty of 1800, while settling old questions, gave occasion to new difficulties which hinged upon this very question of the Louisiana cession. Mr. Jefferson early recognized the importance of securing the right to navigate the Mississippi. "There is," he wrote to Mr. Livingston in 1802, "on the globe one single spot the possessor of which is our natural and habitual enemy. It is New Orleans. * * It is impossible that France and the United States can continue long friends, when they meet in so irritable a position. * * The day that France takes possession of New Orleans fixes the sentence which is to restrain her forever within her low-water mark. It seals the union of two nations, who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the

British fleet and nation." — In 1802 the provincial authorities of Louisiana gave notice that the commercial privileges enjoyed under the treaty of 1795 had ceased, and, contrary to the provisions of the treaty, they failed to provide any means by which, even in a modified form, they might be continued. This action of the Spanish authorities naturally aroused great indignation among the inhabitants of the states bordering the Mississippi, and on a remonstrance by congress the privileges were restored. It was not until December, 1802, that the secret treaty of San Ildefonso became known to Jefferson, who at once took steps to secure possession of at least a part of the territory, the plan at first including only New Orleans, the island of New Orleans, and Florida. But Napoleon, who was at that time too busily engaged in his attack upon England to pay much attention to his schemes of colonization, and was much pressed for money, would sell all or none; and this was finally agreed to, the price named being 60,000,000 livres, together with claims amounting to 20,000,000 livres more. The treaty of cession was signed April 30, and ratified Oct. 19, 1803. Spain at first showed a disposition to oppose the sale, as by the secret treaty the territory was to be first offered to her in case France decided to part with it; but her objections were afterward withdrawn. By an act of congress, March 26, 1804, Louisiana was divided into two territories, one called the territory of Louisiana, which in 1812 became the state of Louisiana, and the other the district of Louisiana. — Spain now laid claim to what was then known as East and West Florida, under a cession by Great Britain made in 1763; and this territory now became a bone of contention, and continued such till 1819. It would be of little importance to trace the many diplomatic attempts that were made to settle this question, or to trace in detail the various measures that were undertaken both by the national and state governments (notably that of Georgia) to take possession peacefully or by force of arms. Congress even went so far as to occupy and hold the territory in dispute under secret resolutions passed in 1811, but not made known till 1817. In 1817, under pretext of Indian outrages, congress ordered Gen. Jackson to obtain redress, and he construed his orders to mean the acquisition of Florida. His action brought matters to a crisis, and in February, 1819, a treaty of cession was signed, but was not ratified and proclaimed until 1821. The boundaries of the ceded territory were in doubt, owing to difficulties between Mexico and Spain, which prevented the latter from fulfilling her part of the treaty, and they were only determined by a treaty entered into between Mexico and the United States in 1828. The total cost of the Florida cession, in bonds and interest, was $6,489,768. — The question of the annexation of Texas was intimately connected with that of the extension of the slave power, and with the rapidly increasing interests of the nation in the Pacific states. Since 1821 the United States of Mexico had been independent of Spanish rule, and in 1826 some American immigrants at Nacogdoches declared Texas independent of Mexico, and in the following year Coahuila and Texas, the northeastern provinces of Mexico, framed a constitution. In the same year Mr. Clay instructed the minister of the United States in Mexico, J. R. Poinsett, to offer $1,000,000 for Mexico's territory east of the Rio Grande, but Poinsett never carried out his instructions, pleading the danger of irritating Mexico by an offer that was sure to be rejected. Meantime Mexico had abolished slavery in her territory, and thus the slaveholding states found themselves flanked north and south by free states, and the extent of territory from which future slave states could be formed limited. There had been a free movement of migration between the two nations, and many slaveholders had crossed the border with their slaves, and were now met by the abolition of all slavery. The curious plea was then urged that the United States should *reannex* the territory of Texas, and, owing to the very indefinite boundary lines, this plea could be supported. In 1829, a second attempt, made by Van Buren, to purchase all the territory east of the Nueces river, failed, and in the next few years the Mexicans passed laws prohibiting immigration, which had no effect. In 1835, after the failure of Santa Anna to extend his power over Texas, Jackson made a third offer, and wished the boundary line to follow the Rio Grande up to the thirty-seventh parallel, and thence on that parallel to the Pacific. The defeat of the Mexicans by the Texans brought matters to a head, and in March, 1836, the constitution of Texas was adopted, and annexation to this country regarded as almost inevitable. Although this scheme of annexation was rejected by the senate in 1844 (16 yeas to 35 nays), in 1845 Texas was admitted as a state. It is noteworthy that the United States never owned public lands in Texas itself; the state retained the disposition of her own lands, opened a land office, made grants to railroads, and for other purposes, and had her own settlement laws. — In the meantime the desirableness of acquiring California and other Pacific states was being agitated. By purchase or cession the United States claimed all of what is now comprised in its present boundaries, save California, Nevada, Utah, Arizona, and the western portions of New Mexico and Colorado, which were still under the rule of Mexico. Russia was making settlements in California, and agents of England and France were preparing to take steps preliminary to annexing the territory to one of their respective nationalities. Great Britain even had a fleet in the Pacific, for the purpose, it was said, of seizing California as an equivalent for the Mexican debt, due to British subjects. Nor was the United States idle. Jackson, as has been seen, attempted to purchase a part, and the expeditions of Wilkes and Fremont created a desire to secure the whole. In 1845 Mr. Buchanan made an offer to purchase, but it was rejected.

In 1846 congress declared that "war existed by the act of Mexico," and there is every reason to believe that this war was intended to secure California, as the possession of Texas even to the Rio Grande could have been obtained without it. The war was successful, and in 1848 all the states named were obtained by treaty; and in 1853, by the Gadsden treaty, a further strip of territory to make a more regular boundary between the United States and Mexico, was secured. Both of these cessions became public domain. — The final acquisition of territory was made in 1867, when Alaska was purchased from Russia at a cost of $7,200,000. These lands have not as yet been surveyed nor opened to settlement. — The manner of disposing of these public domains should be noticed. In many cases they were obtained subject to grants made previous to the cession, express stipulations being found in the treaties that such grants should remain good. The public lands proper were received by the United States in trust, to be disposed of for the common benefit of the United States, to be "granted at such time and under such regulations as shall hereafter be agreed upon by the United States in congress assembled, or any nine or more of them." The public domain is thus under the control of congress. Until 1812, the secretary of the treasury acted as the agent in the sale or disposition of the public lands; and when in that year the office of the commissioner of the general land office was created, it remained a bureau of the treasury department, the commissioner being subordinated to the secretary. In 1836 this bureau was reorganized, still, however, remaining a part of the treasury; but in 1846, on the creation of the home or interior department, the bureau of public lands was very properly transferred to and made part of the new executive department. This bureau is charged with the surveying and disposal of the public lands of the United States. — But as yet all lands are not in the market. Before the land is opened up for settlement it must be surveyed, and since 1876 only certain qualities of lands are surveyed by the government. These lands include: 1, those adapted to agriculture without artificial irrigation; 2, irrigable lands, or such as can be redeemed, and for which there is sufficient accessible water for the reclamation and cultivation of the same, not otherwise utilized or claimed; 3, timber lands, bearing timber of commercial value; 4, coal lands, containing coal of commercial value; 5, exterior boundary of town sites; and 6, private land claims. As soon as congress authorizes the extension of surveys over a district of country, the commissioner of the general land office directs the district surveyor to see that the work is performed. There are at present (1882) sixteen surveying districts, each in charge of a surveyor general, with a corps of assistants and deputies. All surveys are made in triplicate. The original is temporarily retained in the office of the surveyor, to be ultimately delivered to the state government; the duplicate is sent to the local land office, where it is used in disposing of the land; and the third copy is sent to the commissioner at Washington, for the information of the government. — The manner of surveying public lands is uniform, and has been so since the committee of congress, of which Mr. Jefferson was the chairman, adopted in 1785 the rectangular system. The committee, in their report, recommended that all public lands should be divided in *hundreds* of ten miles square, each hundred to be subdivided into plots of one mile square, these plots to be numbered from one to one hundred. On motion of Mr. Monroe, the township (*hundred* in the report) was reduced to six miles square; and each subdivision was to be one mile square, thus containing 640 acres. This was the system adopted. In the survey, a base line and meridian line are first determined, and from the base line townships of six miles square are established and numbered, counting north and south. From the surveying meridians, ranges (the subdivisions of the township) one mile square are mapped out and numbered both east and west of the principal meridian. The location of even a part of a section is thus a simple matter; and the purchaser who receives a description of his land as the "Southwest quarter of Section 20, Township 30, north, Range 1 east of the third principal meridian," would have no difficulty to locate his purchase on the survey map, and as some boundary marks are always placed at the intersection of divisional lines, his lot would be easily found. It is the simplicity of this system that has recommended its use, and so well has it served its purpose that little change has been made in it since it was first introduced into use, nearly a century ago. The first principal meridian that was established was the line dividing Ohio and Indiana, having for its base the Ohio river, and being coincident with 84° 51′ of longitude west of Greenwich. This line governs all surveys of public lands in Ohio. A meridian line may govern the surveys in more than one state. Thus the sixth principal meridian, which coincides with longitude 97° 22′ west from Greenwich, controls the surveys in Kansas, Nebraska, that part of Dakota lying south and west of the Missouri river, Wyoming, and Colorado, excepting the valley of the Rio Grande del Norte, in southwestern Colorado, where the surveys are governed by another meridian line. Since 1785, twenty-four initial points (the intersection of principal bases with surveying meridians) have been used in the public surveys. — The manner of surveying mineral lands differed in no way from that employed in agricultural and timber lands up to 1866. The lead, copper and other mineral districts of Iowa, Michigan Minnesota, Wisconsin and Missouri, were surveyed under the rectangular system, and when sold the soil carried with it the mineral deposits. In 1866 mineral survey districts were formed, and the extent of ground that could be claimed was limited to not exceeding 200 feet in length for each individual (with one additional claim for discov-

ery), the width of the claim being regulated by local custom. In no case, however, could a location by an association of individuals exceed 3,000 feet. In 1872 the mineral survey districts were discontinued, and surveys are now made by deputies under the surveyor-general of the district. In all cases the claimants bear the expense of the survey, and mining claims may be formed from the public lands, whether surveyed or not. — Several qualities of lands are noticed in the laws. *Mineral.* Lands valuable for minerals are reserved from sale except as otherwise expressly directed by law. Such lands, whether surveyed or unsurveyed, are open to exploration and purchase by citizens of the United States, or those who have declared their intention to become such. The law covers claims for lands bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, and titles to such claims may be secured from the United States under the existing laws at $5 per acre. No vein or lode claim can exceed a parallelogram 1,500 feet in length by 600 in width, but the size of a claim below this maximum is governed by state laws or the rules of the mining district. No state or territorial law can limit a claim, located since May 10, 1872, to less than 1,500 feet in length by 50 feet in width, unless rendered necessary by existing rights, so that the maximum claim under the United States law is about 20.66 acres, and the minimum 1.72 acres. Costs of survey, etc., are paid by the claimants. Placer locations are sold for $2.50 per acre, and can not exceed twenty acres for one person; no location by an association can exceed twenty acres for each person. *Coal lands.* The act of March 3, 1873, gave a pre-emption right of 160 acres of coal land to a person, and 320 acres to an association, upon payment of not less than $10 per acre, where the lands lie more than fifteen miles from a completed railroad, and $20 per acre where the lands lie within fifteen miles of such a road; and further provided that when any association of not less than four persons have expended $5,000 in working and improving any mine, located within limits as above, they may make an additional entry of 640 acres at the several limit prices. Lands that are valuable chiefly for *timber and stone,* and are unfit for cultivation, are sold for $2.50 per acre. Only citizens, or those who have declared their intention of becoming such, can secure the benefits of this law, and no one person or association of persons can enter more than 160 acres of such land. *Saline lands,* or lands on which are situated any known salines or mines, are first offered at public sale to the highest bidder at a price of not less than $1.25 per acre; and if not then sold are subject to private sale at a price not less than $1.25 per acre in the same manner as other public lands are sold. *Town site lands.* The laws relating to this subject are very liberal, and not only provide for the entry of land already settled upon for purposes of trade, for the benefit of the citizens of the town, but also provide for the selection and reservation of land, whether surveyed or unsurveyed, for town sites "on the shores of harbors, at the junction of rivers, important portages, or natural or prospective centres of population," in advance of its settlement or of the surrounding country. There are two methods of acquiring a title to town sites: 640 acres may be laid off into lots, and a copy is filed in the office of the recorder of the county in which the town is situated, or in the general land office. The lots (not to exceed 4,200 square feet) are then offered at public sale to the highest bidder at a price not less than $10 per acre; whatever is not thus disposed of is subject to entry at this minimum price. Or, the United States may grant to the inhabitants of cities and towns, through the corporate authorities of said cities or towns, or the judges of the county courts acting as trustees for the occupants, the privilege of entering lands occupied as town sites at a minimum price of $1.25 per acre. The quantity of land allowed varies with the number of inhabitants. If more than 100 and less than 200, 320 acres form the maximum; if more than 200 and less than 1,000, 640 acres; if over 1,000, 1,280 acres, and for each additional 1,000 up to 5,000, a further quantity of 320 acres is allowed. *Desert lands,* which are unfit in their existing condition for cultivation, may be entered by any citizen to the extent of 640 acres, on a payment of twenty-five cents per acre, and the filing of a sworn statement that the buyer intends to reclaim the tract within three years from the date of entry by conducting water thereon. If he fulfills this condition he obtains a full title to the land on the further payment of $1 per acre. All other lands are known as *agricultural lands,* and are taken in tracts of from 40 to 160 acres under the pre-emption, homestead and timber-culture acts, or purchased at public sale or private entry. There are two classes of agricultural lands; the one class, situated within prescribed limits of works of internal improvements, is held at $2.50 per acre, and is designated as *double minimum;* the other class is *minimum* land, and is sold for $1.25 per acre. Any person who is the head of a family, a widow or single man over twenty-one years of age, a citizen of the United States or about to become such, who does not own 320 acres of land within the United States, and has not abandoned his land in any state or territory in order to reside upon the public lands, may take advantage of the pre-emption laws. Such a person may, on payment of a fee for registering the claim, occupy for a limited period a tract of not less than 40 nor more than 160 acres of land, with the obligation of paying to the United States at the end of that period $1.25 per acre, when a patent for the land is given him. Credit of from twelve to thirty-three months is given to the pre-emptor by residence on the land, and it must be shown that the settlement is made for the exclusive use and benefit of the pre-emptor, and not for purposes of sale or speculation. The essence of the homestead law and the amendments is embodied in the conditions of actual settlement, dwelling on and cul-

tivation of the soil embraced in an entry. It gives for a nominal fee, equal to $34 on the Pacific coast and $26 in the other states, to a settler—a man or woman over the age of twenty-one years, a citizen of the United States or having declared an intention of becoming such—the right to locate upon 160 acres of unoccupied public land in any of the public land states and territories subject to entry at a United States land office, to live upon the same for a period of five years, and, upon proof of a compliance with the law, to receive a patent therefor free of cost or charge for the land. But to obtain a final title full citizenship is required. Under the timber-culture act a person may enter from 40 to 160 acres of land. One-fourth part of the tract entered must be devoted to timber for eight years; after eight years, on suitable proof that the necessary conditions have been complied with, a patent will be issued. A clause in the homestead act (Rev. Stat., § 2317) also offers a bounty for planting timber. All lands to be sold must be offered at public sale before they may be entered at private sale. (See the Revised Statutes, §§ 2207–2490.) — *History.* As soon as the cessions of lands had been made by the states, congress took steps to determine the manner of disposing of them, a task that was far from easy. Many of these cessions were burdened with claims which must be passed upon before the lands could be sold. For example: Virginia in her act of cession expressly reserved the right to enter upon the lands in case they should be needed to fulfill the obligations of the state in respect to military bounties. The cession of North Carolina was subject to a great variety of claims, and the act of session contained as many as ten conditions. The result was, that, when the Indian title was extinguished, the North Carolina claims absorbed the greater part of the eligible lands, and what was left was in 1841 given to Tennessee; while that of Georgia was complicated by the famous "Yazoo claims," which proved in the end a very costly experience for the government. Even the lands purchased from foreign powers were not absolutely free. Much of the land (and this holds true of lands ceded by the states) was already occupied by Indians. Could they be ousted by the first comers, and deprived of their holdings without any compensation? By right of discovery and of conquest it was claimed that an absolute title to the land became vested in the crown; but this title was made subject to the Indian right of occupancy, which could be extinguished by the crown alone. The federal government, on acquiring the title to these lands, without looking into the justice of the original claim, recognized this condition, and before even attempting to survey and dispose of such lands, it has purchased the occupancy right of the Indians for a sum greater than the use of the lands is worth to them. The only exceptions to this practice have been where rebellious tribes have been put down, and, as a price of peace, compelled to part with the lands they occupied. In addition to Indian titles, the lands were subject to grants made by the former rulers, and large portions had been successively under the sway of several foreign powers: what is now Michigan, Indiana and Illinois, belonged first to France, and then to England; a part of Mississippi had passed through periods of French, English and Spanish possession; while Louisiana had acknowledged the rule of France and of Spain. To quiet the claims that had arisen under these various governments, congress created eight boards of commissioners, to examine into all claims, reject such as were unfounded or fraudulent, and confirm such as were just; and also to secure in their possessions all the actual settlers who were found on the land when the United States took actual possession, although they had only a right of occupancy. (Gallatin.)—The early steps to dispose of this public domain were tentative, and it was many years before they led up to a well-considered and efficient system. Under the confederation an ordinance in 1785 directed the secretary of war to draw by lot certain townships in the surveyed portion for bounties to the continental army, and the remainder was to be drawn by lot by the board of treasury in the name of the western states, to be sold by them at public sale at not less than "one dollar per acre, payable in specie, or loan office certificates reduced to specie value according to a scale of depreciation, or certificates of liquidated debts of the United States, including interest, besides the expenses of survey and other charges thereon," which were estimated to be $36 per township. This measure was a failure, and it was intimated that the states which had any lands of their own to dispose of, took pains to make it inoperative. Meanwhile a new difficulty, unauthorized entries upon the public lands, was to be met, and force was necessary. Gallatin recalls, in his correspondence with Jefferson, that from 1783 to 1786 immigration into the territory north of the Ohio was encouraged by the peacefulness of the Indians; and that a company was kept going up and down the Ohio from the Pennsylvania line to Cincinnati, burning every cabin, and in some instances laying down or burning the fences. This operation had to be repeated, and he knew of persons "whose cabins were burnt and settlement destroyed three times." (Writings, vol. i., p. 188.) In 1787 the price per acre was reduced to 66⅔ cents per acre, and in the following year, the clauses regulating the drawing of land being repealed, power was given to the board of treasury to move about the United States and sell surveyed lands at pleasure. The low price soon attracted purchasers, and in 1788 a party from New England, under the lead of Rufus Putnam, settled at the mouth of the Muskingum river, while another party, made up chiefly in New Jersey, and among which was John C. Symmes, who had been a delegate to congress, aimed at the acquisition of the territory west of the former grant, and included between the Ohio and the Great and Little Miami rivers. Without waiting, however, for congress to act upon their petition, Symmes and his associates began the sale

of lands, issued warrants of locations, and even made settlements. Differences arising between Symmes and the board of treasury, no satisfactory arrangement was made until 1792, when, under Hamilton's administration, a patent was issued, in September, 1794, for as much land as had been paid for, amounting to about 310,000 acres, although 1,000,000 acres were called for by the contract. The difficulty of settling this claim arose from the general ignorance respecting the topography of the country; for when the surveys were made, it was seen that no tract of 1,000,000 acres could be included within the bounds named without cutting into former Indian or military reservations. The patent of 1794 was not regarded as final by Symmes, for in 1803 he issued a circular in which he expresses the belief that in the end he would receive the full 1,000,000 acres. On the other hand, congress accepted the patent of 1794 as a full settlement of Symmes' claims, and this involved the latter in difficulties from which he never entirely extricated himself. The fault in this matter appears to have rested entirely with congress. In addition to these two sales of lands, a third tract of 202,187 acres (now included in Erie county, Pa.) was sold to Pennsylvania, and was the last transaction which occurred before the constitution was adopted. These lands were paid for in evidences of the public debt of the United States, and in military land warrants. — Among the important questions which were presented to the first congress under the constitution was that of the public domain. In the first debate on the subject (May 28, 1789) it was urged that the existing system tended to favor speculators and to discourage actual settlers; the land therefore ought to be sold in quantities to suit the applicants, and not in large quantities only. In this way settlement would be encouraged, and the public income from this source be greater and more certain. On the other hand, it was urged, that, if lands were offered on much more favorable terms, the eastern states would be depopulated. The situation was complicated by other circumstances. Some of the states were in the market with lands. Connecticut was offering her "Western Reserve" lands at forty cents per acre; Virginia advertised her Kentucky, and North Carolina her Tennessee, lands; both Pennsylvania and Georgia were inviting purchasers, while Massachusetts had reduced the price of Maine lands to fifty cents per acre, with the intention of checking western emigration. Moreover, the Spaniards in Illinois were at this time bidding for settlers under even more advantageous terms: lands without charge, exemption from taxation, provision, and the implements of husbandry. In order to arrive at some determination, congress called upon Hamilton, now at the head of the treasury, to submit a plan, and in July, 1790, he communicated it to the house. Hamilton's report forms an important contribution to the history of the public domain, for many of its features have been retained to the present time. In his estimation, two objects were to be considered: to increase the facility of effecting advantageous sales, and the accommodation of those who were already settled in, or might in the future emigrate to, the western country. The land should be so offered as to accommodate three classes of purchasers: "moneyed individuals, and companies who will buy to sell again; associations of persons who intend to make settlements themselves; single persons or families now resident in the western country, or who may emigrate thither hereafter." He recommended that a general land office should be established at the seat of government, and at least two subordinate offices opened in the western lands, each office to be under the control of three commissioners; that the land should be set apart for sales in townships of ten miles square, after certain reservations had been made for actual settlers, and for the subscribers to the proposed loan in the public debt; that no credit be given for any quantity less than a whole township, nor more than two years' credit be allowed for any greater quantity, and security, "other than the land itself," shall be required of the purchaser to whom credit is given; that the price shall be thirty cents per acre, payable either in specie or in public securities; and finally, that it might be advisable to "vest a considerable latitude of discretion in the commissioners of the general land office." (Hamilton's Works, vol. iii., p. 84.) — Congress, however, was slow to act, and it was not until 1796 that any decided step in advance was taken. It was then that the rectangular system of surveying lands was in substance adopted, and provision made for the public sale of lands in sections one mile square at a price not less than two dollars per acre. This price was determined upon in order to include all costs of surveying and disposition. It will be of interest to note the valuation of land in some of the original states, as estimated two years after, in 1798:

STATES.	Acres.	Valuation.	Per Acre.
New Hampshire	3,749,061	$ 19,028,108	$5.07
Pennsylvania	11,959,865	72,824,852	6.09
Maryland	5,444,272	21,634,004	3.77
Virginia	40,458,644	59,976,860	1.48
Sixteen states	163,746,686	479,298,263	2.92

(American State Papers, Public Lands, vol. iii., p. 264.) — Up to the year 1800, when an important change was made in the land laws, all sales were made from the territory now included in the state of Ohio, and amounted to 1,484,047 acres, realizing 1,201,725.68. — The act of May, 1800, introduced several new features, and may be said to be the first serious attempt to systematize the manner of disposing of the public lands. Registers, having offices within defined districts, were created, and at each land office there was to be a bonded officer known as the "receiver of public moneys." But the most important modification made, and one that was pregnant with con-

sequences, was that governing the terms of payment. The lands were, as before, to be offered at public vendue, and to be sold at a price not less than two dollars per acre, payment to be made in specie or evidences of the public debt. But only a fourth part of the purchase money was required at the time; the payment of the balance was to be spread over three years, one-fourth of the original purchase money to be paid in each year, with interest at 6 per cent. per annum from the day of sale. A discount of 8 per cent. was allowed for the prepayment of any of the last three installments. In case the full payment was not made within one year after the last installment was due, the lands were to be resold, or were to revert to the United States. The opportunities afforded by this extension of credit were too tempting to be resisted, and a great increase in the sales of land at once occurred. While in 1799 nothing was turned into the treasury from this source, and in 1800 but $443, in the following three years the receipts were respectively, $167,726.06, $188,628.02, and $165,675; and it is reasonable to suppose that in the larger number of instances full advantage was taken of the credit offered, and that these sums were therefore but the first payment on the purchases. And this conclusion is further supported by the receipts for the years 1804-1806, when the arrears and final installments were falling due, being, in round figures, $487,500, $540,200, and $765,250 respectively. In fact, it was soon evident that the long term of credit allowed, was inducing excessive purchases, and that, in their eagerness to secure lands, purchasers were assuming debts which only a long continuation of the most favorable circumstances would enable them to discharge. For, on lands sold before 1803, amounting to 900,000 acres, and sold under the provisions of the act of 1800, but $800,000 had been paid, while $1,100,000 remained due. Nor did the results of the following years tend to prove the wisdom of the credit system, as in 1804 the unpaid balance was $1,434,212, and in 1805, $2,094,305, the increase being due both to increase of sales and to an accumulation of arrears. The lands might be forfeited, and put up at public sale, but such attempts were rarely attended with success, and the lands reverted to the government, encumbered by the occupancy of a tenant. Speaking of the increasing indebtedness on account of land purchases, Gallatin said: "Great difficulties may attend the recovery of that debt which is due by nearly 2,000 individuals, and its daily increase may create an interest hostile to the general welfare of the Union." For this reason he recommended a shortening of credit, and also to allow the land to be sold in tracts smaller than quarter sections. Nothing, however, was done with respect to these recommendations, and in 1806 congress still further complicated matters by refusing to receive in payment for purchases of public lands any more certificates or evidences of public debt. The demands for relief now became more urgent, and congress was flooded with petitions, resolutions, legislative enactments and personal applications, all seeking to obtain relief from burdens which a little foresight would have originally prevented. From 1809 to 1824 hardly a year passed without a "relief act" being adopted, by which the operation of the general provisions of the law was suspended or mitigated. Many of these measures were but partial remedies, and only served to complicate matters, while offering little toward a final and satisfactory solution of the problem. It was difficult to see how the situation could be helped by merely extending the term of credit. If the back interest was remitted for one set of purchasers, others petitioned for a like favor; if an advantage was given to the purchasers in one state, arguments were adduced for extending the same advantage to other states. So that a privilege or relief measure granted to apply to a special, and it may be an exceptional, case, became the basis for demands from other quarters. One of the most common pleas for demanding relief was the expediency of interesting the purchaser in the Union by giving him a full and complete ownership in a portion of the soil, and not weakening his attachment by making him a debtor. "It is believed that a government founded on the general sentiment of the community can not, with safety to itself, hold as debtors the citizens of any considerable portion of the country." But special reasons were not wanting to those who applied for some favor. In 1809 it was the embargo, which "had suspended the foreign trade of the country, ceased that demand for domestic produce, and that exchange of produce for specie, so necessary to produce a general circulation of it, that, while a redundant moneyed capital has accumulated in the commercial towns and cities, its circulation is proportionally diminished in the interior and remote parts of the country." In 1812 it was the war which prevented the payment of debts; and in that year a report was made in congress advocating some favor. "The present system can not be continued, and the laws rigidly executed, without occasioning great injury to the purchasers. Men are seduced by the temptation, which the credit held out to them, to extend their purchases beyond their means of making payments; the unfavorable fluctuations of commerce can not be foreseen; and the pretty general disposition in men to anticipate the most favorable results from the produce of their labor, are the general causes of the failure of purchasers in making payments." —Yet, in spite of the fact that the buyers of land were during these years so cumbered with debt, attempts were made to induce congress to give even greater opportunities for running into debt. Thus, a petition presented to congress in 1814 recited that there were many thousands of poor, industrious inhabitants and faithful citizens of the United States, suffering for want of a portion of the soil of the country; and from the scarcity of money, and the high price of lands,

they were prevented from purchasing; they therefore prayed that every person above the age of eighteen years may be allowed to hold 160 acres of the public lands by virtue of settlement, at the price of 12½ cents per acre, payable within the term of seven years, without interest. Furthermore, during the period between 1817 and 1819, when commerce was prosperous, prices of produce high, and speculation, aided by excessive issues of bank notes, was rampant, large purchases of public lands were made under the credit system; and when in the following years the bubble of prosperity had burst, few who had entered into these purchases were able to discharge their obligations. Again was appeal made to congress, and, in addition to granting relief measures, it passed an act in April, 1820, abolishing the credit system, authorizing the selling of land in half quarter sections, or 80-acre lots, and reducing the minimum price to $1 25 per acre. The credit system was prevalent, and left its traces in Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana and Michigan. Relief acts were, however, still in demand, for the amount of indebtedness had largely increased, being, in December, 1820, $21,213,350.17. The fluctuations in the prices of commodities, the issues of paper money, Indian hostilities, which required the personal service of land cultivators, and many other such excuses, were, from time to time, urged upon congress as reasons why relief should be granted. And through the influence of these successive acts, coupled with the repeal of the credit system of purchasing lands, the amount of indebtedness was decreased through payment of arrears and through a relinquishment of the lands. In 1828 the general land office reported that under the relief laws 4,168,941 acres had been relinquished, discharging $13,778,347.37 of debt; in 1830 this land debt was wholly discharged. —In the meanwhile, however, a new difficulty was taking form by reason of the dissatisfaction openly expressed by the states with the method of disposing of the lands. The states which had large tracts of public lands within their limits, and were known as the "land states," as distinguished from the original states, chafed under the apparent injustice of the land laws to themselves, and even threatened to resort to measures of force if relief was not provided for. As all lands, irrespective of their quality and situation, were in the market at the same *minimum* price, it naturally followed that the best lands, those that at that time presented the most promising results to the cultivator at the least expenditure of labor and money, were taken first, and the lands of inferior quality were passed by. It is true, that in many cases these lands were increased in value by the mere accession of population and increase of wealth in the neighborhood. But scattered throughout the land states, and, indeed, in almost every section where public lands had existed, there remained tracts which were not at that time worth the minimum price, and which could not have made any return to the cultivator in proportion to the expense necessary to purchase and cultivate them. The result was, these tracts remaining public lands, bore no share of state or local taxation, and were even a source of expense to the state, as were the lowlands of the south, which were subject to an annual inundation. As early as 1824 these complaints became frequent, and Benton introduced into congress a measure for graduating the price of lands that had been in the market for a certain length of time, and for granting pre-emption rights to actual settlers. The introduction and rejection of this measure only served to urge the states to new endeavors. In 1827, Illinois stated, that if the present minimum price be adhered to, "it must be several hundred years before all the soil of the state can be passed out of the hands of the federal government and be subjected to the laws and jurisdiction of the state." "The question is one which, if seriously presented, must involve questions of the highest importance to a state, and of the most intense interest to its citizens—no less than of the deprivation of some of the essential attributes of its sovereignty; the control of the internal concerns and police of a free state by a power other than its own; a prohibition to regulate and improve the settlement of lands within its own limits and acknowledged boundaries, according to its own views of its prosperity and happiness; a deprivation of the collection of revenue from vast bodies of soil within such limits until the general government shall choose to assent thereto by the disposition of the soil—whether the citizens of such states shall be subject to the operation of the laws of the United States, confessedly purely municipal, which have no existence in the older states, and which they alone have the right to pass, and to which no other power is competent without the consent of their own legislative powers; whether in reality the compact under which the general government claims these extraordinary powers, is consonant to the rights reserved to the states, respectively, by the constitution of the United States, or have, in any wise, been granted by that instrument; and finally, whether the tenure by which they hold the public lands is valid and binding on the new states." The legislature of Missouri went even further, and declared, that in persisting in its land policy congress was infringing the compact between the United States and the state; "that the state of Missouri never could have been brought to consent not to tax the lands of the United States while unsold, and not to tax the lands sold until five years thereafter,* if it had been understood by the contracting parties that a system was to be pursued which would prevent nine-tenths of those lands from ever becoming the property of persons in whose hands they might be taxed." Indiana

* This exemption from local taxation was part of the credit system, its intention being to prevent any part of the means of the debtor from being drawn from him by taxation during the time given him to comply with his engagement to the government.

declared that "this state, being a sovereign, free and independent state, has the exclusive right to the soil and eminent domain of all the unappropriated lands within her acknowledged boundaries," this right being reserved in the deed of cession of the northwestern territory to the United States, and confirmed and established by the articles of confederacy and the constitution of the United States. — Another circumstance that led to these complaints by the states was the great desire to effect internal improvements, which had during these years become prevalent. These states were deprived of the right of eminent domain where the public lands were situated, and were further debarred from what might be a very profitable source of revenue; for their revenues were almost wholly derived from a tax upon land. As the population was much scattered by reason of the situation of the best lands, the policy of maintaining a minimum price for all lands was fastened upon as the cause. "The tide of population is thus diverted into a thousand channels, and suffered to roll over immense regions, creating feeble and thinly scattered settlements, and leaving extensive tracts of wilderness behind." (Illinois, 1825.) "In a scattered population public institutions are seldom established; systems of education can not be matured; moral restraints are tardily enforced; laws are feebly executed, and revenue raised with difficulty." "It is the policy of enlightened legislation," said the legislature of Indiana, "to curtail this unlimited range, and by social allurements to reclaim our wandering tribes to the blessings of humanity and refinement." But the climax of absurdity was reached by Mr. Richard Rush, the secretary of the treasury, in his annual report for 1827, in which he makes a plea for further protection to manufactures through the tariff, on the ground that the land laws were protecting agriculture. "It can not be overlooked that the prices at which fertile bodies of land may be bought of the government under this system, operate as a perpetual allurement to their purchase. It must therefore be taken in the light of a bounty, indelibly written in the text of the laws themselves, in favor of agricultural pursuits. Such it is in effect, though not in form. Perhaps no enactment of legislative bounties has ever before operated upon a scale so vast, throughout a series of years, and over the face of an entire nation, to turn population and labor into one particular channel, preferably to all others. * * It has served and still serves to draw, in an annual stream, the inhabitants of a majority of the states, including among them at this day a portion, not small, of the western states, into the settlement of fresh lands lying still farther and farther off. * * And, as it is the laws that have largely, in effect, throughout a long course of time, superinduced disinclinations to manufacturing labor, by their overpowering calls to rural labor, in the mode of selling off the public domain, the claim of further legal protection to the former kind of labor, at this day, seems to wear an aspect of justice no less than of expediency." — In December, 1827, the secretary of the treasury reported that, while more than 261,000,000 acres of land lying within the states and territories had become the absolute property of the United States free from Indian claim, since the organization of the government but 19,000,000 had been sold to individuals. At that rate it was estimated that a period of more than five centuries must elapse before the whole of the public domain then under the unrestrained control of congress would become the property of individuals. In 1880 the land commission reported, that, at the present rate of absorption, all the surveyed arable land would be taken within three years. — Still another cause for agitation on this subject was the rapid decrease in the national debt, to provide for which the lands in a measure stood pledged. As early as 1806, in view of the ultimate payment of the debt, Jefferson had suggested the appropriation of the proceeds of the sales of the lands to works of internal improvement and to the support of education. And between the years 1825 and 1832 many schemes for disposing of the lands by sale or gift were advanced in congress, many of which were very questionable in character. Indeed, in December, 1829, it was stated in the house, that "it seemed as if the four quarters of the Union were striving with one another which should get the most out of these lands. The appetite for them appeared to be insatiable and uncontrollable." Claims that had been rejected at the land offices were readily allowed by congress. During the session of 1827–8 congress actually gave away to states and individuals not less than 2,300,000 acres of choice lands, the donations for internal improvements alone exceeding the sales. In order to check further concessions it was proposed to give the states a direct interest in the income arising from the sales of the public lands. Some states laid claim to the lands themselves. In 1831 Madison expressed himself in forcible terms against a claim "so unfair and unjust, so contrary to the certain and notorious intentions of the parties to the case, and so directly in the teeth of the condition on which the lands were ceded to the Union." No account seems to have been taken of the practical difficulties connected with a donation of lands to the states: the creation of rivals in her own land markets, the difficulty of locating divisions of equal value, and the establishment of as many systems of land sales as there were states. — In December, 1829, a resolution was offered in the senate by Mr. Foot, of Connecticut, that the committee on public lands should inquire into the expediency of limiting the sales of the public lands to those then in the market, and to suspend further surveys. A spirited debate followed, which led up to the famous argument between Webster and Hayne, which involved a general examination of the principles of the constitution. No action was taken. The secretary of the treasury, in his report for 1831, "submitted to the

wisdom of congress to decide upon the propriety of disposing of all the public lands, in the aggregate, to those states within whose territorial limits they lie, at a fair price, to be settled in such a manner as might be satisfactory to all," and the president raised the question of public lands in his message for 1832. In the meantime the legislatures of six of the new states had memorialized congress in favor of a reduction in the price of lands, and a cession of them to the states in which they were situated, being substantially the proposition of the secretary. The senate instructed the committee on manufactures to report upon these propositions. — This able document, prepared by Mr. Clay, embodies the debates of the previous years, and clearly states the actual status of the question. For this reason a summary is here given of its arguments. A reduction of price, it asserted, if called for by the public interests, must be required either because the government now demands more than a fair price for the public lands, or because the existing price retards injuriously the settlement of the new states and territories. While it was true that much of the land then offered might not be intrinsically worth the minimum price fixed by law, there was also much that was unquestionably worth more. If the government was intent upon accelerating the sales of the lands, some alteration in the price might be made; but, under the existing regulations, the acquisition of a home was placed within the reach of every industrious man; and that the established price was not too high was demonstrated by the rapidity with which the land was taken when offered. In fact, the returns given by the secretary of the treasury proved this assertion by showing that the receipts from lands "had gone beyond all former example." Moreover, if any reduction was made in the price of the lands, the value of land throughout the country, and especially of that in the states which contained, or were nearest to, the public lands, would be affected. There would be danger of offering encouragement to speculation, and lastly, a reduction would affect injuriously the interests of the states, by decreasing the value of the liberal grants of land made to them for various purposes, much of which was still in the market. That large quantities of the public lands remained unsold was due to the fact that immigration, and the progressive increase of population, were not sufficient to absorb all that was offered; and if the quantity thrown upon the market had been quadrupled, the probability is that not much more would have been annually sold than had been actually sold. On the second point, the increase of population in the states where the public lands were situated clearly showed that no fresh impulse to immigration was required. The population of the seven states embracing the public lands had increased by 85 per cent. between 1820 and 1830, that of Illinois alone showing an increase of more than 185 per cent.; whereas the population of the seventeen states which embraced no public lands within their limits had, in the same period, increased but 25 per cent. Furthermore, while the population of the country was increasing at the rate of 3 per cent. a year, the demand for public lands increased at the rate of 23 per cent. per annum. To the complaint made by some of the states, that by reason of the exemption of lands from taxation an undue proportion of the expenses of government was thrown upon the resident population, it was answered, that congress had in many ways made a liberal compensation for this apparent injustice: it had appropriated toward internal improvements 5 per cent. of the net proceeds of all sales of public lands within their limits; that a section of land in each township, or one thirty-sixth portion of the whole of the public lands, had been reserved for purposes of education; and that liberal grants had been made for local and special purposes. Still, the committee would recommend a further grant for internal improvements, to the states having within their boundaries public lands, of 10 per cent. of the net proceeds of land sales, and for a limited time a division of the residue among all the states. — As to ceding on reasonable terms the public lands to the several states in which they might be situated, it would practically involve a cession of the whole public domain of the United States; for as new states were created, similar cessions must be made to them. This would mean the relinquishment of an aggregate of 1,090,871,753 acres, or, at the minimum price, upward of $1,400,000,000. "If such a measure could find any justification, it must arise out of some radical and some incurable defect in the construction of the general government properly to administer the public domain. But the existence of any such defect is contradicted by the most successful experience. No branch of the public service has evinced more system, uniformity and wisdom, or given more general satisfaction, than that of the administration of the public lands." The states are not more competent than the government to dispose of the lands, for the regulations would lack uniformity, and might lead to contests among themselves. "Each state would be desirous of inviting the greatest number of emigrants, not only for the laudable purpose of populating rapidly its own territories, but with the view to the acquisition of funds to enable it to fulfill its engagements to the general government. Collisions between states would probably arise, and their injurious consequences may be imagined. A spirit of hazardous speculation would be engendered. Various schemes in the new states would be put afloat to sell or divide the public lands. Companies and combinations would be formed in this country, if not in foreign countries, presenting gigantic and tempting but delusive projects; and the history of legislation, in some of the states of the Union, admonishes us that a too ready ear is sometimes given by a majority, in a legislative assembly, to such projects." A decisive objection to such a

transfer for a fair equivalent was that it would establish a new and dangerous relation between the general government and the new states, that of creditor and debtor; and would involve much the same consequences, save in a higher degree, that existed between the general government and individual debtors under the credit system. The states would not be able to pay for their lands at once, and must incur heavy debts. If the debtor state failed to pay when the debt matured, how could it be forced to pay? War is the last remedy between independent nations, but the relations between the general government and the members of the confederacy excluded all idea of force and war. Nor would the judiciary be efficient. "On what would their process operate? Could the property of innocent citizens residing within the limits of the defaulting states be justly seized by the general government, and held responsible for debts contracted by the states themselves in their sovereign capacity? If a mortgage upon the lands ceded were retained, that mortgage would prevent or retard subsequent sales by the states, and if individuals bought, subject to the incumbrance, a parental government could never resort to the painful measure of disturbing them in their possessions." "Delinquency on the part of the debtor states would be inevitable, and there would be no effectual remedy for the delinquency. They would come again and again to congress, soliciting time and indulgence, until, finding the weight of the debt intolerable, congress, wearied by reiterated applications for relief, would finally resolve to sponge the debt; or, if congress attempted to enforce its payment, another and a worse alternative would be embraced. * * Upon full and thorough consideration, the committee have come to the conclusion that it is inexpedient either to reduce the price of the public lands, or to cede them to the new states."—This report was not, of course, satisfactory to those who desired to distribute freely the land or proceeds among the states, and the bill reported by the committee on manufactures was promptly referred to the committee on public lands, which but for political reasons would have had cognizance of the matter from the first, and a very different report was made. The report of Mr. Clay was declared to be "founded in error both in its principles and its details;" its recommendations were rejected, and, in place of them, the committee recommended the minimum price of one dollar per acre, such lands as remained in the market more than five years to be sold at fifty cents per acre, and finally, the distribution of 15 per cent. of the proceeds among the states. A bill embodying Mr. Clay's recommendations was passed by both houses of congress, but was vetoed by the president, and in such a way as effectually to prevent its being passed over his veto, a sufficient majority in both houses being in favor of the bill. His main objection to it was, that it prevented any reduction in the price of the land. In 1835 Mr. Clay again passed his bill through the senate, but it was lost in the house.—Now occurred one of the most curious episodes connected with the history of the public lands. Owing to a number of causes, the chief of which was the condition of the currency and of banking, an era of speculation and inflation was introduced, and was at its height in 1835. Curiously enough, the public lands became an object of speculation, although the supply was practically unlimited, and the expectation of any marked rise apparently too distant to tempt investment for merely speculative purposes. Furthermore, while the prices of all other commodities were rising, an abundance of lands could be had at the minimum price fixed by law. In 1834 the sales amounted to $4,800,000; in 1835, to $14,700,000; and in 1836, to $24,800,000. During the fourteen months, between July, 1835, and October, 1836, the sales were extraordinary. Yet in 1835 neither the president nor the secretary of the treasury appeared to realize that there was on foot any great speculation in the public lands. Jackson appeared to regard the increase as a proof of the prosperity of agriculture, and even hinted at a reduction in the minimum price; while the secretary of the treasury was so little impressed with the real situation that he estimated the probable receipts for 1836 at $4,000,000, whereas in fact they were more than eight times as large. "The receipts for the lands consisted largely of notes of irresponsible banks. Land speculators organized a 'bank,' got it appointed a deposit bank if they could, issued notes, borrowed them and bought land; the notes were deposited, they borrowed them again, and so on. There was, of course, little specie in the west, on account of the flood of paper money." In congress Benton attempted to pass a bill that nothing but gold or silver should be taken for public lands, but failed. But on July 11, 1836, the president issued the famous "specie circular" which made this requirement.* It not only caused great inconvenience and discontent in the west, but also precipitated a crisis by drawing specie from the eastern banks, already hard pressed by the speculative period, which had then reached its culmination. In December congress passed an act rescinding the circular, but it was vetoed by the president.—In February, 1837, Calhoun introduced a measure for ceding the public lands to the new states, but the reason he gave will not bear serious criticism: "to place the senators and representatives from the new states on an equality with those from the old, by withdrawing our local control, and breaking the vassalage under which they are now placed." In the same session a bill for graduating the price of unsold lands passed the senate, but failed to be acted upon in the house. A new factor now appeared. Many of the states had emerged from the period of speculation with heavy debts, which were chiefly held in England. About two hundred millions of dollars were due from states and corporations to creditors in Europe. (Benton.) "These debts were in stocks,

* A similar law was passed in 1816.

much depreciated by the failure, in many instances, to pay the accruing interest; in some instances, failure to provide for the principal. These creditors became uneasy, and wished the federal government to assume their debts. As early as the year 1838 this wish began to be manifested; in the year 1839 it was openly expressed; in the year 1840 it became a regular question, mixing itself up in our presidential election, and openly engaging the active exertion of foreigners." This was Benton's statement, and it is certain that he made too much of the proposition. In January, 1840, Mr. Grundy, of Tennessee, presented a report on it, which contained the following: "We, therefore, conclude that the application of the moneys arising from the sales of public lands to the payment of said debts, or their distribution among the states for such purposes, is as unjust, inexpedient and unconstitutional as a similar application of any other portion of the public revenue; and, moreover, in direct violation of the terms and spirit of the compacts of the cession." Mr. Webster stated that he did not know of a man in congress who held that the government had any more right to pay the debts of a state than those of a private individual. Some color was given to the charge by the first message of President Tyler. Although repudiating any assumption by the government of the debts of the states, he recommended a distribution among the states of the proceeds of the sales of the public lands; and intimated that such a measure would cause an immediate advance in the price of the state securities. A measure embodying such a distribution, with many other features, such as a gift of 500,000 acres of land to the new states, and pre-emption rights to settlers, was passed in 1841, and spite of the fact that the condition of the national finances was not such as to warrant the loss of the land revenue. A further provision connected it with the tariff. "If, at any time during the existence of this act, duties on imported goods should be raised above the rate of the 20 per centum on the value as provided in the compromise act of 1833, then the distribution of the land revenue should be suspended." In like manner the tariff act passed in the same session provided that if any duty exceeding 20 per centum on the value shall be levied before June 30, 1842, it should not stop the distribution of the land revenue as provided for in the distribution act. Both tariff and distribution acts remained in force less than a year. The progress from relief acts to a distribution of proceeds of the sales of lands was logical, but the principles embodied in these many acts were bad, and undoubtedly strained the constitutional powers of the government. Propositions of a like character are met with in after years, but as they never reached an issue, there is no necessity for special mention. The results of such measures were so clearly pointed out by Jackson, in his eighth annual message, as to warrant its quotation. "All will admit that the simplicity and economy of the state governments mainly depend on the fact that money has to be supplied to support them by the same men, or their agents, who vote it away in appropriations. Hence, when there are extravagant and wasteful appropriations, there must be a corresponding increase in taxes; and the people, becoming awakened, will necessarily scrutinize the character of measures which thus increase their burdens. By the watchful eye of self-interest, the agents of the people in the state governments are repressed and kept within the limits of a just economy. But if the necessity of levying the taxes be taken from those who make the appropriations and thrown upon a more distant and less responsible set of public agents, who have power to approach the people by an indirect and stealthy taxation, there is reason to fear that prodigality will soon supersede those characteristics which have thus far made us look with so much pride and confidence to the state governments as the main-stay of our Union and liberties. The state legislatures, instead of studying to restrict their state expenditures to the smallest possible sum, will claim credit for their profusion, and harass the general government for increased supplies. Practically there would soon be but one taxing power, and that vested in a body of men far removed from the people, in which the farming and mechanic interests would scarcely be represented. The states would gradually lose their purity, as well as their independence; they would not dare to murmur at the proceedings of the general government, lest they should lose their supplies; all would be merged in a practical consolidation, cemented by wide-spread corruption, which would only be eradicated by one of those bloody revolutions which occasionally overthrow the despotic systems of the old world." — Coupled with propositions for graduating the price of the public lands, for ceding the lands to the states, or distributing the proceeds from sales among the states, were measures for extending the privilege of pre-emption to actual settlers. Pre-emption gives a settler the first right or preference to purchase as against those who may wish to purchase and hold for investment or speculation. It is a premium to those who make a permanent settlement on the land with the intention of cultivating it and making a home. "The essential conditions of a pre-emption are actual entry upon, residence in a dwelling, and improvement and cultivation of a tract of land." The right or privilege thus conferred was first exercised in the case of those who had suffered from the Symmes purchase, but between the date of the first pre-emption act and the year 1841 no less than sixteen such acts were passed. In fact, some such measure was necessary in order to prevent injustice to those who had entered upon and cultivated public lands before they had been surveyed and opened to settlement. In its eagerness to secure the best lands the population tended to overpass the surveyed lands and settle in the wilds, and this tendency was greatly aggravated by the speculation in lands in 1835–7, when nearly all the best lands that were

in the market were controlled by companies or single proprietors, who had purchased for purposes of speculation. Thus in 1838, "in that part of Wisconsin which lies west of the Mississippi, there are supposed to be from thirty to fifty thousand inhabitants. Over this region congress has extended civil government, established courts of law, and encouraged the building of villages and towns; and yet the land has not been brought into the market for sale, except it may be small quantities for the sites of villages and towns. In other parts of Wisconsin a similar state of things exists, especially on and near the border of Lake Michigan, where numerous settlements have been made and commercial towns erected, some of them already of considerable importance, but where the title to the land still remains in the government. Similar cases exist in Indiana, Illinois and Michigan, and probably also in the southwestern states." (Webster.) To oust these settlers from their holdings appeared to be a gross injustice, and yet any favor shown to them would only open the door to future abuses. It was said that pre-emption encouraged squatters, that it enabled a man to settle upon a tract of land and not pay for it until forced to, and that it was a bounty to the speculator and intruder. On the other hand, it was urged that the privilege of pre-emption served to invite the immigration of foreigners, and to encourage the actual settlement and cultivation of the land, and that it was not a bounty, gratuity or donation, but merely a right of previous purchase at a fixed price. Up to the year 1840 the privilege of pre-emption was generally conferred only by special enactments, and such laws, being chiefly of a temporary nature and applying only to a certain class of settlers who had made entry upon land before the date mentioned in the law, were in fact but relief acts. In 1840 a movement toward a permanent pre-emption law was started, and under the stimulus of the presidential campaign of that year, in which the log cabin—the symbol of frontier life—played an important part, the act of September, 1841, which was supplemented by the act of March 5, 1843, was passed by congress. The right of pre-emption was, however, confined to surveyed lands only By laws passed in 1853 and 1854 the privilege was extended to unsurveyed lands, thus giving every facility to the speedy settlement of the public domain. It will be well to speak here of the origin and result of thus offering the special privilege of pre-empting lands, even if we have to anticipate somewhat. "The pre-emption system arose from the necessities of settlers, and through a series of more than fifty-seven years of experience in attempts to sell or otherwise dispose of the public lands. The early idea of sales for revenue was abandoned, and a plan of disposition for homes was substituted. The pre-emption system was the result of law, experience, executive orders, departmental rulings, and judicial construction. It has been many phased, and was applied by special acts to special localities with peculiar or additional features, but it has always, and to this day contains the germ of actual settlement, under which thousands of homes have been made and lands made productive, yielding a profit in crops to the farmer, and increasing the resources of the nation." (Report of land commission, p. 215.)—The next important move in respect to the disposing of the public lands was taken in 1850. As early as 1802 a grant of land for public improvements in Ohio had been made to that state, and in later years grants for wagon roads, for internal improvements and for canals, were from time to time allowed. Between 1824 and 1866 more than four millions of acres of land had been given to five states for canal purposes, and all of this but some 700,000 acres was ceded prior to 1853. But a more important agent of transportation—the railroad—was being introduced, and in a few years superseded all other agencies. In 1833 congress authorized the state of Illinois to divert a canal grant and to apply it to the construction of a railroad, but it was not utilized by the state. As showing the small beginnings made in these grants, it is interesting to note, that, in a grant made two years later, only thirty feet on each side of the line of the road through the public lands, with use of timber within 300 feet on either side and ten acres at terminus, were given. This was little more than the right of way. In 1836 another grant only a little more liberal was made to a projected southern line. Easements were granted for necessary depots, water stations and workshops, in blocks of not more than five acres on the line of the road, and adjacent, and at least fifteen miles apart. Material for construction (earth, stone or timber) might be taken from the public lands. These early acts, however, received and indeed called for little attention. It was not until 1850 that congress was again called upon to aid in the construction of railroads, but its action was then very different from what it was in 1835-6. The important points of the act of September, 1850, which made a grant to Illinois of land to aid the construction of a railroad (the Illinois Central) were as follows: Alternate sections (even numbered) for six sections in width on either side of the road and branches were granted; and if any of this land was already legally occupied, the road could in lieu take a like amount of unoccupied land within fifteen miles of the road. This is known as the indemnity practice. The price of lands situated within the grants and retained by the government was raised to $2.50 per acre (double minimum), the former price being $1.25 per acre (single minimum). This was to indemnify the government for the lands granted, and was believed to be just on account of the advantage accruing to the purchaser of having the means of reaching the markets with his produce. It was further stipulated that the road was to be a public highway, to be used by the government free of toll or other charges, and the mails were to be carried at prices to be fixed by congress.

The whole expense of construction was defrayed from the proceeds of the land sales, and, in lieu of the charter and franchises received from Illinois, the railroad stipulated to pay to the state from 5 to 7 per cent. on its gross receipts. "The state thus far has received, in interest alone (the Illinois Central railroad's gross income being a perpetual source of income to the state), more than $3 per acre. The state debt of Illinois, Sept. 14, 1880, was $265,000, which will be paid Jan. 1, 1881, from cash now in hand; and thus the state will be free from debt, and the income from this railroad will constitute a fund for state expenses, doing away, to a great extent, with the necessity of taxation for state purposes. The income from this source in 1879 was over $325,477.38." The total number of acres given under this grant was 2,595,053. — In 1852 grants for railroads were made to Missouri, and in 1853 to Arkansas. In June, 1854, a cession was made to the territory of Minnesota (an unusual act, as a territory was not a sovereignty), but it was repealed two months later. In 1856 and 1857 further grants were made, in every case to the states themselves. — As early as 1845 steps were taken to secure government aid for the construction of a transcontinental road, but little was accomplished till California was admitted into the Union, in 1850. From 1850 till 1862 the debates of Congress contain the record of a large number of bills, resolutions, petitions and reports upon this project, and the war department organized and executed a series of surveys from the Mississippi river to the Pacific ocean in order to determine the most practicable and economical route for such a road. The political parties took up the subject. In 1856 the democrats, in a national convention at Cincinnati, adopted a resolution asserting that it was the duty of the federal government to exercise all its constitutional power to aid in building the railroad to the Pacific, and the democratic platform of 1860 declared that the party stood pledged to aid the construction of the road by such means as were constitutional. The republicans took a like stand. In July, 1862, the Union Pacific railroad was incorporated by a direct act of congress, and the grant of land was made to the corporation, thus marking a complete change in the system. The company was given right of way, allowances for shops, stations, etc., and in aid of construction, every alternate section of public land (odd numbered), unless previously disposed of, reserved or mineral (without indemnity provision), to the extent of five alternate sections per mile on either side of the road. It would take too much space to trace the subsequent legislation on this subject, or even to summarize the results. That more properly belongs to the subject of railroads. From 1850 to 1872 a total of 155,504,994 acres was granted for railroad construction, of which more than half was given in the years 1862 and 1864. Willis Drummond, Jr. (in Major Powell's Report on the "Lands of the Arid Region," 1878) estimated, that if the lands embraced in limits of grants to railroads to June, 1880, were all available, and if the corporations, state and national, built their roads and complied with the laws, it would require 215,000,000 acres of land to satisfy their requirements, or only 6,000 square miles less than the area of the original thirteen states. This estimate was, however, too large, and the figures we first gave are nearly correct. Many of these grants have lapsed, and by appropriate legislation the land may revert to the United States. — To go back a little, not content with a pre-emption law, in 1854 a graduation act was passed to "cheapen the price of lands long in market for the benefit of actual settlers and for adjoining farms." Lands which had been in the market for more than ten years were sold to actual settlers at prices ranging from 12½ cents to $1 per acre, according to the time they had been offered without being taken. Lands of ten years' standing were appraised at $1 per acre; of fifteen years, 75 cents; of twenty, 50 cents; and so on. The act was repealed in 1862; but under the law 25,696,419 acres were disposed of. — About 1852 a homestead law, or the granting of free homes from and on the public domain, became a national question, and was pushed by the "free-soil democracy." In the years that elapsed between 1852 and 1862, when a homestead bill was passed, the contest was severe and bitter, and was marked by a good deal of foolish rant on the subject of land ownership. The free-soil democrats in national convention in 1852 inserted the following in their platform: "that the public lands of the United States belong to the people, and should not be sold to individuals, nor granted to corporations, but should be held as a sacred trust for the benefit of the people, and should be granted in limited quantities, free of cost, to landless settlers." In 1859 the contest in congress centred upon a homestead bill which gave heads of families the right to enter, free of cost, 160 acres of public lands. The bill passed the house, but failed in the senate. In 1860 a measure passed both houses of congress by which a head of a family might enter upon a quarter section of land, and after the expiration of five years might purchase the same at twenty-five cents per acre. The bill further provided that "all lands lying within the limits of a state, which have been subject to sale at private entry, and which remain unsold after the lapse of thirty years, shall be * * ceded to the state in which the same shall be situated." President Buchanan vetoed the measure, on the ground that it was unequal and unjust. In 1862 a homestead bill was passed, and this, with the amendments since adopted, forms the law as it stands to-day. Concerning it, the land commission says: "The present homestead law contains all the beneficial features of the pre-emption act, with the additions suggested by experience and the changed condition of national life. The eighth section of the act contains the substance of the pre-emption act in the matter of purchase. * * It contains one feature as broad in its terms and as beneficial

in its principle as the domain it covers. It is as follows: 'No land acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.' The homestead act is now the approved and preferred method of acquiring title to the public lands. It has stood the test of eighteen years, and was the outgrowth of a system extending through nearly eighty years; and now, within the circle of a hundred years since the United States acquired the first of her public lands, the homestead act stands as the concentrated wisdom of legislation for a settlement of the public lands. It protects the government, it fills the states with homes, it builds up communities, and lessens the chances of social and civil disorder by giving ownership of the soil, in small tracts, to the occupants thereof. It was copied from no other nation's system. It was originally and distinctively American, and remains a monument to its originators."—Such, in brief, has been the history of the public lands in this country. There are a number of other important measures that have been adopted for preserving and disposing of these lands, such as the land bounties for military and naval service, the 2, 3 and 5 per cent. funds granted to the states out of the proceeds of sales of lands, the Indian and military reservations, scrip lands, timber and timber-culture laws, and a flood of donations, public and private; but they need only be mentioned here, as many will be treated in other parts of this work. — *Statistics.* According to estimates the aggregate area of the public lands of the United States disposed of and remaining on June 30, 1880, was 2,894,235.91 square miles, or, 1,852,310,987 acres. The territory now included within the limits of Tennessee was not disposed of under the direction of the executive department of the general government, and deducting this, the actual public domain is 1,821,700,922 acres. Up to June 30, 1880, there have been surveyed in the land states and territories, 752,557,195 acres of the public domain, and there remain to be surveyed, 1,069,143,727 acres. The surveyed lands yet undisposed of are estimated at 204,802,711.12 acres, which, with the unsurveyed, make a total of 1,273,946,438.12 acres of land still the property of the United States, and subject to disposition; from which must be deducted the grants to railroads and private land claims. Since the passage of the ordinance of 1785 to June 30, 1880, a total net sum of $200,702,849.11 has been realized by the national government from the sales of lands, fees, etc., as follows:

1787.	Sold at New York, 72,974 acres (cash)	$ 117,108.24
1790.	Sold at Pittsburgh, 143,446 acres (certificates and land warrants)	100,427.53
1792.	To state of Pennsylvania (certificates of public debt)	151,640.25
1792.	To John Cleves Symmes, 272,540 acres (army warrants)	189,693.00
1792.	To Ohio Co., 892,900 acres (certificates and army warrants)	642,856.66
	Total	$1,201,725.68

Subsequent to June 30, 1796.

1796	$ 4,836.13	1839	$ 7,361,576.40
1797	83,540.60	1840	3,411,818.62
1798	11,963.11	1841	1,365,627.42
1799	.....	1842	1,335,797.52
1800	443.75	1843	898,158.18
1801	167,726.06	1844	2,059,939.80
1802	188,628.02	1845	2,077,022.30
1803	165,675.69	1846	3,694,452.48
1804	487,526.79	1847	2,498,355.20
1805	540,193.80	1848	3,328,642.56
1806	765,245.73	1849	1,688,959.55
1807	466,163.27	1850	1,859,894.25
1808	647,939.06	1851	2,352,305.30
1809	442,252.33	1852	2,043,239.58
1810	696,548.82	1853	1,667,084.99
1811	1,040,237.53	1854	8,470,798.39
1812	710,427.78	1855	11,497,049.07
1813	835,655.14	1856	8,917,644.98
1814	1,135,971.09	1857	3,829,486.64
1815	1,287,959.28	1858	3,513,715.87
1816	1,717,985.03	1859	1,756,687.30
1817	1,991,226.06	1860	1,778,557.71
1818	2,606,564.77	1861	870,658.54
1819	3,274,422.78	1862	152,206.77
1820	1,635,871.61	1863	167,617.17
1821	1,212,966.46	1864	588,333.29
1822	1,803,581.54	1865	996,553.31
1823	916,523.10	1866	665,081.08
1824	984,418.15	1867	1,163,575.76
1825	1,216,090.56	1868	1,348,715.41
1826	1,393,785.09	1869	4,630,344.94
1827	1,495,845.26	1870	3,350,481.76
1828	1,018,308.75	1871	2,388,646.68
1829	1,517,175.13	1872	2,575,714.19
1830	2,329,356.14	1873	2,882,312.39
1831	3,210,815.48	1874	1,852,438.98
1832	2,623,381.03	1875	1,413,640.17
1833	3,967,682.55	1876	1,129,466.95
1834	4,857,600.69	1877	976,253.68
1835	14,757,600.75	1878	1,079,743.37
1836	24,877,179.86	1879	924,781.06
1837	6,776,236.52	1880	2,283,118.65
1838	3,730,945.66		
Total			$208,059,657.14

From which must be deducted the amounts paid to the states ($7,356,808.03), making a net total of $200,702,849.11. The total cost of the public domain, purchases and cessions, surveying and expenses of disposition, extinguishing Indian titles, etc., has been $322,049,595.96, so that to June 30, 1880, the public domain had cost $121,346,746.85 more than it had realized. It is estimated that the value of the lands yet to be disposed of is, under existing laws, $1,159,921,661. — The land has been in part disposed of as follows:

	Acres.
Cash sales, including pre-emptions, etc., and probably 30,000,000 or more acres accounted for under other acts, and commutation of homesteads	169,832,564
Donation acts, Florida, Oregon, Washington and New Mexico	3,084,797
Land bounties, military and naval service	61,098,429
State selections (act of 1841) for internal improvements	7,806,554
Salines granted to states	559,965
Town sites and county seats	148,916
Railroad land grants patented	45,650,096
Canal grants	4,424,073
Military wagon-road grants	1,301,040
Mineral lands sold since 1866	148,621
Homesteads (other than commuted)	55,667,044
Scrip lands	2,593,094
Coal lands	10,730
Stone and timber acts, 1878	20,782
Swamp and overflowed lands to states	69,206,522
Graduation act, 1854	25,696,419
Schools, seminaries and agricultural colleges	78,659,429
Area held under the timber culture act	9,346 660
Desert land act	897,160

— AUTHORITIES. *American State Papers*, vols. on Public Lands; Benton's *Abridgment of the Debates*

of Congress, and the *Congressional Globe and Record;* the *Reports of the General Land Office*, and later, of the *Secretary of the Interior; Works of Hamilton, Webster, Clay, Calhoun* and *Adams*. The most complete record of legislation respecting public lands is to be found in the *Report of the Land Commission*, Exec. Doc. 47, part 4, H. of R., 46th congress, 3d session. There are also a number of reports on the same subject to be found among the public documents. WORTHINGTON C. FORD.

PUBLIC LANDS, Office of. This bureau of the interior department at Washington is in charge of an officer styled the commissioner of the general land office, which is his legal title, although he is generally known as commissioner of the public lands. The first official designation of such an office was by act of April 25, 1812, which established it in the department of the treasury; but the duties were greatly enlarged in 1836 (5 Stat. at Large, p. 107), and the commissioner was placed under the immediate direction of the president. The office was placed under the secretary of the interior at the creation of that department in 1849. The duties of the commissioner are to discharge or supervise all executive acts appertaining to the surveying and sale of the public lands of the United States. He is to record and issue all patents for land under the authority of the government, whether on private claims, homestead or timber-culture entry, pre-emption claims, entry by land warrants, or congressional grants to states or corporations for education or public improvements. Being thus charged with the care of the entire public domain, the office involves great responsibility and legal knowledge. Besides the commissioner, whose salary is $4,000, there is a recorder of the general land office, likewise appointed by the president and senate, and three principal clerks (of surveys, of public lands, and on private land claims), besides a secretary to the president to sign land patents under the seal of the office, all of whom are appointed by the president. The general land office employs a total force of 218 clerks, costing $287,820 in 1882. The commissioner is required to make an annual report to congress, embracing all the statistics of surveys and sales of public lands during the year. These reports make a valuable series of volumes. Extensive maps of the United States, showing the public domain unappropriated, are issued from time to time; also, circulars of information regarding the method of purchase or free entry of any of the public lands, which may be had on application to the commissioner. The commissioner, and all officers and clerks in the general land office, are forbidden by law to purchase or to become interested in the purchase of any of the public lands. All the accounts connected with the public lands are audited in the general land office. The large number of clerks required for the current business of the land office are in the interior department building.

A. R. SPOFFORD.

PUBLIC OPINION. The power of public opinion has vastly increased in the civilized world in the last century. Even those who affect to scorn it, can not deny this, and the statesman is compelled to take this new "great power" into consideration. It has become the authority of the uneducated masses as well as the study of philosophers. What, then, is public opinion? Whereon does its power rest? Where are its organs? At what does it aim? — When a religious impulse takes hold of the masses, as in times of the foundation of new, or the reformation of old, religions, and carries them in a definite direction, we do not call the expression of this common religious sentiment "public opinion"; but we are inclined to characterize the general, though sometimes boisterous, utterance of a popular political desire, as a demand of public opinion. Whence this difference? Public opinion always supposes free judgment, which is possible in political affairs, but unusual in religious emotions. Therefore, without cultivation of the reasoning powers and the capability of judging, there can be no public opinion; it can only thrive in freedom. The ancients knew it well and esteemed it highly. *Vox populi vox Dei.* — In the middle ages public opinion could make but little progress. Barbarians knew nothing of it, and despotism stifled it. It is neither the opinion of the mighty nor that of a few sages: it is principally the opinion of the great middle classes. In the same proportion as the middle classes give their attention to public affairs and form an opinion on their political interests, the power of public opinion prevails; and the more influential the middle classes become, the more respect public opinion commands. Hence its great significance in the present: for the influence of the middle classes has never been greater in the state than now. — It is a radical exaggeration to declare public opinion infallible, and to ascribe mastery to it as a matter of right. Men with a deep insight into public life and its requirements have never been very numerous, and it is very uncertain whether they can succeed in making their opinion public opinion. The minority of learned men and philosophers seldom agrees with the large majority of the middle classes. The common judgment of the educated classes, even, is almost always superficial. It is impossible for them to know all the particulars and discover all the causes on which the decision of important affairs depends. Public opinion may be disturbed, or may even be artfully misled by the momentary passions of the multitude. A single prominent individual may judge aright where every one about him judges falsely. But, preposterous as such overrating of public opinion may be, the haughty contempt with which many doctrinarians look down upon it, and the vain scorn for it of petty minds, are no less foolish. Even if public opinion is misguided and falls into error, it should not be treated with contempt and sneered at, because it is an intellectual power which has an irresistible influence on the rise and downfall of

leading statesmen and on the destiny of nations. It is almost impossible, with the representative constitutions of to-day, that a system opposed to public opinion should long remain dominant. But the value of public opinion has a deeper cause than the external influence it exercises. Do not all political order and all law, in the last analysis, rest upon the common consciousness of nations? and in this is not the wisdom of the Creator manifest, who has given human nature a moral conscience as well as logical intellectual power, so that it may understandingly and morally discriminate between right and wrong, and decide what is useful or injurious to the public welfare? The public conscience, and particularly public opinion, are chiefly developed in the middle classes, and hence so much importance is to be attached to their judgment, where there is question of the interests of the community, *i. e.*, of the state. — "Public opinion," writes Niebuhr, "is that opinion which arises in minds uncontrolled by personal influence—an influence which might mislead those in power—that opinion which, in spite of the difference in individuals and of the very different conditions or situations in which they are placed, is so unanimously expressed, and not merely repeated by one man after another, that it may be taken as an utterance of universal truth and reason, and even as the voice of God himself." Public opinion may be compared to the chorus in ancient tragedy, which, observing the actions and sufferings of the *dramatis personæ*, gives expression to the emotions and opinions of the common consciousness of all. On the whole, it is equivalent to the verdict of a jury in a case of law. — Public opinion is formed by innumerable impressions and observations, by deliberations in the various spheres of society. But it is always controlled and determined by the public conscience and the established principles of the nation. It manifests itself in the most varied forms, in free public speech, in the family, in the drawing room and the tavern, in meetings of every kind, and, above all, in the press and the national representations of the people. In the latter it becomes even an organic political expression, while otherwise it manifests itself in a more unorganized and changeable manner. It sometimes fluctuates, like life itself, but it is also susceptible of instruction, and often follows the leaders who are competent to communicate ideas to the educated classes and to influence them. Public opinion courts criticism, while it is not unreceptive of enlightenment offered by superior minds. In the same degree that schools and means for the education of the young are provided, the public sense and love of truth and justice increase. Besides, public opinion is subject to the direction of the prevailing spirit of the age, by which it is determined and moved. But, once its judgment has been fixed, determined by the pressure of some general necessity, it becomes a power which crushes all imprudent resistance and which commands attention. — It is not true, that public opinion *reigns*, since it can neither rule, nor is it desirous of ruling. It leaves the government to those intrusted with it. It is not a creative, but pre-eminently a controlling, power It is no part of the public authority, but belongs to the national life. Only exceptionally does it change from its passive attitude to an active one, when the course pursued by those administering public affairs is in opposition to it. It is a public power, but not a public force. BLUNTSCHLI.

PUBLIC POLICY. This term, in legal acceptation, denotes the principle of government and law which aims at the general welfare, as distinguished from the welfare of particular individuals, and courts of law do not allow their decisions to conflict with this public policy. Our tribunals do not confine their justice to the parties before them. As plaintiff and defendant are represented by counsel, so the people is represented by the court, and it is its duty to protect the interests of the people. A litigant might prove the clearest right to relief, so far as his adversary is concerned, and yet if his right would in any way injure the public, it must be denied. There are three kinds of relief which the court is bound to refuse on public grounds, viz.: first, that which conflicts with positive law, the expressed wish and command of the people, *e. g.*, relief based on a contract to evade the revenue laws by smuggling; second, that which is immoral or *contra bonos mores*, *i. e.*, which would have an immoral effect on the public, such as a judgment for rent under the lease of a house for disorderly purposes; third, all other relief which can interfere with the public welfare. Each of these three classes of cases may properly be said to be "against public policy," but this expression is usually confined to the last class, and the claims of positive law and public morality are permitted to stand by themselves. — The third class of cases is somewhat indefinite. The common law always strove to be definite, and sought for exact precedents. Hence a general discretionary power in the court to declare that a contract or will is void as against public policy, would seem to be repugnant to the established rules of law. Such a power has, however, been held to exist, and, as might have been expected, it gained currency in an anomalous way. The general principle, that a condition in a contract which is "against the general good" can not be enforced, was recognized in England at a very early date in Sheppard's "Touchstone." Bracton hints at it (book iii., p. 100), and lord Coke seems to regard as void those conditions which are "repugnant to the state." Still, the law on the subject was not developed and formulated until a much later day, when it became closely associated and even identified with the law of wagers. The English judges had by some mischance decided that wagers could be enforced at law, although in other civilized countries the contrary rule prevailed. They discovered afterward how pernicious the effects of betting were, and how much of the time of the courts was wasted in determining trivial questions,

but it was too late to retract. They could not then hold all wagers illegal, but they found some relief in the doctrine of public policy. Whenever they could, they decided that particular wagers were invalid, as against public policy, and they displayed considerable ingenuity in extending the number of such cases. Thus, a wager on the sex of a third person was held void, as it tended to call forth indecent evidence, although such evidence would not be considered an objection in any other case. A bet upon an election was not enforced, as it might have influenced votes, and the public is interested in removing such influence from the polls. In short, any wager upon public matters would have been held bad, because it would have created a dangerous interest in public affairs. So in Gilbert *vs.* Sykes, 16 East, 150, (1812), it appeared that in 1802 Sir Marks Sykes received a hundred guineas from one Gilbert, promising in return to pay Gilbert a guinea a day until the death of Napoleon Bonaparte, who was then first consul. The wager arose out of a conversation upon the probability of his assassination. Lord Ellenborough, the chief justice, said, "Whenever the tolerating of any species of contract has a tendency to produce a public mischief or inconvenience, such a contract has been held to be void." The court decided that this contract was illegal, as it would naturally create a desire to assassinate a public enemy, contrary to the law of nations. In the case of Eltham *vs.* Kingsman, 1 Barn. & Ald., 683, (1818), the rule was carried to an extreme, although the court disposed of the issue on another point. One proprietor of livery carriages at Cheltenham bet watches with another proprietor that a certain Col. Longford would go to the assembly in his "fly by night" (a vehicle) and no other. The court held that the wager was void, because it would tend to subject Longford to great inconvenience by exposing him to the importunities of the proprietors of these vehicles, one of the judges remarking that "any person who has walked through Piccadilly must be sensible that this is no small inconvenience." Finally, those wagers were held bad, 1, which tended to create an improper bias in the mind of a person with relation to some public duty (as in the election case above mentioned), or, 2, which had a tendency to injure third persons or the public. Such wagers were regarded as "against public policy."—Meanwhile the doctrine of public policy spread through all branches of the law. The courts, after introducing the principle into the law of wagers, soon found that it was applicable to many other subjects of litigation. It has now been definitely settled that any contract or will may be declared void as against public policy, if it be calculated to injure either, 1, the government in its foreign relations, or 2, the government in its domestic relations and the administration of justice, or 3, the public generally by restraining the freedom of individuals. Under the *first* head, viz., of contracts, etc., injurious to the government in its foreign relations, are included those which benefit an enemy or affront a friendly state. Consequently it is held that "as the presumed object of war is as much to cripple the enemy's commerce as to capture his property, a declaration of war imports a prohibition of commercial intercourse and correspondence with the inhabitants of the enemy's country, and that such intercourse is illegal," (Esposito *vs.* Bowden, 7 Ellis & Blackb., 763, 779); and a contract between citizens of two countries is annulled by a subsequent war, as it is against public policy to enforce it. "On the principles of the English law, it is not competent to any subject to enter into a contract to do anything which may be detrimental to the interests of his own country." (Furtado *vs.* Rogers, 3 B. & P., 191, 198.) The *second* division, viz., of contracts, etc., injurious to the government in its domestic relations and the administration of justice, embraces all agreements contemplating the bribery of public officers, executive, legislative or judicial, or of any person having some public duty to perform, such as voting. The leading English case on the doctrine of public policy is Egerton *vs.* Earl Brounlow, 4 House of Lords Cases, 1, and it has reference to corrupt influence of this kind. The earl of Bridgewater died leaving a will, in which he left a very large estate to a certain legatee on condition that he should obtain the title of duke or marquis of Bridgewater. The house of lords held the condition invalid, as it held out a temptation to the legatee to indulge in bribery in endeavoring to obtain the title. In short, contracts creating an interest at variance with a duty are void. The sale of offices is also against public policy. So is the assignment of salary, not yet due, by a public officer. It is for the interest of the public that he should be able to support himself while he is in office, and he can not place his future salary out of his power. Again, it is illegal to compound a felony or misdemeanor, viz., to refrain from its prosecution for any consideration. This is against public policy, because it frustrates justice; and, for the same reason, maintenance and champerty, *i. e.*, the impertinent encouragement and assistance of litigation by persons who are not interested, vitiates contracts. Agreements not to bid at judicial sales are void, and, indeed, all auction sales are carefully scrutinized to prevent frauds upon the public. Under the *third* class, viz., of contracts, etc., which are injurious to the public generally, as restraining the freedom of individuals, the most important are contracts made in restraint of trade. A man can not bind himself not to carry on his business. The people at large are interested that he should earn a living for himself and his family, and not become a pauper, and that there should be the freest competition in all trades and professions. The enforcement of contracts, taking away the right of men to pursue their callings, would discourage industry, diminish products, prevent competition, enhance prices, and introduce monopoly. A man may bind himself not to trade within certain limits; *e. g.*, a retiring partner may agree with his copartners

not to compete with his firm in a certain town, the seller of a business with the buyer, or a servant with a master who undertakes to teach him the secrets of his art; but these are manifestly wise exceptions, based on peculiar grounds. A father can not abdicate his parental rights. It is the interest of the public that paternal authority should be upheld. An agreement not to marry can not be enforced; nor can an agreement not to marry any one except a certain person; nor a "marriage-brocage contract"; viz., a promise to pay a person a sum of money if he can induce a certain person to marry the promisor. All these contracts interfere with freedom of choice in marriage, and imperil the happiness of that domestic system in which the people has everything at stake. An agreement to use influence with a testator is also against public policy. — But it is needless to multiply instances. The main point to be remembered is, that the court always protects the interests of the people. Enough examples have been cited to show the nature of that protection in England and America. Our judges are always ready to annul engagements which are "against public policy," but it is probable that the principle will never be extended much further, for, as has been ably said, it is paramount public policy to allow freedom in making contracts, and to enforce them as made. (19 Equity, 462.) — See *Pollock on Contracts*, 251 et seq.; 1 Story's *Equity Jurisprudence*, § 259, note 1; Hubbard, J., in Sedgwick *vs.* Stanton, 14 *New York Reports*, 289, 291. ERNEST HOWARD CROSBY.

PUBLIC REVENUES. (See REVENUES, PUBLIC.)

Q

QUARANTINE. *Theory of Quarantine.* Quarantine is a regulation based upon the law of self-preservation, by which persons and things coming from an infected region or place are subjected to a period of detention. Quarantine is either maritime quarantine, or land quarantine (*cordon sanitaire*); the former applicable to water craft, and the latter to all vehicles of transportation on shore or to pedestrians. It is now based upon the principle that all contagious diseases have their origin in a specific, particulate germ or poison, which is capable of being conveyed from place to place. Belief in this theory of contagion is nearly universal, yet the doctrine of the prevention of epidemic diseases by means of quarantine is differently viewed by different nations. Thus, England, for example, by reason of her insular situation, and the length of time required to reach her ports from infected regions, has not heretofore found it necessary to exact the long detention required by most other countries, and the medical profession are divided there, as elsewhere, upon the question whether cleanliness and sanitary measures alone will serve to prevent the introduction of contagious diseases, and their spread from place to place; some holding that if the ports were always perfectly clean and in good hygienic condition, there would then be no need of quarantine; that a clean ship sailing to and from a clean port could in no case communicate the contagion; a proposition which is self-apparent. But every-day experience teaches us that the millennial period has not yet arrived, when all cities and common carriers are clean. Therefore, until hygiene shall become understood by people of all nations, quarantines in one form or another are necessary, according to the physical characteristics of the port, and the presence or absence of epidemic disease. — The period of detention at a quarantine was formerly, as the name implies, forty days; the time has now been reduced at most quarantines, and, during the absence of epidemics, a simple inspection is all that is practiced or required. But the period of detention varies according to the period of incubation of the disease quarantined against, and the time is usually counted from the date of departure from the last port, or the date of termination of the last case of sickness on board. — *Practice of quarantine.* A quarantine station usually consists of a hospital for the sick (*lazaretto*), so named from the isolation of St. Lazarus on account of leprosy (*mal de Saint Lazare*); a boat, usually a steam vessel, to carry the boarding officer and remove the sick, if there be any found on board vessels, coming into port; and quarters for the attendants. On arrival of a vessel at the quarantine, she is boarded by an inspecting officer, her bill of health is examined, the crew and passengers mustered, and the vessel itself inspected in every part to determine whether it be clean or foul. At this day the bill of health is not accepted as *prima facie* evidence of the sanitary condition of the vessel, but is only corroborative; even if it be stated thereon that the port from which the vessel last sailed was free from infectious disease, the inspector trusts to his own inspection of the vessel, and examination of the persons on board and the cargo, to determine whether or not the vessel should be detained in quarantine. If, however, the vessel is last from an infected port, and the period of incubation of the disease has not elapsed, the vessel is detained in quarantine until the expiration of that time, whether there be sickness on board or not. If there be found contagious sickness, the sick are removed to the hospital, the bedding and other articles in their state rooms or berths removed and destroyed, and the place thoroughly fumigated with the fumes of burning sulphur. In case the vessel is discov-

ered to be foul and in an unsanitary condition, whether there is sickness on board or not, the vessel is detained in quarantine for the purpose of cleansing and fumigation, the cargo removed to a warehouse, or to open lighters, the bilge water pumped out, and all parts of the vessel fumigated, and if necessary, painted.—*Land Quarantine* (*cordon sanitaire*). A land quarantine consists in stationing a guard around an infected place to prevent the escape of inhabitants until after suitable detention; and as well to prevent the ingress of unacclimated persons likely to furnish fresh material for the disease. Its success depends entirely upon the vigor and inflexibility with which it is maintained, and failure has always followed laxity of administration. In Russia, in 1879, with other measures, the *cordon sanitaire* was successfully used to prevent the spread of oriental plague; and in Texas, in the United States, the cordon was successfully maintained against yellow fever in 1882 under the direction of the surgeon general of the marine hospital service; and in the same year by the naval authorities at the Pensacola navy yard, to prevent the introduction of the disease from the then infected city of Pensacola, and while this is being written (September, 1883), an epidemic of yellow fever has been prevailing on the naval reservation for upwards of forty days, which has been prevented from spreading from the yard by reason of a *cordon sanitaire* maintained around it.—*Laws of Quarantine.* The first quarantine regulation in modern times originated with viscount Bernabo of Reggio, in Italy, Jan. 17, 1374. In 1448 the first systematic laws of quarantine were enacted by the Venetian senate, Venice being at the time the greatest commercial seaport in the world. The present English quarantine law is based upon the act of 6 Geo. IV., c. 78, under which act orders in council have been adopted from time to time, promulgating regulations necessary to be observed to meet particular exigencies. The passengers act, 1855 (18 and 19 Vict., c. 119), and the public health act (schedule v., part iii.), contain provisions affecting vessels subject to quarantine. In the United States, quarantine enactments were passed by the colonial legislatures, and since that time, until a very recent period, quarantine laws have been enacted by the several states. The United States passed its first act respecting quarantine, Feb. 23, 1799, which was subsequently codified in the Revised Statutes, sections 4792 to 4800, inclusive. This act was supplemental to the state quarantine laws, and required federal officers to aid and assist in the execution of state or municipal quarantine regulations. April 29, 1878, a national quarantine act was passed, authorizing, in certain contingencies, the establishment of national quarantines, and vesting the execution of the law in the surgeon general of the marine hospital service. The portion of the act directing its execution by this officer was repealed by the act of June 2, 1879, which itself expired by limitation June 2, 1883; and although the body of the act of 1878 is still upon the statute books, no one is charged with its execution. The appropriation act of March 3, 1883, authorizing an expenditure of $100,000, to be used in case of threatened or actual epidemic, and for maintaining quarantine at points of danger, conferred upon the president of the United States authority to maintain quarantine. In accordance with the discretionary act named, national maritime quarantines have been maintained on the gulf of Mexico, the south Atlantic coast, and the Chesapeake bay. The expenses of state quarantines have heretofore been maintained by a charge upon the vessel, but a recent decision by the civil district court of Louisiana, F. A. Monroe, judge, holds that such fees are in the nature of a tonnage tax, a tax which the constitution has forbidden states from levying, and that, while the state has power to establish quarantine for the protection of her citizens, she has no constitutional right to collect this fee from vessels engaged in commerce. (Morgan's Louisiana & Texas Railroad & Steamship Co. *vs.* Board of Health of the State of Louisiana.) If therefore, this decision be sustained by the higher courts, it would appear to be necessary for the government to prevent extortionate fees upon shipping, by taking charge of the maritime or external quarantine for economic reasons; but no such constitutional power has been claimed by any administration, or held by any court, in regard to municipal health regulations. JOHN B. HAMILTON.

QUIDS (IN U. S. HISTORY), the name applied to the Randolph faction, in 1805–11. The quarrel in which it originated was really only a Virginia difficulty, a contest as to which of the two Virginia aspirants should be the successor of Jefferson. The politicians of that state had been in open antagonism to Washington, had yielded grudgingly to the overwhelming national strength of Jefferson, and many of them were disposed to nominate Monroe for the presidency in 1808, in order at one blow to satisfy their dislike to Jefferson and to Madison, who was Jefferson's choice for the succession. The ostensible opposition to Madison was grounded on the latter's incapacity, his cowardice, his political heresies in the "Federalist," (see that title), and his general lack of energy. The first breach in the dominant party occurred on the reference of the president's message in December, 1805. That part which related to the unfriendly actions of Spain in Florida was referred in the house to Randolph's committee, as he had been the administration leader, and he reported in flat opposition to the president's views. March 5, 1806, he formally declared war upon the administration as governing congress by "back-stairs influence," by "men who bring messages to this house which govern its decisions, although they do not appear on the journals," and by "the pages of the presidential water-closet." From that time the name "quid," meaning either a *tertium quid*, as distinguished from the two great parties, or a cast-

out faction, was given to Randolph and a half-dozen supporters in congress. They opposed the restrictive system (see EMBARGO) and Madison's nomination in 1808 (see CAUCUS, CONGRESSIONAL), and nominated Monroe through a caucus of part of the Virginia legislature. Monroe's entrance into Madison's cabinet, April 2, 1811, ended the existence of the faction. — See 3 Benton's *Debates of Congress*, 426; 1 Garland's *Life of Randolph*, 215, 277; 4 Jefferson's *Works* (edit. 1829), 44; 5 Hildreth's *United States*, 566.

ALEXANDER JOHNSTON.

R

RACES OF MANKIND. Formerly an article on races would with difficulty have found place in a political encyclopædia, for men had not then come to consider this question as anything more than one of anthropology and natural history, and did not imagine that the differences which they noticed in the different tribes of the great human family could possess as much interest for the historian and the moralist as for the naturalist or the physiologist. It is only in our own day that general ethnology has become an important branch of the historical sciences, and that men have conceived the idea of seeking, in the physical origin of peoples, for the secret of their destinies and an explanation of the results which they have accomplished, or in which they have participated. Until very recently, historians acknowledged in the history of humanity but one sole physical influence, that of climate, and, as is well known, it is to this incontestable influence alone, that Montesquieu attributed the differences of character which are found among peoples, and, as a consequence, the differences of the laws and institutions that govern them. This notion of climate, formerly so important, is to-day reckoned among the secondary causes, and plays only a secondary part, in the explanation of historical phenomena. The theory of races has taken its place completely. There are those who take alarm at this, and pretend that we have merely exchanged one materialistic theory for another more materialistic still; but such alarm is ill-founded, and true spiritualism, on the contrary, achieved an undeniable victory the day that the theory of races replaced that of the influence of climate in historical science; for it then ceased seeking in the external influences of matter alone for the secret of human destiny, and applied itself to the study of man himself for the explanation of man's moral and political life. Fatality, it is true, ever rules in the theory of races as in the theory of climate, but this fatality has at least the merit of being so intimately united to the being which it governs, that it is mingled with the very fact of his existence, and for man to rebel against it would be as if he were to rebel against himself. — This notion of races is, moreover, moral, and, so to speak, spiritual, in its origin. In fact, it was not the progress of the natural sciences and of physiology that led the philosophers and historians of our time to adopt this theory, which holds that every tribe of the great human family carries within itself its own destiny, but rather the progress of the science of philology. From the modern science of comparative philology is drawn, among other general results, this important conclusion, that all the nations that speak languages which can be traced back to a common source, exhibit analogous faculties and aptitudes, and that, with some shades of difference, they have had the same historical development. It is not, therefore, merely physical characteristics, a yellow, black or white skin, smooth or wooly hair, oblique or horizontal eyes, that constitute race: it is language as well. Now, what is language if it be not the expression of the inner man, the instrument of the moral man? It is therefore the mind, which is thus reached through the medium of language, as well as the physical conformation of the body, that determines race. In fact, how can we understand that nations having the same physical characteristics should manifest such unequal abilities and such dissimilar instincts, and should follow such contrary ideals of civilization, if, despite their external points of resemblance, their minds were not radically different? The flesh relationship, which seemed so conclusive, was, after all, but superficial. This is especially true of the white or Caucasian race, which philologists have been obliged to divide into two great families: the Indo-Germanic and the Semitic races. Thus this historical theory of races, which has been subjected to so many accusations of materialism, has resulted from the most profound meditation upon language, the noblest of man's attributes. We have just seen, however, that it sought its principle and starting point far beyond physical man, in invisible and moral man. — Mankind is divided, physically, into three great races, entirely distinct in appearance, color, and even in anatomical structure: the black or Ethiopian race, the yellow or Mongolian race, and the white or Caucasian race. These are the only three pure and simple types of man. All the other races, the red race, the Malayan-Polynesian races, etc., are but varieties and mixtures of these three primitive races. The particular characteristics that distinguish each of these three types are so marked that many of the learned have considered them, not as different modes, so to speak, of the same human type, but as three distinct types, as three patterns of the human form. Here naturally arises the great question of the unity of the human species. Is there but one, or are there several types of

humanity? We shall not presume to analyze this question, which belongs more especially to naturalists and physiologists, but we do not hesitate to declare our belief in the unity of the species. The opinion which admits several human types seems at first sight to render a more rational account of the existence of the different races, than the opinion which admits only one; but even after a superficial examination, we perceive that, if it is difficult to explain how the different human races sprung from the same primitive source, it is still more difficult to explain the existence of three primitive types; in other words, it is easier to admit that nature performed her work after one pattern, which she modified according to climate and time, than to admit that she followed three different patterns. In fact, in order to establish the theory which recognizes several human types, we would have to admit that these types are rigorously immutable, that they were settled once and forever at the time of their origin, that they are permanent and essential, that they existed before all mixture of them, and that they will resist all such mixture. But the physics of life and nature do not recognize the scientific rigor and exclusive precision of physics of learned men. Nature is not angular; it waves and floats; and the limits of its provinces are singularly uncertain and difficult to determine. To be sure, it is very easy to distinguish the black race and the yellow race from the white race; but where does the black race end? Where does the yellow race end? These races, so clearly marked, melt at their extremes into, and are confounded with, our own, spite of the fact that they seem so entirely distinct from it. The Berber, the Abyssinian and the Nubian differ from the white race only in the color of their skin; men hesitate to rank them with the black race by the same title as the Kafirs, or the negroes of Congo. The Turks are unquestionably of Mongolian origin; must we, however, continue to class them as belonging to the yellow race, or grant them the right to be numbered among Caucasians?—Whatever may be the solution of this difficult and perhaps insoluble question of the unity of the human species, this one thing is incontestably true, viz., that history proves the coexistence of these three races upon the earth from the earliest period, and that the oldest legends show them to us contending with one another in that part of the Asiatic continent which is regarded as the cradle of the human race. The primitive population of India, that impure and bestial people which was conquered by the noble race of the Aryas, our ancestors, was of the black race, and very probably of the same blood as the natives of Australia; and the land of Turan, the land of darkness and evil spirits, which the Persian legends oppose to Iran, or the land of light, was occupied by peoples of the Mongolian race. But the three races which we thus see in juxtaposition, so to speak, in the infancy of the world, have singularly separated each from the other, although they have frequently and in numerous cases intermingled, and thus given birth to new peoples. Each of these three races inhabits more especially some one continent, which may be considered as its legitimate country. Africa belongs to the black race; Asia, with the exception of Hindostan, of Persia, Arabia and Armenia, to the Mongolian race; and Europe, entirely to the Caucasian. Each of these continents seems so especially intended for the race which inhabits it, that the other races could not retain their purity in it. Thus, the Africans of the north have received the impress of the black race; the Caucasian peoples of Asia have undergone a greater or less admixture of Mongolian or Finnish blood; and the Caucasian race dissolved and appropriated the foreign races which established themselves upon its own continent, the Hungarians, the Turks, etc.—But if history shows us the three great human races coexisting from the earliest antiquity, it is far from assigning them the same rank and attributing to them the same importance. All three are possessed of aptitudes for civilization, but these aptitudes, which are rudimentary and purely instinctive in the negro, and strong, but narrow and restricted, in the Mongolian, have an almost infinite power of expansion in the Caucasian. To speak correctly, history belongs to the white race, and to no other. Civilization is its true work, and all the societies, political or other, formed by the men of the other races, are but imperfect, gross or repulsive figures of those which had their origin in the white race. It is through the Caucasian race that man has taken possession of the earth; it is through it that he has broken and every day breaks the net-work of external fatalities with which nature surrounded him. All the different religions of mankind sprung up under the pressure of the force of sympathy of that race; all the literatures of the world were produced by the glow of its imagination; its power of invention seems inexhaustible, and its fertility of combination infinite. Only its labor has been blessed, for only its labor has been truly fruitful. When we take a rapid glance at all that has been accomplished by our race, we experience a feeling similar to that experienced by the traveler, who, from a mountain height, sees spread before his eyes cultivated fields and rich cities, and we feel ourselves taken hold of by veneration and respect.—We do not experience entirely the same feeling when we survey the aggregate of the works of the Mongolian race. As far as the eye can reach, we behold only immense steppes, cut here and there by gigantic swarms of human beings. We no longer feel veneration and respect, but wonder, fear, and, to some extent, contempt. We feel as though we were in the presence of an enemy, and we fear to see these swarms scattered, broken and fall upon the rich fields which we contemplated awhile before. The Mongolian race is the great obstacle that opposes the development of real civilization. When we endeavor to discover what benefits it has conferred upon humanity, we are filled with

dismay at the conviction we must come to, that it has conferred none, unless it be that it has afforded an asylum to Buddhism, when the latter was driven from India, and that it developed Buddhism within its boundaries. It developed it, but it did not create it. A truly atheistical race, devoid of all noble instincts, it was necessary for a man of the Aryan race to give it the only religion suited to its instincts, and to teach it the only truly efficacious consolation in the miseries of this life, toward which its avaricious, acrid and strong mind is incessantly turned. The part played in history by the Mongolian race has ever been merely accidental, and has always been fatal. The Mongolians have figured as conquerors and devastators, and in this quality have caused some of the greatest movements recorded in the annals of mankind. Their aptitude for civilization is real, but singularly narrow and limited. The Mongolian race believes only in force, and the sabre driven into the ground, which the hordes of Attila adored, is its real god. The most perfect, most moral and most peaceful of the political communities it has produced, the Chinese nation, forms no exception to this general rule, much as it may be believed that it does worship anything but force; it has no idea of the value of human life, of the true dignity of man, or of real law. This innate belief in force, however, gives to the peoples of the Mongolian race eminent political capacity, which renders them singularly formidable, the capacity for domination. Wherever they pass, life dries up and becomes extinct, it is true, but they establish themselves in such places, and last. The societies which they form, though old and decrepit, still maintain themselves with a strength of resistance that is truly extraordinary; but if their civilization lasts a long time, it also attains its limit very rapidly, and never renews itself. The old age of Mongolian states is infinitely longer than their youth or maturity. Their force soon reaches the limit of its expansion, and soon finds its point of equilibrium and rest, which is immobility. This is a perfect résumé of the history of the Mongolian races. They overflow like a furious torrent; but, this moment of destructive expansion once passed, they enter again into the repose of stagnation, and maintain themselves by the bare volume and weight of their population.—The black race ranks last in the scale of races. This unfortunate race shows us man approaching almost to the brute species. Down to the present time the negro race has produced nothing, has done nothing, for humanity, either for good or evil. So far as any political society is concerned, it is made up of a collection of hostile tribes perpetually warring with one another; its religion consists of ridiculous, infamous or bloody fetichism; and when we have said this, we have told the history of the black race. It is only in our own times that a moral ray has begun to enlighten this African continent, in consequence of the expansion of the Caucasian race on the one hand, and, on the other, of the spread of Islamism, which, though stagnant everywhere else, has cast itself upon Africa, which it is about to civilize by means of the sword and the Koran. The bestial appearance of the negro, his instincts, at once childish and fierce, his ridiculous vanity and superstitious credulity, his virtues, which may be compared to those of the dog, and his vices, which resemble only those of the feline species, have at all times excited the horror of the other human races, which have refused almost to allow him the name of man, and which have made the abhorrence which they feel toward him a reason for denying him all justice, and for pitilessly compelling him to serve the ends of their cupidity. Slavery seemed the natural condition of this miserable race, and servitude the only means of bringing them under the influence of civilization. The negro is not, however, without an aptitude for civilization; but this aptitude seems to be limited to only one faculty, extreme sociability. Bestial or not, the negro, if he is not, as many pretend, capable of great culture, is, however, capable of tenderness, love and devotion; if it is difficult to develop his mind, it is very easy, on the other hand, to develop his heart. His sensibility leaves nothing to be desired, and even surpasses that of the other races. If he is not the white man's equal, he can live with him: he has nothing of the haughty and taciturn manner of those savage races that fly before the face of civilization and pine away solitary and silent in the society of men of the white race. Far from perishing, he, on the contrary, flourishes in the bosom of Caucasian civilization. This sociability of the negro is a very great moral fact, which pleads loudly in favor of his race, and refutes the opinion which holds that he is incapable of civilization. Whether he is inferior to the other races or not, it is evident that he accommodates himself perfectly to civilization, and finds in it nothing hostile to his instincts.—The other human races, the red race (the North American Indians), the Malay-Polynesian race, the boreal race (Finlanders, Laplanders, Esquimaux, etc.), may be considered as mixtures of the three great races, or as degenerations of the three primitive types. These races have in general shown themselves singularly barren in a moral sense. They live in the savage state or in an extremely rude state of society; the Mexicans and Peruvians, however, reached a very advanced state of civilization, and different peoples of Finnish and boreal origin have mingled in the civilization of Europe, and become thoroughly amalgamated with it. The boreal race possesses a peculiar characteristic: it is a sort of physiological cross-road, and the peoples that compose it serve as a passage from one race to another. On the one hand, it is related to the Caucasian race, and on the other, to the red race of America; and it reminds us, by the traits of most of the tribes which compose it, of the Mongolian race, of which it is probably a degeneration.—The Caucasian or white race is divided into two great branches: the Semitic race, and the Indo-European or Japhetic race.

All the civilization of modern humanity has come from these two races; to the Semitic race we owe our religious and moral life, our life of conscience; to the Japhetic race we owe our intellectual, political and social life. — The Semitic race, which is now singularly reduced in numbers, disseminated and mixed by the dispersion of the Jews over the whole surface of the globe, and by the extension of the conquests of Islamism, comprised, in olden times, the Hebrews, the Arabs, the Phœnicians, and the numerous tribes which the Bible mentions as perpetually warring against their neighbors the Israelites, such as the Canaanites, the Amalekites, etc. Despite the exclusive spirit of this race, which endeavored, more than any other, to preserve its purity, and which always considered the nation as the family enlarged, it did not escape the happy fatality of crossing and admixture, and even from the very earliest antiquity, it seems to have received a very strong infusion of Hamitic blood. The tribes of Canaan were but a mixed race, half Hamitic, half Semitic, and the Hamitic element manifests itself in an unmistakable manner in the civilization of Phœnicia. The Semitic element is also met with, in proportions which it is rather difficult to state exactly, in those first mighty attempts at civilization which ancient history presents to us under the names of Babylon and Nineveh. The Egyptians themselves were also, in all probability, but a mixture of Semitic and Hamitic peoples, and their civilization, which, even to this day, excites our wonder and admiration, was the result of the combined genius of these two great races. No matter what may be said of these admixtures, the true Shemite would not have recognized them, and would not recognize them to-day. For him, the true race of Shem was to be found in Israel, and he admitted but one brother, Ishmael, and even branded that one as a bastard. The Jews and Arabs, therefore, to-day, compose the entire Semitic family; the ancient spirit of exclusion and the ancient prejudice have triumphed, for the fatality of history has brought about the successive disappearance of all these civilizations and all these peoples which the descendants of the patriarchs rejected as impure and tainted with idolatry. — The moral life of the Semitic race has been at once the most exalted and the simplest known to man. Born under a tent, reared in the desert, and grown up in the habits of nomadic life, it has ever ignored the complicated methods of life of other races. It knows but one sentiment, religious sentiment; but one life, the life of conscience. This simplicity of soul has engendered an extraordinary social simplicity: the ties which bind men to one another among the Semitic races are at once the closest and the freest which the mind can conceive. The Shemite does not know the meaning of the *political state*, he has no idea of a civil power distinct from the religious power, of a society distinct from the family, of rights and duties proceeding from any other source than God. Man has no master above him but God, and on earth he owes obedience only to those to whom he owes his life, and who are subject to the same master as himself. Religion, therefore, is everything in this Semitic society; the fatherland is the temple, the nation is the family, the king is God, the law which punishes crime is the same as that which admonishes the conscience. Theocracy is the natural form of government of such a race; and this it has never abandoned either in the most brilliant or the most perilous moments of its history. The same genius everywhere attends the Shemite, whether he be nomadic or sedentary; whether he live under a tent or in a city, whether he be a shepherd or conqueror, whether he lead a patriarchal life or be the founder of empires. The Hebrew monarchy never was a monarchy after the oriental fashion, and the kings of Israel endeavored in vain to prevail over the power of Jehovah, the ancient master of their people. The Arabian conquest and the establishment of the societies introduced by Islamism wrought no change in the simplicity of the Semitic intellect, and failed to teach it to distinguish between political power and religious power, between the citizen and the believer. The caliphate was the grand expression of this genius, powerless to conceive the idea of a state under any but a theocratic form. — This synthetic genius of a single shoot, this inability to divide man, enabled the Semitic race to conceive and preserve their religion free from all alteration, which religion became that of the human race. All the feelings of the Semitic race concentrating into one, that one acquired extraordinary depth, elevation and power. The men of the Semitic race not serving two masters, God took entire possession of them, and while the sojourn in the desert separated them from the brilliant, voluptuous or terrible visions of nature, the vision of their sovereign master was revealed to them in all his majesty and all his grandeur. The Shemite, therefore, was able, for all these reasons, to conceive God as an infinite and all-powerful Being, immutable and eternal, one and perfect, as a pure spirit, master of the world, with which he has no affinity of nature or of substance. This idea, which some of our modern metaphysicians may even consider narrow and arid, but which astonishes us by its moral elevation and its abstract grandeur and purity, when we contrast it with the imaginative conceptions and the coarse and deformed symbols of other peoples, impressed the Semitic tribes themselves, just as it has impressed the rest of the Caucasian race, which has finally adopted it as the basis of its faith, and inspired the Shemites with a pride which has always manifested itself in the exclusion of other races, and in a contempt for other religions. They exerted their every power to preserve their religion pure from all idolatry, and they found powerful auxiliaries for the accomplishment of this task in the simplicity of their social state and in their proximity to the desert. — Nearly all the nations of modern Europe belong to the Japhetic or Indo-Germanic races. This

name of Indo-Germanic has been given them by comparative philology, which has established the relationship of nearly all the European nations by the analogy of their different languages with the sacred language of India, the Sanscrit. This analogy once established, the consequence was easily drawn; since the Sanscrit was the common source of the languages of the different peoples of Europe, these peoples must evidently have sprung from a common source, and are all but branches of the race whose language the Sanscrit was. What was this race? and what country did it first inhabit? The most recent researches in ethnology and philology have established the fact that this part of the great Caucasian family from which the Indo-Germanic races have sprung, inhabited that part of Asia which extends from the Caucasus to Bactriana, and was divided into two great tribes, the Aryans and the Iranians. The Aryans are the source of the superior classes of Hindostan, which country they conquered; the Iranians have continued even to the present time almost without admixture in Persia, of which country they still form the chief population. Everything that is of any capital importance to us, in the civilizations of the ancient east, everything that interests our imagination in the history of Asia, everything of oriental origin that has contributed, either directly or indirectly, to our modern life, comes to us from these ancestors of our race. The aristocratic system of caste, Brahmanism, and later on, Buddhism, are the work of men of the Aryan race; the vast undertaking of the military and administrative monarchy of ancient Persia, and the religion of the two principles, are the work of men of the Iranian race. — The Japhetic race, the most enterprising, the most movable and the most inventive of all the races, seems to have early felt the love of enterprise and adventure. If we would present, under a brief and poetic form, what our imagination perceives confusedly in these remote ages, we must take as symbols of the genius of our ancestors, two characters in the great tragedy of Æschylus, who knew some of the secrets of some of the origins of our race, Prometheus and Io, two victims of ambition, adventure and enterprise. Prometheus admirably symbolizes the boldness of invention of the Japhetic race; and the wild course of Io, goaded by the breeze-fly, their longing for emigration and travel; and, if the word be not too mean to use in speaking on such a subject, I would freely add, the mania for change of place which seems to have possessed our barbarous ancestors. The same love of conquest which urged on the Aryans in India, impelled, at different times, other tribes of the Japhetic race into Europe, and many successive emigrations, the dates of which are uncertain, landed them upon that continent, until at length they gained entire possession of it. The actual descendants of the peoples who effected these old migrations are divided into innumerable families, but they may be all ranked under five principal heads: the Celtic race, the Germanic race, the Slavic race, the Latin race, and the Greek race. — None of these races is to-day free from admixture, and in some of them the primitive type and genius of the race have almost entirely disappeared before the frequency and violence of crossings with other races. Thus, the Latin race, the stock from which the Italian nation of to-day has come, has been singularly changed for the worse by the admixture of Greek, German, Ligurian and Gallic blood which it underwent in the course of its long history; in France the Celtic blood has been intermingled with Roman and German blood; in Spain the Iberian, with Gothic and Moorish blood; the Germanic tribes, especially in the extreme limits of the vast country which they inhabit, have received a strong infusion of Slavic blood; and the Slaves, subject to an influx of German and Greek blood, mingled with Mongolian and Ougro-Finnish, can scarcely be said to be any purer than the others, although they are the latest comers among the civilized nations, and their primitive type should, in consequence, be less worn out than that of their sister races, by the fatigues of history and the labor of centuries. — The oldest in the civilization of the races of Europe, is the Greek or Ionian race, the sons of Javan (Ionians), as the Bible calls them, a race which succeeded, on Hellenic soil, to a race called Pelasgic. Next after the Semitic race, this race has rendered the greatest services to civilization. If humanity owes all its religious development to the Semitic race, it owes all its intellectual development to the Greek race. It truly deserves the name of the chosen race among the Japhetic nations, as did the Jewish people among the descendants of Shem. They are the true sons of Io and Prometheus, and when we see the mighty gifts which their imperishable works still present to our admiration, we are almost inclined to believe that their emigration carried off the cream of the entire youth of the great Japhetic family. It is to them we owe that religion of polytheism, that brilliant invention of poetic and graceful minds, which subdued and humanized the old natural religions, and which, by confounding the mysterious forces of the world with human force, produced that conception of the poetic *ideal* which has since become the true religion of all poets; for this conception holds the same place in literature that the dream of moral perfection does in religion. It was the Greek race that transformed the barbarous industries of primitive times, and developed the fine arts out of the useful trades, just as it had developed the literary ideal from the religion of nature. In all intellectual matters we reap to-day the benefits of Greek civilization; we are indebted to it for our knowledge of the rules of architecture and sculpture; we have received from it our philosophy; and half the literature of modern Europe is but an offshoot of the literature of Greece. Finally, when Christianity appeared in the world, it was Greece that undertook to form its dogmas for it, to construct its metaphysics,

and to define its mysteries. Christianity owes the speculative part of its character to the Greek race, as it owes its political organization to the Roman race. It was the Greek race also that instilled civilization into the barbaric races, against which it defended the Byzantine empire during a thousand years, so that the civilization of the future, as well as that of the past, belongs to Greece; for the Slaves, who threaten Europe with a renewal or making over again, represent the Byzantine civilization, and consequently the Greek mind. Crushed by three centuries of oppression, invaded by barbarism which has incessantly flowed in upon it for fifteen centuries, marred by admixtures of Slavic and Turkish blood, the Greek race of to-day is not what it was; nevertheless, we still recognize in the modern Greeks the traits of the ancient type, and the qualities of the ancient genius of the race, just as we recognize the beauty of a statue, despite the mutilations which it has received, and the distinctness of a likeness, spite of the rust which covers it. — The Latins, who are the source from which the Italian people sprang, present a most marked contrast to the Greek race, a contrast which must have been peculiarly striking in the beginning, and which is attested by the differences of the civilizations of the Greeks and the Romans. As the Greek race is lively, pliable, made for labor and intelligence, so the Latin race is strong, serious, heavy, made for conquest, domination and practical interests. If the Greek race has the appearance of being made up of the youth of the Japhetic race, the Latin race has the appearance of being composed of an emigration of sedate men, who had reached the age of serious interests, and know no other sentiment than ambition, half sacerdotal and half warlike. This twofold character is found in the origin of the Latin race; through Etruria it is sacerdotal, through Rome it is warlike; but neither religion nor glory is its end; with it everything speedily takes a worldly and practical turn. It knows only force and interest; but how well it knows these! It was Rome that created the organization of force called conquest, and that organization of interests called administration. But it did not stop here. Inspired by its rugged and powerful genius, it raised its concrete notions of force and interest to the height of absolute abstractions; it created the metaphysics of force, and called it politics, and the metaphysics of interest, to which it gave the name of jurisprudence. This instinct is so strong that it does not overlook even things which seem most opposed to it, literature and religion. Sacerdotal rather than truly religious, as soon as Christianity was presented to it, it hastened to organize it, and gave to it, in the Catholic church and the papacy, its own political institutions. The essential traits of this profoundly positive genius and of this character made for domination and the enjoyment of earthly goods, are found again in the Italians of the middle ages and of modern times, but with important modifications, brought about by time, the accidents of history and the intermingling of races. The centre of the Latin race was changed during the middle ages, and transferred to Tuscany; the Italian genius gained by this change a flexibility and aptitude for ideality which it did not possess in ancient times, and because of this change, Europe is indebted to Italy more than to any other nation for the revival of arts and letters at the end of the middle ages known as the renaissance. — The Celtic race, which formerly occupied all of Gaul and Great Britain, and a great part of the territories of Belgium and Helvetia, can not now be found anywhere in a pure state except in Armorica, or French Brittany, in Wales, in Scotland, particularly in the Highlands, in the Shetland and Hebrides islands, and finally, in Ireland. The domain of this valiant, imaginative, sensitive and adventurous race, once so extensive, is now reduced to this mere remnant of territory. The Celts are the most interesting and unfortunate of all the barbaric races. Their conquerors, exasperated by their stubborn resistance, never spared them, but always pitilessly tracked them, and exterminated them without mercy. This race owes its cruel destiny in part to its very qualities: its extreme sensitiveness often turned into harmful rage, imprudent, hasty hatred, and capricious sallies of contempt, while it on the other hand, easily engendered despair, discouragement and silent melancholy. This sensibility explains why the Celts have never been able, despite their valor, to preserve their independence, and why, after having lost it, they have never been able to cause their masters to bid them welcome, or to make their subjection the starting point of a new destiny. Conquered races have been known to govern their conquerors, like the Greeks, or to use the masters which fate had given them, like the Italians generally; but the Celts have never been capable of such miracles. The Celt does not know how to control his emotions: when victorious, he abandons himself to the proud intoxication of triumph; when vanquished, he falls into a mournful despair, or becomes the prey of a frantic rage which injures only himself and deprives him of all sympathy. To this extreme sensibility is added a fine and charming imagination, which renders him the slave of fancies and of habit, and thus forms a new source of danger. He is slow to accord his esteem or love to political or religious innovations; but once he has given it, it is given for centuries, and he will not abandon anything which he has set his heart on, even when experience has condemned it. Thus he is always behind the general progress of civilization, and figures in history as the champion of lost causes. Of all the barbaric races, the Celts were the last to submit to Christianity, and the difficulty of their conversion seems surprising when we consider the prompt submission of the Germanic races to the new religion. The papacy encountered in them its first adversaries, and, later, its most devoted defenders; the French monarchy was kept constantly at war defending itself against their revolts

down to the very outbreak of the revolution of 1789; yet this revolution met with no more irreconcilable enemies than the Vendeans and Bretons; and it is a well-known fact that the obstinate resistance of the Highlanders prolonged the contest entered into in England between the monarchy of the Stuarts and the Protestant dynasty. —The Celtic race is not the only one which preserves itself pure and unmixed only in certain provinces or portions of territory; the same is true of the Iberian race, which is the basis of the population of Spain and probably of Portugal, and which has continued in its purity only within the narrow confines of the Basque provinces. Are the Iberians an Indo-Germanic or an Ougrian or Finnish race? Opinions are divided, and the question is a doubtful one. Some ethnologists, basing their opinion on the characters of the Basque language, say that the Iberians belong to the Finnish race; others see in them a separate branch of the Celtic race. However this may be, frequent interminglings seem to have occurred at an early period between the Iberians and the Celts, and the mixed race thus produced, the Celtiberians, constitutes, to a great extent the basis of the population of Ireland. In truth, the genius of the Iberian race is very different from that of the Celts; the two races have little more than one trait in common, a fierce valor; but this valor manifested itself among the Iberians from the earliest ages with a gloomy energy and a firmness of resistance entirely unknown to the adventurous and brilliant courage of the Celtic race. — The mixture of the Latin race with the Celtic and Iberian races produced the nations of central Europe, which are without distinction called Latin nations, notwithstanding the well-defined differences of their inhabitants. France, Spain, Portugal and Italy constitute this class. The basis of the population of Spain has remained Iberian, and that of the population of France, Gallic; the admixture of Roman or Germanic blood has not so changed the characteristics of the two nations as to render them unrecognizable, and it is easy to observe in the soldiers of modern France the descendants of those Galatians who raised their swords aloft when it thundered to hold up the heavens if they should fall, as it is also easy to recognize the descendants of the defenders of Numantia in the defenders of Saragossa. The action of the Latin race upon the two nations has been more moral than physical; it has rendered them capable of discipline, initiated them into a higher civilization, and neutralized and even destroyed the fatality of blood and the obstacles of instinct. Thanks to this initiation, the Celtic genius especially, crushed or impotent everywhere else, developed in France, and gave to the world all that it contained. At once adventurous and fond of routine, utopist and retrograde, violently revolutionary, and conservative to the extreme, the enemy of tradition and the slave of habit, idealistic and skeptical, quick to undertake and easily discouraged, the French clearly manifest all the principal characteristics of the Celtic race. But what a marvelous transformation these characteristics have undergone! The lively sensibility of the Celt has been changed into a spirit of humanity and justice; his love of habit has become a sentiment of patriotism; his lively, pure, moral, elevated imagination, the most moral, most elevated and most truly religious of all the barbaric races, has translated itself into a literature of a noble, moral, abstract, refined and idealistic character, disdaining the pleasures of the flesh and of the blood, and loving the pleasures of the mind, to such a point as to forget their reality. Thus the least carnal of the barbaric races has produced, under the influence of Latin discipline, the most idealistic nation in the world. France is the champion *par excellence* of absolute causes and of moral interests. She has successively given to the world the ideal of all the institutions and the moral theory of all the governments which have appeared, one after another, during the past fifteen hundred years. She has been the champion *par excellence* of the papacy, that moral ideal of the Catholic church; she drew from the feudal system the ideal of chivalry, she conceived the ideal of monarchy, she produced in Calvinism the most absolute and most metaphysical form of reformed Christianity; finally, she conceived, by the French revolution, the ideal of the government of human societies based upon absolute right and abstract reason, and not upon the fatality of circumstances and the contingency of human events. After Greece and Rome, no country has done more for humanity than France. — The Germanic race is the most powerful, materially, of all the races. It not only occupies all the vast territory known in Europe as Germany, but it embraces also, under the name of the Scandinavian race, Denmark and Sweden, and under the name of the Anglo-Saxon race, England, and the United States of North America. It has ever been a remarkable peculiarity of this race, that it has manifested more life at its extremities than at its centre, and, to use the language of its metaphysicians, *realized itself outside itself*. This peculiarity is an essentially distinctive mark of its political, if not of its intellectual and moral, history. If any one desires an expression of the political genius of the Germanic race, he should seek it, not in Germany, but in the nations which have sprung from it, in the branches which its great trunk has put forth, England and the United States, for instance. The idea of individual liberty, of self-government and the sentiment of self-reliance, which are the most valuable contributions the Germanic race has made to the world, have found their full and entire realization in England and the United States. The material conquest of the globe belongs more to this race than to any other: in the barbaric ages they were the most intrepid conquerors, the best founders of kingdoms, and displayed faculties which distinguished them as rulers and governors; in modern times they make the most active merchants, the most adventurous colonizers, the most

energetic explorers and pioneers. Moral civilization owes more to other races; material civilization owes as much to none: for no other has done so much in the way of discovery, in the conquest and transformation of our globe. Its profound genius seems to be in contradiction with this political destiny; but upon close consideration, the contradiction disappears. This genius seems to be unreal and mystic; at bottom, it studies only man and nature, and, profoundly practical even in metaphysical revery and speculation, it seeks only to penetrate into hidden realities, to separate real from apparent truth, and to comprehend the inner structure of objects. The end of Germanic speculation is to penetrate the soil of thought to its very tufa in order to explain the brilliant vegetation that appears at its surface. Thus it is that Germany, of all nations, has best explained man to man, has best demonstrated how he thinks, what instinctive methods he employs, what are the unconscious processes of his logic, by what concatenation his visions become facts, his ideas civilizations, his phantoms doctrines; how the conditions of his existence force him to imagine the truth, and, as a consequence, to express himself by symbols. The practice of *self-government*, the conquest of the material world and the revelation of the internal structure of the moral man: such is the magnificent part of the Germanic race in general civilization. — The Slavic race is the most widely diffused race of modern Europe. It comprises nearly all the peoples subject to the dominion of Austria, with the exception of the Magyars, who belong to the Ougrian race, and of a few Wallachians scattered here and there, especially in Transylvania, who belong to the Danubian principalities, and are the descendants of Latin colonies of the empire established in Dacia; the Dalmatians, the Illyrians, the Serbians, the Croatians, the Czechs, etc.; the peoples of the Turkish empire, known as Greco-Slaves, of Poland and Russia. Although the youngest of the European races, it has not escaped intermixture any more than the others; in Russia there has been an influx of Mongolian and Finnish blood; in Poland, of Sarmatian blood; and in other parts, of Turkish, Greek and Germanic blood. Some peoples, the Cossacks for example, are a mixture of several races. The Slavic race has penetrated very far, and in the middle ages was the warlike and invading race *par excellence*. It required all the strength of Germany to check its inroads; and the history of the German empire for several centuries is merely a history of the resistance of the west to this permanent inundation of the Slaves, who, at the same time that they threatened the young civilization of Latin Europe, overran and destroyed the old civilization of eastern Europe. Prussia, for example, is the product of an inundation of Slaves restrained by Germanic barriers, and the German empire became powerful only after the two great Slavic monarchies of the middle ages, Bohemia and Poland, were conquered or enfeebled. The Slaves are the last comers into history, which they ardently aspire to take full possession of, in order to inscribe their name on its pages with the names of their elder brothers in civilization. Each of the nations of modern Europe has aspired to political preponderance, and has obtained it for a greater or less length of time. This is now the ambition of the Slaves, who have begun, in Russia, the realization of their mighty dream. The Slavic genius is remarkably mild, social, subtle, imaginative, mystical, and entirely distinct from the genius of the other European races. It is impossible to tell for what benefits civilization will be indebted to this latent genius in *posse*, but we may, however, foresee, that, if the idea of fraternity is to be transformed into institutions and introduced into the political life of nations as those of equality and liberty have been already introduced, humanity will owe this result to the Slavic race, which understands this sentiment more profoundly than any of the other races, just as the Celtic and Latin races best understand equality, and the Saxon race liberty. — We have now reached the end of this long description of the various races of the human family. What conclusions shall we draw from what we have stated? Shall we admit that these families, irremediably separated by their genius, are condemned by the fatality of their instincts to continue to the end of time in a state of aggression, or that they are destined to be melted into a closer and a closer union? History, which we have just consulted, teaches us that the mixture of the races is a law of humanity, that they do not preserve their purity but in the barbarous state and for a very short time, and that, on the other hand, the moral barriers of their different genius are not more difficult to break through than the physical barriers of blood. The races understand one another, when crossed one with another, and thus discover that the differences which constitute race are but secondary, and that men have the same souls just as they have the same bodies. What difference does it make that the Shemite was the only one that conceived the idea of one God? If all the rest were capable of understanding that great idea, we must conclude that their instincts very closely resemble those of the Shemite. Buddhism clearly bears the impress of the Hindoo mind, and the Mongolian genius is certainly earthly and hard; but we must admit that this genius possessed at least some predisposition that destined it to understand the religion of Buddha; in what, therefore, is the Mongolian race irremediably separated from the race which conceived the religion which it adopted? Christianity is of Hebrew origin, and still the nations of Indo-Germanic origin have found it conformable to their nature, since they have embraced it. Chivalry is undoubtedly conformable to the instincts of all nations, since all nations recognized it in the middle ages. Self-government is of Germanic origin; still, we see that to-day all nations have an equal inclination to adopt, practice and love it. There are differences, however, but if we examine them closely,

we will find that they exist more especially in the secondary faculties or inferior part of the genius of nations; after all, men are separated only by the evil instincts and vices of their natures. They are all united and understand one another by the superior part of their souls. Thus, this great question of race is reduced to a question of morals; the differences in the genius of different nations are reduced to mere shades; and history proclaims the moral unity of the human race with still greater certainty than science proclaims its unity of flesh and blood.

ÉMILE MONTÉGUT.

RADICALISM. One may be radical, that is to say, *absolute*, in all opinions, in the monarchical as well as in the republican party; but, as a general thing, the words radicalism and radicals are applied to democratic doctrines more or less advanced, and to their adherents. It has long been said that extremes meet: consequently, they are equally false; the truth lies in the middle. Hence those who claim the designation of *radicals* are to be boldly condemned. They wish *to go to the very end*, being aware or ignorant (either supposition is equally unfavorable to them) that the end is an abyss. We are less severe toward those who are called radicals by their opponents. In that case the question is often only one of degree, of relation; according to the point of view at which one is placed, it will be as correct to consider the latter very backward, as the former very advanced. We should never stop at party names, but seek to penetrate to the foundation of things. — Radicalism is characterized less by its principles than by the manner of their application. Its political doctrine is that of democracy, and as a general thing liberal men will approve of it. Who would raise the slightest objection against *liberty*, *equality*, *fraternity*, against *national sovereignty*, the *responsibility of power*, *universal suffrage* even? But what are we to understand by liberty? Should it be the universal leveling of all social enjoyments to the level of the lowest classes? Should fraternity encourage idleness and vice? Should national sovereignty or the responsibility of power constitute a permanent insurrection, and take away the right of decision from peaceable majorities to confer it on ambitious, turbulent, audacious minorities? Does universal suffrage admit of absolutely no limit? Thus political formulas lend themselves to more than one interpretation, and radicalism has its own; but it is, above all, the manner of its application which characterizes it. It knows only one method of procedure, which is to make a *tabula rasa*, to clear away the ground in order to raise on it a new structure complete in all its parts. Is it not as unreasonable to wish to break the chain of the ages, as to condemn all the accused in a lump, to declare all diseases incurable, to claim to know, to foresee everything, and even, which has actually happened, to wish to change the nature of things? — Nature never makes a *tabula rasa*. She does not proceed by fits and starts, but by slow and continuous development, *and society itself is a product of nature*. Can any one deny it? Will any one question that society is composed of men endowed with reason, and often swayed by passion? Does any one think that this reason can be curbed, these passions silenced, by a decree, however solemn the deliberation and promulgation of it may have been? Nothing lasting is established by sudden or extreme measures. First, because such measures clash with received opinions, established interests, opinions and interests which have often their *raison d'etre*, and which have a right to demand consideration. But the principal obstacle to the success of radical measures lies mainly in the complex nature of man. He has necessities, aspirations, multiple duties, often contradictory; you can not fully satisfy some without, to a greater or less extent, injuring others. — Radicalism is generally wedded to a few principles, sometimes to a single one, to which it refers everything, and which it would wish to adapt to everything. Now, the infinite variety of social facts are neither caused nor explained solely by the principles inscribed upon the banner of a radical party; these facts overflow in every direction, and force alone can compel them to return within their bounds. But radicalism does not draw back before violence. It is as absolute in its doctrines as the despot the most thoroughly imbued with the rights conferred on him by his hereditary power. — It is by this absolutism, which is always found united to narrowness of views, that radicalism is distinguished from liberalism (which see), with which it has, however, some principles in common. Absolutism prevents all progress, and narrowness of view renders a lasting foundation impossible, for it does not permit all the important circumstances to be taken into account, and produces a certain social blindness, which makes those afflicted by it incapable of serving as guides. Thus, even should the radicals have principles identical with those of the liberals, they would differ from them by their tendency to abstraction, to idealization: they would see the mathematical line, surface or body, where, with the liberals, the real line, surface or body should be seen, with all the qualities and defects given them by nature. — It is perhaps for all these reasons that Rohmer (see PARTIES, POLITICAL) attributes to radicalism the character of the boy; it has the same capacity as well as the same defects. It is enthusiastic, imaginative, to a certain extent generous, lives in an ideal world, pursuing a single idea, and pursuing it frantically, without regard to the evils caused by the efforts to realize it. Happily, the idea pursued is often a good one, the realization of which, even if somewhat dearly bought, compensates more or less for the ills which it has caused. Only one thing remains to be desired, namely, that the end be not attained with such violence as to go beyond it and give rise to a reaction which shall call everything into question again.

MAURICE BLOCK.

RAILWAYS, History and Political Economy of. Of all the factors that have contributed, during this century, to the growth of wealth, to the increase of material comfort, and to the diffusion of information and knowledge, the railway plays the most prominent part. It has widened the field for the division of employments; it has cheapened production; it has promoted exchange, and has facilitated intercommunication. In its aggregate it represents a larger investment of capital than any other branch of human activity; and the service that it renders and has rendered to society is, both from industrial and commercial points of view, greater than is rendered by any other single service to which men devote their activities. — Down to a very recent period in his history, man was remitted to water routes mainly for the transportation of goods. Migration of hunters and shepherds could and did take place over land from zone to zone even without roads; but the transportation of heavy goods, such as form the bulk of the consumption of mankind, after the agricultural period had fairly set in, was necessarily committed to the water ways. The lands bordering rivers and shores were therefore the first to be populated by agricultural tribes, which, by establishing communication with other tribes by means of the waterways, started an exchange of products. Primitive commerce thus took its origin along the lines of rivers and the lagoons of coasts, occupied by tribes which were the forerunners of civilization in its developed form. — History gives us accounts of Assyrian and Persian roads that were at best not more than 200 miles in length, which were built for military purposes mainly. The Greeks made no contribution to the world's great highways; the roads to Olympia and Delphos comparing unfavorably with the roads subsequently built by the Romans. Rome was the first nation that appreciated the advantages of highways; and its great conquests of Gaul, Alemanin and of Britain, were due quite as much to the genius of the Romans for road building as to their prowess and skill in arms. The road made the forest insecure to the barbarian. From the fight in the ambush the road compelled the fight in the open, and gave to the higher civilization an immense advantage over the more primitive arms and the absence of tactical knowledge of less civilized man. The road, therefore, was the means of conquest of the Roman civilization over barbarism in the pre-Christian era. — In the shape of the railway, the road has become the principal lever in man's conquest over want, distress from the accidents of birth in locality, and the disadvantages arising therefrom. It has diffused civilization, and has distributed the commodities of any one part of the civilized world over every other part, so that wants and satisfactions become substantially equalized throughout the industrial world. Famine and great general distress become impossible; by means of the railway a large degree of well-being has, with but slight modifications, mainly due to man's mistaken legislation, been diffused all over the world. — The story of the mechanical means by which, in times within the memory of men of middle age, this great revolution was wrought, has been so often told, that it seems almost superfluous to repeat it here; and yet the requirements of the title of this article make it necessary that it should be briefly recounted once more. — To England the world owes the railway. In the coal districts of the north of England, rails of wood were laid during the last century for the purpose of reducing the friction caused by pulling the coal cart from the workings to the mouth of the pit. About 1767 cast-iron rails were introduced. Stone props, instead of timber, were used by Outram for supporting the ends of the rails; hence the term, still used in England, of *tram* roads. Between 1784 and 1820, Murdock, Trevethick and Gray made experiments in steam engines. The modern railway, however, both by common consent and as the verdict of engineering specialists, owes its origin, as a success in transportation, to George Stephenson, who built engine No. 1 for the Stockton & Darlington railway, which was originally organized as a horse railroad, but which was authorized in 1823 to use steam as a motive force. Stephenson himself acted as the engineer on the opening of the steam railroad line in the autumn of the year 1825. Following this, came the opening of the Manchester & Liverpool railway in 1830, the first engine of which was also built by Stephenson, and which from the outset not only proved the success of the railway in the transporting of persons and goods, but also showed it to be a financial success to its promoters and stockholders in their investment of capital. Within the first year after the opening of the Manchester & Liverpool line, upward of 500,000 passengers were carried. — That the railway was not introduced without much opposition would almost go without saying. The large interest in the stage coaches had either to be conciliated, bought off, or fought. The canal proprietors, who had just gotten well under way with their canal projects, and were making considerable sums of money out of them, when this formidable rival appeared upon the field, were opposed to the competition of the railway. In the third place, the rich landed proprietor regarded the railway as a devouring monster, which would not only destroy the value of his fields, but which threatened to destroy his game preserves and his beautiful lawns and flower beds, and, with but few exceptions, the rich landed proprietor opposed the railway. But stronger than all these special interests in opposition to the railway, was the conservative spirit of the English people, which found expression in the "British Quarterly Review," in the words, "We should as soon expect the people of Woolwich to suffer themselves to be fired off upon one of Congreve's ricochet rockets, as to trust themselves to the mercy of such a machine going at such a rate." — London was first connected by rail with the interior of England in 1838, when the

through line to Birmingham was completed. From that time forth English railways rapidly developed, so that at the close of 1881 the railway system of the United Kingdom consisted of 18,180 miles in a country of 120,000 square miles in area; representing a total capitalization of £746,000,000, and carrying annually 623,000,000 passengers, with yearly receipts of £64,000,000. — The success of the Stockton & Darlington experiment produced in the United States a greater effect than it did in England. Before the Liverpool & Manchester line was built, in 1830, many lines of rail were already projected in the United States, and as early as 1825 what is now the New York Central system was begun to be built under the charter of the Mohawk & Hudson railroad. In 1827 Massachusetts authorized the appointment of a board of commissioners, and caused surveys to be made of the most practicable routes for a railroad from Boston to the Hudson river at or near Albany. Two reports were made by these commissioners in the winter of 1829, giving a survey of the road, accompanied with the recommendation to make the commencement of the railroad on both the routes at the charge of the commonwealth. In 1830 and 1831 the Boston & Worcester railroad and the Boston & Providence railroad companies were chartered, and in 1832 work was already under way to connect Boston with New York. Pennsylvania started its railway system in 1827, and Maryland and South Carolina in 1828. The Baltimore & Ohio railroad system was commenced in 1828. In 1830, almost simultaneously with the opening of the first railroad line in England, railways were being opened in the United States in every direction. — The growth of the railway system in the United States is best indicated by the facts, that in 1828 there were three miles of railway; in 1830, forty-one miles; in 1840, 2,200; in 1850, 7,500; in 1860, 29,000; in 1870, 49,000; in 1880, 93,671; and at the close of 1881, 104,813 miles. In 1882 the increase was about 13,000 miles, making a grand total mileage in the United States at the beginning of the year 1883, of about 115,000 miles of rail. — The capital account at the close of 1881 shows a total of $6,815,000,000. Adding, for 1882, $40,000 a mile for about 13,000 miles, increases the total capitalization $520,000,000, making a grand total of about $7,335,000,000. — The gross earnings of the railways of the United States in 1881 amounted to $725,000,000, $552,000,000 of which was from freight earnings, and $173,000,000 from passengers; resulting in the payment of a dividend, over and above fixed charges, of $93,844,200 interest on the bonds absorbed, of net earnings of $276,654,119, the sum total of $128,587,302, in addition to what went into other sources. In 1881 the tonnage transported was not less than 815,000,000. — France was much slower than England and America in adopting the railway system. Independent of the fact that the Latin race is not so alert in adopting labor-saving contrivances as the Anglo-Saxon, there was a cause for the slower adoption of the railway in that country, as it was better supplied with highways than England, and transportation charges in the early half of this century were comparatively much cheaper in France than in England. With the exception of some few small lines, there was no development of the railway system in France until about 1842, when nine great lines were established, which subsequently were amalgamated into six. These at the present day divide and occupy between them substantially the whole French territory. Besides these, however, there are a few state lines and branch roads of insignificant importance. The names of these six great lines are *Chemin de fer du Nord*, *De l'Ouest de l'est d'Orleans*, *Paris-Lyons*, *Mediterranée* and *du-Midi*. The extension of the railway system in France has not been so great as it has been in England or the United States, owing to circumstances which will be referred to in the latter part of this article. — The railway system of Belgium is 2,000 miles in extent, in a country embracing an area of 11,373 square miles. Two-thirds of the whole of the railway mileage in Belgium is composed of lines worked by the state, and one-third by private companies. — In the Netherlands, with an area of 13,000 square miles, there are 1,230 miles of road, of which the state owns 630 miles, and private companies 600. — Germany, Austria and Russia were somewhat behind the western nations of Europe in their railway development, but within the last decade an enormous extension in their development has taken place, for the purpose of competing with France for the eastern trade, as well as for the purpose of military operations of an offensive and defensive character. In the Franco-Prussian war the seizure and management of the railroads by the state, for the purpose of aiding strategical movements, formed so important an element in the military operations of Prussia against France, that throughout central Europe a large number of lines have since been built, to secure strategical advantages. — The following table, taken from "Spofford's American Almanac" for 1883, gives the statistics of the railways of the world to Jan. 1, 1881:

	Miles.
1. North America.	
United States (1883)	117,717
Canada	7,894
Mexico	2,219
Total North America	127,830
2. Middle America.	
Costa Rica	105
Cuba (Spanish)	838
Honduras	56
Jamaica (British)	25
Nicaragua	34
Trinidad	16
Total Middle America	1,094
3. South America.	
Argentine Republic	1,619
Bolivia	31
Brazil	1,899
Chili	1,198
Colombia (U. S. of)	99
Ecuador	75

South America—*Continued.*	Miles.
Guiana (British)	21
Paraguay	44
Peru	2,030
Uruguay	235
Venezuela	70
Total South America	7,316
4. Europe.	
Austria-Hungary	11,738
Belgium	2,597
Denmark	978
France	17,027
Germany	21,565
Great Britain and Ireland	18,168
Greece	7
Italy	5,410
Netherlands	1,227
Norway	946
Portugal	1,089
Roumania	916
Russia	14,067
Spain	3,849
Sweden	3,836
Switzerland	1,636
Turkey	889
Total Europe	105,895
5. Asia.	
Ceylon (British)	136
China	------
India (British)	9,872
Japan	96
Java (Dutch)	3,498
Philippines (Spanish)	279
Turkey in Asia	250
Total Asia	14,131
6. Africa.	
Algeria (French)	804
Cape Colony (British)	905
Egypt	942
Mauritius	66
Namaqualand	95
Natal (British)	101
Tunis	155
Total Africa	3,068
7. Australia.	
New South Wales	1,183
New Zealand	1,258
Queensland	801
South Australia	832
Tasmania	178
Victoria	1,247
Western Australia	93
Total Australia	5,592
Grand total	264,826

— In England, by reason of the high price of land which the railways must occupy and acquire, and a rigid application of the rule requiring the railway corporation to pay for consequential and indirect damages, its railways represent the maximum of capitalization. Taking this extreme of capitalization of the English railways, of $200,000 a mile, as a maximum, and the capitalization of the cheapest American railways, of $25,000 a mile, including equipment, as a minimum capitalization, it is fair to say that the average capitalization of railways the world over is not less than $50,000 per mile. Upon that basis the 264,000 miles of railway in the world would represent a total valuation, in the way of capital invested in these vehicles and means of intercommunication, of $13,200,000,000. — Compared with all the debts of all the nations of the earth, amounting, in round numbers, to $27,000,000,000, it appears that, within the period of the last fifty years, the industrial world has invested a capital in means of intercommunication alone, of about one-half the sum that has been raised by way of loans for the purpose of carrying on, during the last few hundred years, all the wars, and constructing all the internal improvements, of all the nations of the earth. — So great a manifestation of a social power, representing, as it does, a growth unprecedentedly rapid, must and does exhibit many peculiar phases of social and politico-economical problems, and must bring with it evils incident to its own existence which demand some form of intelligent treatment and cure. It would, indeed, be remarkable and without parallel, that any human instrumentality, however beneficial, could grow to such enormous proportions without having some shadow side in the way of defects, evils and even crimes attendant and concomitant to the immense good it brings forth. The first effect of the development of the railway system on the intercommunication of men, has been to give a great impetus to the transmission of intelligence and personal intercourse. One need but read the letters of Madame de Sevigny to see what an arduous task it was to travel during the middle of the seventeenth century. When she proposed to set out to visit her daughter, 200 miles distant, she prepared her will, and set about the journey with a solemnity of mind somewhat akin to that felt by a person at the present time who is about to investigate the sources of the Nile, or make a voyage to the north pole. But one need not go back so far for examples of the dangers, both anticipated and real, that down to within this century beset the traveler. The Newgate calendar is part of the history of the stage-coach, almost to the very time when railways were introduced. Highwaymen scoured the country round, within a radius of ten miles from London. Hounslow Heath, Black Heath, Epping Forest, Clapham Commons, all embraced post routes, and were the scenes of the exploits of many a man who, within this century, came to his end at Tyburn and at Newgate. The time occupied in moving from great centres to the capital is indicated by an advertisement of the York and London stage coach in 1706, in which the advertisers promise to be in London on the fifth day out from York, and to run from London to York in four days. It is said by Francis, in his "History of the Railways," that the abdication of James II. was not heard of in the Orkneys until three months after his flight. He says: "In the seventeenth century the charge for conveyance amounted, in many instances, to a prohibition Heavy goods cost, from London to Birmingham, £7 a ton; from London to Exeter, £12 were paid. Coal was rarely seen, save in the neighborhood of the district which produced it. Pack horses, strong, enduring animals, the breed of which is now extinct, were employed to carry the produce of the weaver's patient skill, the pottery of Staffordshire, and even the coals of Newcastle, laboring

along heavy roads, toiling beneath a burning sun, wending their way through bare, bleak moors, down steep descents, by dangerous rivers, on narrow tongues of land, between masses of mire and mud so deep as to be dangerous if they entered —a leading horse bearing bells to intimate the approach of the party he heralded. The group formed a most picturesque accompaniment to the wild, weird scenes it enlivened. * * The private carriage, if such, indeed, should chance to approach, left the track at the risk of never returning to it, while more numerous parties either resisted the cavalcade, or moved, like the solitary passenger, out of the way, as their weakness or strength might dictate. With such difficulties before them, few persons left their homes but those who were called by some most special reason." — Macaulay says that the inhabitants of London, in the seventeenth century, were farther removed from Edinburgh than they are now from Vienna; and, indeed, it might be said, farther removed from Edinburgh than they are now from St. Petersburgh or New York. The reason why, to this very day, parliament sits in summer, is because the roads in England were so bad, and the difficulty and danger of getting to the capital so great, that it was impossible in the midwinter months to convene a parliament with any expectation of having the members attend from the north, from the extreme west of the kingdom, from Scotland, or from Ireland. — In the early part of the nineteenth century the difficulty of moving bulky articles was somewhat overcome by MacAdam's invention for improving highways, and by the introduction of canals. Part of the politico-economical results in the way of cheapening and distributing products was already under way by the creation of artificial waterways, which were introduced into England, France and Spain in imitation of the Netherlands. — In fixing the price for the sale of every commodity, the element of cost of transportation must be considered, with but the very slight exception of articles that are consumed on the spot where created, like the food raised by the farmer for his own family. As the great bulk of commodities consumed in this world is transported from one point to another, it is obvious at a glance how important is the rôle that transportation plays in the work of production as well as of consumption. Indeed, transportation is a factor which enters into both the consumption and production of commodities as largely as money does into the exchange of commodities, and it plays even a more important rôle than money does in determining the price of commodities. — The certainty, diminished cost and rapidity with which commodities could be transported from place to place by the introduction of the railway, not only increased the exchangeability of commodities, but also made it possible to forward to distant places, theretofore unsupplied with such commodities, products which formerly were consumed only at the spot where created, and the increased facility of transportation created values which could not have existed at all but for such improved methods of transportation. A familiar illustration of this fact is the great industry which had been created in Brittany and Normandy in producing eggs and butter for the London market; and vegetables even for Edinburgh's daily consumption. Before the existence of the railway, the rich dairies of Normandy could give to Normandy alone the enjoyment of fine butter, and there was no possibility for the Londoner or the Scotchman to enjoy a French egg or a pat of French butter at his breakfast table without going personally to France. For 600 or 1,000 miles the railway now carries the Frenchman's dairy and farm-yard products as easily as to the neighboring town. The prices of those commodities have gone up in France, because a market has been found for them. But, what is of greater importance, their enjoyment is possible to a greater number of people. Waste, that great destroyer of human efforts, is eliminated, and unsatisfied wants in the particulars above mentioned, can no longer exist. Through the instrumentality of the railway, the law of competition gets its widest possible extension, restrained and hampered only by limitations put by human law, in the way of tariffs, on the full enjoyment of the results of such competition. With the extension of the lines of commerce, within which a given commodity can find its market, comes an increased demand, which not only again reacts to produce an increased supply, but equalizes prices, so that the element of chance is eliminated as much as possible from human affairs. French history gives us the fact, that during a period of 800 years, there were about 100 years of famine in one or another part of France, while absolute abundance contemporaneously prevailed in other districts. Such a condition of things, even long before the railway, has not only become impossible for France by the development of means of intercommunication, but is now made impossible the world over by reason of the railway, connected with rapid steam communication by sea. That periods of famine and distress arise in India, in an abnormally situated community living upon one vegetable product alone, and prevented by superstition from varying their food, does not diminish the force of the fact that such things are impossible in any community which has emerged from a semi-barbaric condition. Also, in India, the periods of distress are rapidly diminishing, and are becoming considerably less in intensity when they occur. An exaggerated picture of the evils incident to the present civilization is given by the colors in which the sensational modern press paints the distress and crimes of the day; and the inquisitorial and searching character of the correspondence produces a vividness which makes the superficial observer imagine that both crime and suffering have increased, whereas, in point of fact, they are constantly decreasing. What has increased, is the power and opportunity for observation and giving detailed results of such observation to the public eye and

ear. — That the several results of the introduction of the railway have become a common heritage of the great mass of mankind, and that its introduction benefits the laborer more than it does the millionaire, is indicated by the fact that the cost of transportation, which bears a greater and greater relation to commodities which are bulky and coarse and of general consumption, and forms a less and less ratio or element of expense in commodities which are easy of transportation, and not bulky in form, has been considerably lessened by the railway. Even during the middle ages the laces of Mechlin and of Brussels, and the tapestries of the Netherlands and of France, could be transported the world over. At the courts of Europe specimens of the art handicraft of the then known world could be found. Gems, laces and velvet could be transported on horseback without difficulty; but no food or clothes produced for common use or wear could be brought from a distance, the cost of transportation, added to the original cost of the article, increasing the price to such an extent as to make it beyond the means of the common man. Hence the individual born to a particular spot of earth, thus became the inheritor of all the evils and all the disadvantages incident to that spot. What the average man could not there produce, was not for him to enjoy. What his neighbor could not produce for him, he could not obtain in exchange for his own products. The cost of transportation served as an impassable barrier to placing himself in more comfortable condition, either by removal to lands more favorably situated as a market for his labor, or by bringing within his reach such more favorable condition in the shape of the importation of commodities. — But even in India, the famine of 1873-4 was counteracted, the distress overcome, and the consequences removed, with a rapidity never before known in Indian history. Theretofore, the distress occasioned by a famine ordinarily lasted upward of ten years. In the following year (1875), when the actual season of dearth ended in India, and some favorable results in the way of weather and crops were produced, the consequences of the famine were quite removed. Neumann is authority for the statement that in consequence of the development of the railway system, upward of 21,000,000 hundred weight of rice was distributed within eleven months by the English government during the prevalence of the famine. Even in the decade 1860-70, before the railway system was developed in India, several years of dearth and of famine occurred in the same district, and it is estimated that from two and a half to three and a half million people died during that period. The drought and failure of crops in 1873 and 1874 were greater than before, and authentic accounts show us that there were not at the utmost more than 20,000 persons whose death can directly be attributed to insufficient food. The accessibility of the newspaper correspondent, by means of the railway, enabled the world at large more thoroughly to realize the distress that occurred during 1873 and 1874, but the actual death rate, as compared with that from 1860 to 1870, from famine, was not 1 per cent. — As the difficulty of transportation is an element of cost in the exchange of commodities, a saving in the cost of transportation, producing an increased market, results also in the additional effect that the capital which otherwise would be expended upon transportation is available for other purposes. It is true that the medium of transportation in itself is a costly contrivance, and that it has swollen, as we have seen, to $18,000,000,000 for railway purposes alone; but as the great majority of these enterprises pay a return to those who have invested their moneys, the capital is productively employed, profitably expended, and constantly being reproduced by the return. The railway, therefore, in its general effects upon mankind and the investors, has been a blessing. —The general result of railway construction has been an enormous increase of production and productive power on the part of mankind, and has also resulted in an enormous development in the character of productions, particularly in the direction of producing, for general and popular consumption, commodities which, until the railway was introduced, were in many cases impossible of transportation, except along the lines of waterway.— One of the most interesting illustrations of the condition of life before the railway, is given by the philosophical agriculturist, Von Thünen, and quoted by Sax, in which, assuming as a central point, a city, he places around it, within a radius of fifty miles, an agricultural district, composed of six zones, for products which the farmer may raise with profit for the consumption of the city. In the first zone, lying closest to the city, he places the production of garden vegetables, fruit and milk; in the second zone he places the production of commodities which cost more to transport, such as potatoes, carrots, etc. In the third zone the production of wood is placed. In the next three zones, in certain proportions entered into too minutely for citation here, cereal productions and animals are put.—The vast benefit conferred by freedom to cultivate land with alternate crops and with whatever suits the land best, has become possible only by the increase of means of transportation. Doubtless the rules laid down by Von Thünen were practically adopted in consequence of difficulties of transportation, which, once wiped out, now not only makes the farm fifty miles remote as profitable and valuable as the one close to the city, but enables the latter in compensation to produce whatever the land is best fitted to produce, instead of simply that which proximity to the market compels. In other words, the natural advantages of production have, by the wiping out of the element of transportation, or rather, reducing it to a minimum, been permitted to come into full play. The producer was conditioned, by proximity or remoteness to the market, as to the proper use of his instrument, the soil. He now produces that

which his soil is best capable of producing: all the markets have become near, by the railway. No better illustration can be found of this than in the development of the fresh fruit industry of the world within recent times. With the exception of those that ripen on the stem when detached from the tree, as oranges and bananas, but a very few years ago the consumption of fruit other than at the place where it was grown was almost impossible. To-day, however, the fruit of California can in lusciousness and perfection be better found on the tables of the inhabitants of New York and London than in San Francisco. Thus the trade in products which require to be consumed fresh has, by the increase of means of communication introduced by the railway, been added to the commerce of the world; and a vast addition to the world's wealth has been made by the exchangeability of natural products which either would not have been produced at all, or which, being produced in excess of the local demand, would have rotted upon their stems or upon the ground. — A like addition has been made to the commerce of the world in the power of transporting cereals and bulky productions, such as grain, iron, wood, etc. The time is not far behind us when the locomotives of Illinois burned corn for fuel, in consequence of the high price of fuel, and the low price of corn, and the high price of the one and the low price of the other arose from the insufficient means of transportation of both to the localities where they could best be used. — The diminishing of the cost and the increasing of the facilities for transportation introduced by the railway, have likewise substantially added to the world's mineral products. In parts of this country where the railway has not yet penetrated, it does not pay to open mines of silver-bearing ore yielding less than sixty dollars to the ton. The moment that a railway is opened to the point, bringing fuel thither and taking away either ore or base metal, the mine that was valueless before, becomes a valuable property if it yields forty or even twenty dollars per ton, and thus its treasury is added to the world's wealth. — The rapidity of transportation has another effect. It diminishes the risk of capital, and increases its fertility, by securing a speedy return for money invested; and inasmuch as the return of the capital comes back more speedily, it lessens the rates of profits, thereby securing lower prices to the consumer. The effect which the production of our Kansas, Nebraska and Dakota wheat fields has had upon the English farmers, is a result, only on a wider field, analogous to that which has been had on the narrower field of Von Thünen's concentric lines. — The influence of the railway upon manufacturing industries has been almost as great as it has been upon agriculture. In ante-railway days the furnace and the smelting works were of necessity compelled to be close to the ore. It may now be situated close to where the capital, which contributes to establishing the works, is located. Although such industries suffer somewhat from the higher price of labor incident to the denser centres of population, yet the better supervision and more intelligent workmanship that is contributed to the manufacturing process by reason of the capitalist being able to superintend the operations of his factory, enable such works to find, by the securing of a larger application of capital, compensation, and even profit, notwithstanding their distance from the mine, owing to the absence of waste due to personal supervision. We therefore find the great manufacturing industries, though being at some distance from the actual output of raw material, gradually establishing themselves in the large cities, which are the centres of capital. Denver, in Colorado, is rapidly becoming the centre of the smelting operations of the state, for ores bearing precious metals. St. Louis is an important ore-reducing point, and successful reductions of precious ore are carried on in Philadelphia and in the city of New York, thousands of miles away from where the raw material is obtained. Equally true as to textile fabrics is this condition of things. Whether in the shape of wool coming from the cape of Good Hope, cotton from India, South America or from our own cotton states, hemp from the far west or from Hungary, the raw products are all used up at the same manufacturing establishment, at Manchester or at Paisley, at Cohoes or at Lowell, and but for the tariff the cost of distribution of the raw material would form but a small item compared with the advantages obtained from water power, proximity to ships and to coal, and, more especially, facilities for the obtaining and the supervision of the capital employed. By delocalizing the working up of the raw material into its finished product, and giving to capital the advantage of immediate personal supervision, a tendency has been produced which has been a puzzle to many economists—the centralization of industrial employment, and the driving of the smaller handicraftsmen from successful competition by compelling them to become a part of vast industrial establishments. The controlling of millions of dollars of capital gives to such capital great advantage over the individual more favorably located as to territory, but less favorably located in the employment of the more expensive labor-saving machinery, and facilities for carrying on large enterprises at the lowest possible rates of interest. The result of this tendency is not an unmixed good. It causes cities to become overcrowded; it takes away the independence of the individual workingman; it makes the handicraftsman part of a huge machine, and compels the workman to give his time more and more to smaller and smaller parts of the whole operation necessary to produce a given result. The smith of the middle ages would produce an armor, and would even ornament it with devices. He would also shoe horses. To work in iron and steel in all its departments was his occupation, and he was probably a larger man in his development than the smith of to-day. But society is

called upon to pay a penalty for the enormous counter-advantages of the division of employments in the decreased development of the workman. The division of employments of course increases considerably the output of each workingman, and as the sum total of output is thus enormously increased, the sum total of exchangeable products is enormously increased. A given amount of labor will at the present period produce to the smith of to-day an exchange of products many times greater than could be obtained in the middle ages, by the smith of that time, notwithstanding the superior general skill and workmanship of the latter. — Frederick List, in urging upon Germany the necessity for developing the railway system in 1841, sums up in the following order the advantages to be derived from the development of the railway system: "1. As a means of national defense, it facilitates the concentration, distribution and direction of the army. 2. It is a means to the improvement of the culture of the nation, as it facilitates the distribution and promotes the rapidity of distribution of all literary products, and the results of the arts and sciences. It brings talent, knowledge and skill of every kind readily to market, and increases the means of education and instruction of each individual and of each class and age. 3. It secures the community against dearth and famine, and against excessive fluctuation in the prices of the necessaries of life. 4. It promotes the hygienic condition of the community, as it destroys distances between the sufferer and his means of cure. 5. It promotes social intercourse, and brings friend to friend, and relative to relative. 6. It promotes the spirit of the nation, as it has a tendency to destroy the Philistine spirit arising from isolation and provincial prejudice and vanity. It binds nations by ligaments, and promotes an interchange of food and of commodities, thus making it feel to be a unit. The iron rails become a nerve system, which, on the one hand, strengthens public opinion, and, on the other hand, strengthens the power of the state for police and governmental purposes." — One of the first pathological symptoms that this great, beneficent growth has produced, was the speculative spirit that it promoted and fed. The era of speculation, however, does not begin with the development of the railway. Great speculative manias, destructive in their consequences, and of as far reaching and disastrous results, form part of the history of trade and commerce of the past two hundred years. The Mississippi bubble, under law, the tulip mania in Amsterdam, and the South Sea bubble in England, were eras of as wild speculation as the railway mania in England, and were much more disastrous in their consequences. When the shares of Law's bank declined, and the South Sea bubble burst, all money values represented in those elements of speculation were destroyed beyond repair. Wild as was the speculation of 1844 and 1845 in England, and culminating as it did in a great financial crisis in the winter of 1845 and 1846, the railway, the subject-matter of the speculation, still remained; and although shares were frightfully depressed during the crisis, they ultimately rose to something approaching their true value, the excessive premiums paid by individuals being all that was wasted. Every country which has allowed the railway to be built by private enterprise, has had its share of speculative ventures and speculative prices. Railway building has certainly fostered a class of unscrupulous operators as well as tricky and reckless railway officials, who found larger profits in the share market, and more rapid means of achieving great fortunes, than in finding capital for railway construction, or honestly and efficiently administering the railway properties and trusts in their hands. Absence of governmental supervision as to stock capital of railways, has caused the placing on the money markets of the world of a vast quantity of fictitious values, not representing actual construction in money value, but possible value to result from the development of traffic and anticipated dividends. — In many instances the seemingly excessive profits made in the United States by railway building were but a fair and natural return for the great risks incurred. In the event of success the men who had the foresight and boldness to invest their capital in building lines like the Transcontinental Pacific through the territory of hostile tribes of Indians, across plains and over deserts, at the risk of life and fortune, deserved considerable remuneration for their boldness and their enterprise. Differences of opinion may honestly be entertained whether they have not been overpaid, and whether the methods adopted through the instrumentality of political chicanery were in the least justifiable. These matters apart, however, it must be conceded, that but for the inducement held out of very large profits through the instrumentality of fictitious capitalization and subsidies of land or money, many of the newer territories of the United States would have been unsupplied by railways. — What is here said is not meant to be a justification for fictitious capitalization, which is an evil of such great and wide-bearing consequence that it were better if railway building were somewhat delayed than to allow it to come into existence under such conditions. The writer simply desires to draw attention to the fact, that the absence of governmental supervision over capitalization leaves individuals or corporations free to devise whatever scheme they may think best to enhance profits in conducting doubtful enterprises, and results inevitably in railway management regarding no interest except that of the promoters and capitalists who respectively lay out the scheme and find the money, and in such a case the public will be wofully left out of sight. At the very outset of railway development, Stephenson, who was, from all we can learn of his career, as wise a statesman as he was an engineer, insisted that railways should be taken in hand and operated by the government, claiming, that, from its nature and character, it was a highway which would in time become

more important than the ordinary road, and which also possessed the peculiarity that the owner of the road would, in time, do the business of transportation thereon. In terse language he expressed, before a committee of parliament, his opinion that competition would not be the means of producing in this case, as it does in others, the cheapest and best results for the community, because, said he, "where combination is possible, competition is excluded." — Railway development took its origin in England and in this country contemporaneously with the growth of the democratic spirit, and with the dissemination of politico-economical ideas. The democratic spirit was jealous of governmental power, and aimed at its reduction and decentralization. The politico-economical doctrines taught, as an axiomatic truth, that the government performed its operations at greater expense than the individual, and that whatever could be left to individual enterprise should be excluded from the domain of government. Political economy at the same time asserted as an axiomatic truth the proposition that competition was productive of unmixed good; that it was universally applicable; that governmental regulation and interference tended to diminish or destroy competition; and that it would subserve the best interests of mankind if government would let things in commercial and industrial enterprise work out their own salvation. — In England and America, therefore, railways were placed in the hands of corporations, which had power, on paying its value, to condemn property. In England, maximum rates of charges were in every case prescribed by the charter constituting the corporation, but these maximum charges were generally made so high that they practically did not interfere with the railway corporations; within the limitation of these maximum charges the railways were free to make such discriminations or modifications as they deemed necessary to meet particular exigencies. For every addition to its public powers and for every extension of its line, the railway was compelled to go to parliament for powers. The opposition of the landowner and canal proprietor once overcome, however, the great benefits conferred from the very outset by the establishment of railway communication became so apparent, that parliament was but too willing to grant additional powers without inquiring very closely as to what use would be made of them. — Both in England and America the legislatures of the period from 1825 to 1835 made the mistake of supposing that the railway bore an analogy to the canal, and traces of this mistake appear in almost all of the early charters. It was supposed, that, like the canal, the railway would be built by one class of capitalists, but that also, in the same manner as over the canals, the traffic over the railway would be carried on by another class of individuals or corporations, of forwarders and common carriers, who, under regulations and charges for toll established by the railroad company, would do the transportation business over the line. It was supposed that the railway was merely an improved highway, the carriages of which would run within certain grooves from which they could not depart, and that in all other respects the railway corporations would be one function and the business of transportation over it would be in the hands of others. — The charter of the Ithaca & Owego railroad contains the following language: "Sec. 12. All persons paying the toll aforesaid may, with suitable and proper carriages, use and travel upon the said railroad, subject to such rules and regulations as the said corporators are authorized to make by the 9th section of this act." (Laws of N. Y., 1827, p. 17.) — Certain members of parliament foresaw, that, as a means of protection of the public, the limitation upon excessive profits imposed in these undertakings by fixing a maximum rate of charges was insufficient. Pre-eminent among those members of parliament was Mr. James Morrison, who, in a speech delivered in the house of commons May 17, 1836, said: "The limitation of the rates of charge is in a progressive country good for little or nothing. The increase of population and trade has been so very great that a toll that would have yielded an ample profit on a railway constructed a dozen or twenty years ago, might now perhaps yield an equal amount of profit were the rates reduced a half. Nothing in fact can be more improvident or more absurd than that parliament should once for all fix the rate of toll when an undertaking is entered upon, and divest itself, unless by violating the right of property, of the power to reduce that rate in all time to come, how greatly soever it may exceed what would be a liberal return for the capital invested in the undertaking. I need not add that it is of the greatest importance to the interests of the public, that the cost of internal communication should be reduced as low as possible. The limitation of the dividend is a practice found to be as ineffectual as the fixing a maximum on the rate of charge. The public has no check on the system of management, nor can it explore the thousand channels in which profits may be distributed, under other names, among the subscribers, nor has it any means of preventing the wanton and extravagant outlay of money on the works, etc. To make the provision for limiting the dividends good for anything, it would be necessary that all the proceedings of a company so limited should be controlled by commissioners appointed by the government." He therefore insisted that in every case a clause should be inserted in parliamentary concessions to railway corporations, by which parliament reserves to itself the right to revise the rates of toll every decade, or oftener. Mr. Morrison also deprecated the idea that competition would prevent excessive charges, and even at that early day he foresaw that a vast amount of capital would be expended unnecessarily in making duplicate lines, whereby the public would not be benefited by the securing of lower rates of charges, but the existing traffic would be divided in combination by the new lines and the

prior existing lines, even though the roadbed of the latter was by no means taxed to its maximum capacity in doing the traffic on the line. He urged upon parliament the necessity of preventing such a waste of capital, claiming that by a reckless chartering of new lines competition was not secured, and that the new lines when built would by combination with existing lines prevent the public from securing the benefits to be derived from the chartering of the new lines.— In a speech delivered in 1845, nine years after the former speech, Mr. Morrison, after showing the gradual reduction in the cost of and charge for transportation, and the enormous benefits which the railway system had conferred upon England, as well as the great social changes which were taking place in consequence of the existence of the railway system, continued: "These various circumstances prove that the question now is no longer one of private consideration, but one of great public policy, a matter not to be left to the control of inferior boards or private companies, but one which ought to be subject to the interference of parliament, and guided by the wisdom of the government. A great social change is in the act of taking place, and it is to this great subject that I invite the attention of the house, of the government, and more particularly of the right honorable baronet (Sir Robert Peel) at the head of the administration, and I entreat him to look at this question as one great whole, and not to regard it in detached, isolated details and fragments. If he will view it in all its many and important ramifications, if he will estimate the combined effects of all sorts that are certain to follow from this extraordinary combination of influences, he will, I think, agree with me in believing the subject to be one of the greatest moment, one fraught with unspeakable benefits if properly directed, but, if neglected or mismanaged, threatening us with evils of portentous magnitude."—He then entered upon the question of tolls. He said: "I may here be asked the principle upon which I would regard the rates of toll. My answer is, that I would determine the rate of toll in every case by the sum at which the particular line of railway could now be constructed. The public are not bound to inquire what the line really has cost, but merely to ascertain the sum for which it could at the present time be constructed, and the railway proprietors ought to be compelled to carry the public and their goods for such fare as would yield a fair profit upon such outlay." "So little, indeed," he concludes, "was the subject of railways understood in its commencement that the original rates were fixed upon the supposition that the railway proprietor would be the proprietor of the road only, and that the persons using it would pay merely for the means of transit, as upon the canals. It is well known that such has not been the case. Railway proprietors are almost universally not only the owners of the line, but the carriers upon it. Still, strange as it will seem, the legislatures have continued, in every railway bill down to the last bill of the last session, to repeat these lists of tolls, although in no single instance, I believe, has it been found practicable to carry them into effect. These rates of tolls are practically a mere delusion. In truth, parliament might just as well have ordered the several companies to exhibit in their stations a set of old sheet almanacs. They were a mere useless incumbrance."—These were the utterances of a member of parliament of extraordinary intelligence, of a man who had worked his way up from a clerkship to the position of being the richest merchant in England, where he occupied a position somewhat akin to that held at a subsequent day by A. T. Stewart in the United States. To him England, and indeed the commercial world, owes the system of charging in retail transactions one uniform and undeviating price, without cheapening or bargain, a system which has since his time been adopted as the sound commercial rule in England, in America, and in the leading cities of France and of Germany.— In this country, a few of the early charters, copied somewhat from the English parliamentary acts, contained maximum rates of toll in a schedule of rates. In some of these early charters the state reserved the right to purchase within twenty years the railway thereby authorized to be constructed. No general act then existed indiscriminately granting the right of way and the right to condemn property to any persons who saw fit to organize a railway corporation, but in every instance an application had to be made to the respective legislatures for the various powers to be exercised by the corporation. Some little safeguard was therefore left in the hands of government against too great an abuse of public power.— In 1846, owing to the spread of the politico-economical doctrines before referred to, and to the corruption incident to the railway lobby in the legislative halls, the new constitution of the state of New York required its legislature to pass general laws under which corporations may be formed (Art. viii., § 1), and, acting in the spirit of this requirement, the legislature of 1848 did pass a general railroad act, substantially like the one reenacted in 1850, except that the legislature, by the act of 1848, did, in each particular case, reserve the power to grant by special act the right of eminent domain, and give to corporations about to build and operate railways a means only, under the general law, of organization and of powers. In 1850 that safeguard was surrendered by the passage of a general railway act omitting such reservation. Thereafter twenty-five persons could, by the mere filing of articles of incorporation in the office of the secretary of state, become a railway corporation, endowed with power to take property *in invitum*, and to run lines wherever and in whatever form they saw fit, subject only to certain restrictions as to rights in cities, and to condemn property for such purposes. This placed railway corporations upon the footing of any private enterprise in the hands of corporate management, and, except as to passenger traffic, was a complete surrender of every attempt on the part of the government to supervise, regulate or control the rail-

way corporations of the state, or to subject them to any conditions securing, without discrimination and injustice, fair and proper rates to the public. This general railway law did away with the railway lobby; and the immediate benefits in the way of extensions of the railway systems, and the freedom from public corruption resulting from this railroad law, caused other states to follow in the wake of the state of New York, and state after state passed general railway acts in imitation or modification of the one enacted by the state of New York in 1850. This introduced the era of what was supposed to be competition, with results which we shall presently examine in detail. — Now let us look at the course that the railway question took in other countries. — *Belgium.* In Belgium all concessions for constructing railways are granted by the minister of the interior, subject to the ratification of the chamber of deputies and of the king. The expectant corporators deposit a plan, giving the line of the route, estimates of its revenue, and the probable expense of the undertaking, together with a tariff of tolls for passengers and freight traffic, at which they propose to carry. The project is then submitted to the department of roads and bridges, or to a special commission of engineers for report. All inquiries to verify the calculations and the statements of the projectors are made at the expense of those who deposit the plan, and for that purpose they are required from time to time to pay in to the ministry such sums as they may be called upon to contribute. Then for a period of from one to three months the whole plan is advertised in the locality to be affected by it. The local councils of the municipalities through which the road is proposed to be laid, consider the project, and report to the ministry. After these reports have been presented, a hearing is had, either before the commission on bridges and roads, or before the minister himself, at which the engineering work, the guarantees for its execution, the objections to its being undertaken, etc., are discussed, and the manner in which the government is to exercise surveillance over it is fixed. The rate of charges by the company, the time for which they may be demanded, and the time within which the work is to be commenced and finished, are also specified. After all these questions have been settled, the whole matter is then submitted to the chamber and senate and the king, either of whom can alter it before it passes as a law. — In Belgium the government itself, however, built the principal lines, or bought them up, and it now in theory allows private companies only to build extensions and developments of the main lines. In 1850, of the lines of railway in Belgium, 64 per cent. of the whole were owned by the government, and 36 per cent. by private individuals. After the construction of its main lines, however, the Belgian government retired from the work of constructing new lines, and in consequence there was, in 1860, 67 per cent. of the mileage in Belgium in the hands of private individuals, and only 33 per cent. in the hands of the state. By amalgamation, however, these small feeders in the hands of private individuals in process of time have developed into trunk lines, competing with the government lines on their own field. — The *Grand Central Belge*, a private company, was formed out of seven companies, and the *Societé General d'Exploitation*, another private line, was formed out of nineteen companies. So long as the government owns, controls and works its main lines of railway, and keeps down the interest upon the outlay to 7 per cent., no dangerous combination, however, is to be feared. It may at any time, if any line becomes very profitable, buy it up, as, under the terms of every concession, a railway line in Belgium is subject to purchase by the state for the benefit of the commonwealth. The purchase price is the net receipts of the seven last preceding years of the company's working, from which the receipts of two most profitable years are deducted, and an annuity, equivalent to the average dividend of the five remaining years, with the addition of 15 per cent., is paid for the road. — One of the peculiarities of the Belgian system is, that the government guarantees the line it allows to be built interest at the rate of 4 per cent. on its actual outlay; it thus has full justification for supervising the construction of the railway, and insisting upon the fullest possible reports, prescribing the method of its book-keeping, designating some of its officers, and generally regarding the railway corporation as wards of the state. This method of guarantee also prevents the undertaking of lines which do not promise to be fairly remunerative from the start. The rates of charge of both the passenger and freight traffic of all the railways of Belgium are fixed in the concessions themselves, which are limited to ninety years. The rates are, of course, maximum rates, the companies being at liberty to reduce their rates to any point below the figures set forth in the law. But when the state has guaranteed the 4 per cent. of the capital, the consent of the minister of public works is, however, necessary, before the tariff is permitted to be lowered. A very active competition was carried on in past years between the railways owned by the state, and the railways owned by individuals, wherever the lines touched the same points. This competition has resulted in the corporate railways being permitted to make special contracts in the same manner as the state railways did down to about 1864, when a law was passed forbidding the making of special contracts; and compelling both the state railways and the individual railways to carry all their freight at schedule rates. — By this system of state guarantee of investment, the state is prevented from carrying its competition with the private lines beyond a certain point. The fact that the private companies must be permitted to earn a net revenue of 4 per cent. upon the capital invested therein, or the state must make good the deficiency, serves as a check upon the compe-

tition of the state. — This system resulted in giving to Belgium the best, and in every way the most efficient, network of railway service on the face of the globe. It had low rates of passenger traffic, and low and certain rates of freight traffic. The private companies were earning good dividends upon their capital. The state, on the one hand, prevented the private companies from becoming a dangerous monopoly; and, on the other hand, the constant competition with private enterprise compelled the state to manage its own property with frugality and intelligence, to be able to sustain the competition with private enterprise. The state reserves to itself the regulation at all times of the number of trains to be run upon the private roads; their connections with other railways, and the amount of the terminal charges, are likewise under state control. Before any contract between two different companies can be acted upon finally by the companies themselves, it must be submitted to the department of public works and the department of roads and bridges, and receive their approval. — In every concession, clauses are introduced, requiring the companies to take the cars of other companies at certain rates, and to furnish the motive power for them to some point upon their own line, and the state can interfere authoritatively in the event of any company refusing to comply with these conditions. — Besides the competition of the governmental railways, the private railways of Belgium are subjected to the active and constant competition of the numerous canals, which form quite a network of waterways throughout that little kingdom. From 1850 to 1860, the tendency in Belgium was toward private ownership; since 1860, the tendency has been toward governmental ownership, and this so strongly that probably in a few more years the government will be the owner of substantially all the main lines of rail. In 1870, about 400 miles of railway were bought by the government, and since that time, about 600 miles more have been purchased. Competition, however, can scarcely be said now to exist in a country where the conditions of the competition are fixed by so powerful a corporation as the state has become, and the private owner is helplessly impotent, and has no alternative but to sell out. Yet the public in Belgium is well and satisfactorily served by its railway system, and none of the disgraceful conditions of our own railway system are known there. The overpowering force of the competition of the state, of course, causes considerable criticism and dissatisfaction on the part of the investors in the shares of private railways, but this competition on the part of the state is not a new matter, as the projectors of the private lines invested their moneys and built their lines with a full knowledge of the competition to which their lines should be subjected. In 1870, the net result exhibited by the state railways was a return of 6 per cent. upon the capital invested, being, on the whole, as great a net result as any railway system in the world exhibits. — *France.* To each of the great French lines, now six in number (originally nine), a distinct territory was laid out, in which it could construct its trunk line, which was supposed to be a profitable one; it was then required as a condition for having the district handed over to it, also as part of the condition on which it was to operate their main lines, to build a number of feeders and local lines, which were supposed, on the whole, not to be profitable. It was soon found, however, that these secondary lines were so unprofitable and burdensome, that, if they were to be built at all, without danger to the abandonment of the main lines, the state would have to come to the aid of the railways. The state, thereupon, did advance large sums of money to the railways, for the purpose of constructing their loop lines, and made the concessions upon the condition, that, at the end of ninety years, all the lines should become state property, and the state was to take the rolling stock at a low valuation. — All the rates of charges, for both passenger and freight traffic, are regulated with the utmost minuteness in France. At any time before the ninety years expire, the government can purchase the whole of the road at a capitalization of an average of fifteen years' income, after disregarding the two worst years, and taking as the minimum figure of the capitalization the lowest year immediately preceding the purchase, below which figure it may not be capitalized. This is done to prevent the state from resolving upon the purchase immediately after an exceptionally good year. The rates of fare and of freight traffic are, of course, mere maximum rates, the companies being permitted to go as far below such rates as they see fit. Every tariff of charges must be submitted to the government for the purpose of receiving its sanction, and a month's notice must be given of any proposed change. — France has a perpetual committee to supervise its railways and to arrange the tariff of charges, to settle disputes between competing lines, and between the public and the railways. This committee is composed of the following persons: A president—the minister of public works; a vice-president, who is the director general of bridges, roads and railways; three experts appointed by the minister of war; three experts appointed by the minister of finance; one expert appointed by the minister of the interior; one expert appointed by the minister of commerce; two inspectors general of bridges and roads; one inspector general of mines, the inspector general of railways, and a secretary. This commission exercises both a commercial and a technical control. — In France, every company is bound to receive and carry forward all goods tendered to it, and to publish, one month in advance, the mileage rate at which it will carry them, and the time within which it will deliver them, varying according to the distance carried. No private arrangement of any kind is permitted to be made with any organization. The terminal charges are all prescribed. No one, interested in the stock of the railway, or in its direction, is permitted to make any contracts with the railway for supplies, and even every passenger time-table is

submitted to the government for approval. — In France two tendencies have in recent years striven for precedence: one, the extension of the ownership by the state of the railway system, and the hastening of the right of the state to purchase, in less than ninety years, the rolling stock of the railways, and to acquire the rights of way of the existing lines; the other, a tendency to postpone the acquisition by the state of the railway system of France, coupled with the attempt, on the part of the railway corporations, to make themselves intermediately less dependent on the state. M. Leon Say, a well-recognized authority in matters of finance and political economy in France, recently became minister of France. His relation to the house of Rothschild is a well-known one, and it is also known that the house of Rothschild is the largest owner of the share capital of the most important and richest line of France, the *Chemin de fer du Nord*. In his budgets Leon Say devoted considerable space to the financial complications which may arise in consequence of the large additional outlays that may be required by the French government to acquire the existing lines of rail, and discouraged as much as possible additional outlays by the state, for the present, either to extend the system of existing lines of state rail, or to make any further attempts to acquire such transfer by anticipating the time for the acquisition by the state of the railways. Notwithstanding his powerful influence and the ability which all France recognized in him as pre-eminently the best qualified statistician and financial administrator, the French chamber of deputies refused to give countenance to his suggestions, and he was compelled to relinquish power mainly by reason of the unpopularity of his position on the railway question. — The railways owe the French government about 600,000,000 francs, and the French government is now in process of investing additional sums of money, not only for the purpose of building its own lines, but to enable the railway companies to build lines of intercommunication in territory which is admittedly unprofitable.—The ablest and strongest opponent to Say's project was Allain Targé, who, in concluding the discussion in 1881, said: "You want to temporize with the financial power of the great railways. Know you, gentlemen, what this power is? It is the greatest which now exists in France, next to the state and the order of Jesuits. You are their confederates (addressing the ministry), and do not as you should stand in a perpetual condition of warfare with it. You can not deal with the railways as individual associations which are to be regarded each by itself, but you must regard them from the point of view that they have an interest in common, and that this common interest is so great as to make it a serious competitor to the state. They are indeed an *imperium in imperio*. They have a combined debt of 10,000,000,000 francs, and employ 280,000 officers. They stand in relation with all the trades, industries, commerce and agriculture of the community, and in their hands rests the fate of all laborers. This enemy you must fight, and the single weapon that you have in your hands is the right to acquisition and purchase. Their first word is, 'No purchase, no acquisition.' You must never surrender this weapon if you desire to hold power against them." The chamber, by an overwhelming majority, defeated Say's proposition, and France has again determined that nothing shall interfere with the ownership by the state of the railways at the time orginally fixed by the concession, and that if possible that time shall be cut short, under the power of the French government, by a purchase long before the ninety years of the original concession shall expire. — *North Germany*. All concessions are made by the minister of commerce, unless there is to be a guarantee of interest, or a subvention of some kind, in which event it must pass through the form of a law. Since the formation of the German empire, the separate states have agreed to concede to the empire the power of expropriation, and the new lines are to be constructed under the empire. This means under the chancellor of the empire, who thereupon, through a *reichsgesetz*, may authorize the construction of any line involving the interest of the state or of trade. — *Prussia*. At the commencement of its system of railways, Prussia consciously renounced, as to this service, all the benefits that are supposed to flow from competition. The laws of 1838, section forty-four, enacted that no second railway running in the direction of the first one, and touching the same principal points, should be allowed to be constructed by any promoters or corporators, other than the promoters and corporators of the first railway, within a period of thirty years from the opening of such railway. The state, for a due consideration, by the very same law, however, reserved the right to purchase the property of all the railways and appurtenances organized under that law, after the lapse of thirty years. When such authority was to be exercised, the state was to pay twenty-five times the amount of the annual average dividend paid to the shareholders during the last five preceding years. It was also to pay the debts of the company in the same manner as the company would have paid them. — A number of railways were built by governmental subvention in Prussia, and many of them have since that time become by foreclosure the property of the state. To a great many others large loans were made by the government, subjecting them to such a measure of governmental control as practically to make them state roads. As to all others, the state claims a right of a third part of the net revenue of the lines, beyond 5 per cent. — In 1870 there were in Prussia 3,204 miles of rail which belonged to the state, and 3,595 miles of rail which belonged to private lines. All tariffs, both for freight and passenger traffic, must be submitted to the government, and receive its assent. These tariffs must be published, and can not afterward be raised without the consent of the minister of commerce. At the rates adopted, the

companies are bound to convey, without distinction of persons, all goods delivered for conveyance, the transport of which is not forbidden by police regulations. — Since the war with France, and the consequent acquisition by the empire of the Alsace and Lorraine lines of rail, by successive enabling acts, the governmental acquisition of railways proceeded with great rapidity, so that each year circumscribed the number of private lines, and now there are but very few lines to be acquired to make the whole railway system of Prussia a strictly governmental institution. Indeed, the railway directory never fully survived the decree of June, 1870, by which the minister of commerce took possession of the railways for military purposes, and held possession of them during the war with France. At the close of the war, the state claimed and exercised the right to supervise the expenditure of railways and to take part in their deliberations, also to determine the amount that they are to carry to the sinking fund, and the amount they are to pay as dividends. From that time forth the paternal and inquisitorial power of the government was so relentlessly exercised against them, that all power of resistance to state absorption was undermined, and they fell an easy prey to the will of the iron chancellor Bismarck, who had determined that the lines should become the property of the state. The directors of the private roads protested at first against this interference, claiming that under the laws creating them they were exempt from supervision of that kind. To this the minister of commerce answered, that he claimed the right of the royal commission, to take part at the meetings of the boards of the private railway companies, so as to see to it that the object of the meetings was in the interest of the public. He said that the railway administration could rest assured that the supervision of the state would make itself less and less felt in proportion as the railway administration, by a prompt, cheap and safe service, gave evidence to the public that they rightly comprehended and were endeavoring to fulfill, to the satisfaction of important public interests, the trust placed for public purposes in their hands. The minister of commerce closed his answer with the following significant admonition: "I can not, therefore, but recommend that the Prussian railway administrations press no further the opinion of the narrow limits of state supervision over private railways, as expressed in their memorial presented to the chancellor, as it is a position which certainly is not pressed in the interest of the shareholders. This much is certain, that for a long time past the commercial public has demanded the restriction of the independent power of railway administration, which went beyond the restraints hitherto enforced." — The rapidity with which the acquisition of the private railways by the Prussian government has proceeded is indicated by the following figures: At the end of 1879 there were 3,800 miles of state railways; 2,170 miles of private lines under state control; and 6,200 miles of private lines under state supervision. At the end of 1881 there were 7,070 miles of state lines; 2,170 miles under state management; and 3,110 miles of private lines. At the end of 1882 there were 9,500 miles of state lines, 1,320 miles of private lines under state management, and 2,400 miles of private lines. — The control of all this great system of ownership of railways in Prussia is given over to a special administration, at the head of which is the minister of public works, and under him are all the administrative officers, who respectively are located at Berlin, Bromberg, Magdeburg, Hanover, Ehrfurt, Frankfort, Elberfelt, Cologne and Breslau. These directors are appointed by the crown, and are special administrators to take the place of the private and individual administrators of the lines to which they respectively relate. These administrators have in charge the expenditure of moneys necessary for the establishment of new lines, and by the law of 1883 10,000 miles of new lines, to belong to the state and to connect with the existing lines, were devised. Mr. Von der Leyen, himself one of the most intelligent co-operators in this system of state acquisition, and holding a position of great trust under the minister of public works, in an article published in 1883, in the "Annual of Legislation, Administration and Political Economy," Berlin, says that "the first beneficial effects of the acquisition of the railways by the state in Prussia, was the uniformity of tariffs throughout the empire, and the impossibility of obtaining special rates or personal favoritism; also the extension of the through ticket system, and the cheapening of transportation for workingmen and persons of moderate means." The beneficial effects of these reforms is indicated by the increase of business. From 1879 to 1882 it rose from 12,000 car loads to 15,000 car loads. The surplus available for general state purposes, arising from the administration of the railways, over and above interest on money expended by the state on its state lines and operating expenses, was, in 1878–9, $1,660,000; in 1879–80, $3,450,000; in 1880–1, $9,575,000; in 1881–2, $7,862,500. — Nearly all railway concessions contain clauses making it incumbent upon the board of administrators of the railway in all cases to come to proper agreements as to correspondence of time tables in the administration of railways joining each other. The time tables can only go into force upon the consent of the government. Persons and merchandise must be conveyed in the order in which the application is made. No difference is to be made between passengers and goods which come directly to the lines, and those which come to them in transit from other railways. A special tariff is also prescribed. The state, therefore, in addition to being represented on every railway board, and being in itself an administrator of railways, enters to a large degree as a member into all the councils of railway management in fixing rates and in determining through traffic. — A writer in the "Quarterly of Political Economy," Berlin, 1876, in an

argument against the maintenance of private control of railway property, says, "the example of the United States affords nothing to the point. There, the administration and construction of railways in the hands of private individuals and corporations is so bad, and so utterly irresponsible, that that country affords no argument in favor of private enterprise, and yet, notwithstanding this condition of affairs, no one seeks a remedy for the evils there existing by placing the railways in the hands of the state, because corruption has eaten so deeply into the government that its ethical regeneration is scarcely to be expected as long as it has a quadrennial rotation of office, and the state treasury is regarded as the general pocket from which each one is to abstract as much as he can." The reviewer then speaks of the system in England, in which the railway has, by amalgamation and consolidation, extended itself and become a power within the state so great as to be dangerous to the state. He refers to the speech made by the president of the chamber of commerce of Plymouth, who says that "the railways have become our great highways, and should be regarded from an entirely different point of view from any other undertaking." The writer further refers in his article to the opinion of the royal railway inspector of Canada, in which he says that the monopoly of the railway in that province has become so great that the question will very soon be debated, whether the railway should own the state, or the state the railway. From all the conditions resulting from allowing free scope in private enterprise in railway construction and management, the reviewer comes to the conclusion, that on the whole it would perhaps be better for the German states to own the railways than to allow them to continue to be private enterprises, though subject to state control. — *Austria.* This country followed the course of France, by making concessions for the period of ninety years to the railways. The government built several important trunk lines at the expense of the state, some of which are operated by private corporations, but it still owns its main trunk lines. Its system of supervision of state lines, as to the tariff of both passenger and freight traffic, is complete. — *Switzerland.* No state lines exist in Switzerland. The republic has allowed private enterprise to build a net-work of railways. It has, however, an extremely effectual system of supervising the tariff of charges which must exist thereon. A perpetual commission regulates the relations of the corporations to the stockholders and the public, and provides for a thorough investigation of their affairs, and their constant publicity. — *Italy.* This country owns of its lines about 1,000 miles of rail, and is in negotiation for about 4,000 miles more, so that within a very short time it will possess a large majority of the mileage of rail within its own territory. — In all these countries, therefore, even including England, the railway has never been regarded wholly as a matter of private enterprise. In the majority the state built or assumed ownership of the trunk lines, and in all of the nations of continental Europe the proper conduct of these corporations has been regarded as so bound up with the welfare of the community that they could not safely be left wholly to private enterprise, but that the state, representing the public, should exercise continuously a more or less rigid control over their construction and administration. — Taking up the history of the relation of the government to the railways in England, where we left it with Mr. Morrison's speech in 1839, let us look at the steps taken by the English people and government to reacquire, as to railway enterprises, the control which, notwithstanding the warnings given by men like Stephenson and Morrison, they had allowed to slip from their hands. — In 1839 an attempt was made by royal commission to subject railway schemes to some harmonious direction as to the points from which the roads were to radiate and to which they were to go, so as to make them somewhat analogous to the French system; but the reply came that it was already too late, because so many railroads had already been constructed and projected, that it would be an unjust impairment of the rights of property to interfere with them; that the roads were already built, and could not be removed, and that others were too far under way to have their powers changed. Between 1836 and 1839 public agitation was directed mainly against excessive charges for passenger traffic; as to which, limitations were thereupon fixed. The powers of the railways had already become so great that many members of parliament were directly under their influence, and many others owed their seats to the railway power. Notwithstanding this influence, however, a bill was introduced in 1840 to create a commission for the superintendence of railways, the commission to be a kind of sub-organization to the board of trade. This bill, after several amendments, was carried, mainly through the influence of Sir Robert Peel, who, although a few years before bitterly opposed to any interference with private control of the railway system, now admitted "that they were monopolies, and that it was necessary to create some tribunal as a standing investigating committee for parliament, to prevent too manifest and too great an abuse on the part of these powerful and moneyed organizations." The bill was considerably modified during its passage through the house, more especially in the second section, which, as originally reported, had provided for a uniform system of book-keeping, and for a very thorough system of reports on the part of the railways to the board of trade. This provision, however, in the bill that eventually became law, was so emasculated as to require simply reports in such manner as the railways saw fit to make them. The bill as passed embodied a clause which established a bureau of railways as a part of the board of trade. — A glance at the 55th volume of "Hansard's Debates," p. 125, etc., will show how greatly the ablest men

in parliament were, at that time, under the influence of general phrases in relation to the non-interference of government, and how completely they misunderstood the essentially monopoly character of the railway corporation, interference with which was, in this case, a duty which, if neglected, was a renunciation of one of the chief functions of government. It was assumed in the debate, by those who were opposed to the bill, that the right of the state with reference to the railways was entirely limited to securing the safety of the traveling public, and that as to the carrying of freight or goods the railway was an entirely private enterprise, like any other common carrier. The first protest of moment against this view, in addition to Mr. Morrison's efforts, was the publication of William Gault's pamphlet on "Railway Reform" in 1843. After a very thorough examination of the whole subject, and recognizing fully the fact, that, in its importance, the railway bore the same relation to the highway that the highway bore to the footpath, inasmuch as the traffic of the country was being carried, to a very considerable degree, almost wholly by rail, he came to the conclusion that the existing lines of rail should be acquired by the state, and that all further extensions of the railway system should be carried on by the state as the owner of the public roads. — At the beginning of the session of 1844, Mr. Gladstone, then president of the board of trade, requested the house of commons to appoint a committee to report what, if any, changes should be made in relation to the consideration of railway bills; what amendments should be made in the railway concessions and franchises already granted, and what changes, if any, should be made in the standing orders as to the manner of the consideration of railway bills. Mr. Peel objected to the extent of the inquiry, claiming that it was an interference with vested rights, to consider grants already made. He expressed his conviction, at that time, that the further development of the railway system would bring about a competition which in time would do away with much of the monopoly character of those enterprises. A committee of fifteen was appointed, and testimony was taken, mainly upon the question of the absence of competition and combination between railways, the building of loop lines for subserving special interests without regard to the public needs, and the tendency to amalgamation which then had begun to make itself felt. A large proportion of the time of the committee was taken up in the examination of the question of minimum rates for passenger traffic. Mr. Glyn, the banker, who, next to Hudson, the railway king, was, at that time, the largest share proprietor in England, and who had been for many years, and was then, the president of the London & Birmingham railway, stated his conviction that no corporation ought to have any larger powers than were absolutely necessary for the profitable working of its line; he conceded that if the matter were an entirely new question, he had no doubt whatever but that the best way of dealing with it was for the state to own the railways, because, he said, the people as a whole had as much right to their great public highways as they had to the light of heaven. On economic grounds, however, he disapproved of the purchase of the railways by the state, saying he feared the state would be cheated in the transaction, and intimating that the roads had not cost what they were capitalized at; but he believed that thenceforth it was the duty of the state to control the railways with greater rigor and force. The report finally made by this committee contained a severe criticism upon the then existing mode of considering and passing railway bills, which the report suggested should all be submitted to the board of trade for criticism before being entertained by the proper committees of the houses of commons and of lords. Parliament took up the report for action in 1844. The suggestion was then made, that, when any new railway shall, after fifteen years, pay for three successive years, consecutively, 10 per cent. dividends, it shall be in the power of the board of trade to revise its tariff, but in that event, that parliament must guarantee the 10 per cent. dividend to the railway. This suggestion was again modified by the further suggestion that the board of trade could demand a rebate of the guarantee by reason of bad management. A further limitation was made by providing, that, during the existence of the guarantee, the corporation shall not increase its capital stock, and that at the end of fifteen years the board of trade might purchase every new railway at twenty-five times the average dividends of the last preceding three years, from which, however, a deduction was to be made for insufficiency of the permanent way, and the rolling stock being out of repair. — Against the passage of this bill the railways fought principally for time. In this they were aided by the powerful Sir Robert Peel, who suggested that a year's notice, at least, should be given before a bill of such magnitude could be passed. (Hansard's Debates, vol. i., 76, p. 482.) — Mr. Gladstone referred to Mr. Saunders' testimony and to that of George Hudson, showing that the railways did not consider themselves free from competition and opposition by other lines of rail, and his admission was used by the opposition to show that the natural law of competition would apply to cure the evils that were complained of. Mr. Gladstone, in a speech, showed that the threat of the passage of this law did not prevent new railways from being organized; that fifty new bills, representing £20,000,000, had been filed since the report was made. He stated, that, though he knew the railway had become sufficiently powerful to send representatives into parliament instead of having them hang around the lobby, he did not believe they would become so formidable, or that parliament had sunk so low, that its members would, at the bidding of the railway interests, refrain from giving their sanction to the bill unanimously reported by their own committee.—John Bright was the most formidable opponent to Mr. Gladstone's suggestion. He was a

free trader, flushed with the great victory which had just attended his efforts in the establishment of his principles, and was ready to apply these principles to the most incongruous subjects. He was in the full vigor of his power, and had already made for himself a great reputation for honesty of purpose and for oratory. He dwelt upon the enormous benefits which railways had conferred upon society, showed that they were the benefactors of mankind, and that monopolies had always been the enemies of mankind; and therefore, he argued, it was monstrous to apply the term monopoly to them. He showed that the railways then already represented, in the way of vested capital, £60,000,000 in England; that they were carrying 25,000,000 passengers annually; and that it was extremely dangerous to interfere with so great and constantly growing an interest. — Sir Robert Peel argued on both sides of the question, but insisted, almost in the spirit of apology, that the government had a right to provide the same sort of publicity, with reference to the railways, that it had provided with reference to the bank of England's accounts, and he concluded with asking a vote in favor of the bill. The bill obtained, on the second reading, 186 votes in its favor, against 98 in opposition. Among those who opposed it were Messrs. Bright, Cobden, Milnor Gibson, Ricardo and Macaulay. The bill was then considerably amended before it obtained its third reading, all the amendments being in favor of the railways. As modified, it was passed, but the modifications made it useless legislation. The changes that were made in it gave the railways twenty-one years instead of fifteen, before their railway tariff could be changed, notwithstanding the payment of 10 per cent. dividend. It was then provided that the guarantee of the state should run for twenty-one years after the 10 per cent. annual dividend, thus making it quite certain that the state would never interfere with the tariff. All the deductions which, in the event of purchase, were to be made, by reason of bad management and restrictions upon increase of capital, and for want of repair, of permanent way and rolling stock, were struck out. The provisions with reference to the purchase by the government were thus made extremely onerous to the state. As the provision in relation to state acquisition was further modified, so that before it could take effect it required another act of parliament to guarantee the purchase money, the act has remained ever since, to all intents and purposes, a dead letter. — The discussion on this bill did, however, direct public attention to the question, and the "Quarterly Review" of 1844, in an article on "Railway Legislation," (pp. 224, 280), says in conclusion: "It is perfectly clear that sooner or later this great public trust can not remain in the hands of private corporations. The railways themselves have given the best evidence of their desire and of the necessity for amalgamation, by which they admit that the individual corporation can not, in a system which requires unformity and harmony, exercise absolute sway; and when the time shall have arrived that this amalgamation will bring the railway into the hands of the fewer corporations, or of a single corporation, which means into the hands of a few individuals, it is then but a step to the suggestion that the state, for its own safety, is compelled to take possession thereof; for a system of transportation which permeates every part of the land, which destroys and devours every other system of intercommunication, which incorporates itself into every public and private interest, which is as universal and all-present as the arterial and venous systems of the human body, sooner or later will come under the general control, for better or worse, of the state organization." — In 1844, a special act was passed (8 and 9 Victoria, chap. 96) by which general leasing powers in private railway acts were restricted, and all powers granted by any private act of that session, to lease, were repealed. — Pursuant to the act of 1844, a railway board, which existed just one year, was constituted as part of the board of trade, the duty of which was to report upon new railway schemes and purchases, and upon proposed extensions, amalgamations and competition. The board reported by giving its decisions without assigning reasons. It sat in secret, and published no debates. This un-English proceeding subjected it to a degree of criticism and animosity that compelled the government to recommend that the board be abolished, which was accordingly done in 1845. In that year the competition between railway corporations became so keen, and the canal companies suffered to such a degree from it, that a law was passed authorizing the canal companies to vary their tolls, and to borrow money so as to maintain the competition. The railways thereupon rapidly bought up the canals, and canal and railway amalgamations went on with great vigor. In 1846, one year thereafter, a committee of parliament reported, that within that year a large number of canals had passed practically under the control of the railway corporations, and were working under joint management. This committee recommended that all amalgamation between canal and railroad companies should be forbidden, except under the sanction of parliament. They also recommended that it was absolutely necessary that some department of the executive government should be so constituted as to command general respect and confidence, and to be charged with the supervision of railways and canals, with full power to enforce such regulations as might, from time to time, be indispensable for the accommodation and general interest of the public. They particularly recommended this in view of the fact that the private arrangements which are made between railway companies and railway and canal companies, and which may or may not be *ultra vires*, do not come under the supervision of parliament at all, and expressed their belief, that, with a properly constituted executive body, it would come under their supervision, and could be subjected to restriction. — Between 1844 and 1846, came the period, al-

ready referred to, of the railway speculative mania. The influence which that had upon parliament is given by Francis, in his "History of the Railway," in these words: "Members were personally canvassed, solicitations were made to peers, influences of the most delicate nature were used, promises were given to vote for special lines before the arguments were held, advantages in all forms and phases were proposed to suit the circumstances of some and the temper of others. Letters of allotment were tempting, human nature was frail, and the premium on five hundred shares irresistible. The 'Athenæum,' about that time, said: 'It is the fashion to assume that our legislators are not now open to pecuniary bribes. It may be so, but we must leave that question to be decided by our children's children. If public rumor be no more than usually scandalous and false, there are some curious revelations yet in store for these youngsters, relating to railway bills.' The curious revelations had not to be waited for until the birth of our children's children, but they came in 1845, and in the winter of 1846, with the railway crash. A return called for by the house of commons, of the dealers in railway undertakings, formed a very remarkable blue book. The noble, who, in the pride of blood and birth, had ever held traffic in contempt, was there blazoned as a trader. The priest, who, at his desk, prayed to be delivered from the mammon of unrighteousness, was there revealed in the city to sell his scrip at a premium. There were 900 lawyers, and 364 persons connected with the banking interest, who subscribed contracts for above £2,000; one solicitor was down for £154,000. There were 157 members of parliament, of whom one signed for £290,000, one for £250,000, and one for £171,000; while the remainder were down for sums which must have influenced their feelings to a degree which might have influenced their votes." (Francis' "History of Railways," vol. ii., pp. 188–190.) — In 1846 an act was passed constituting the railway commission, which was composed of five persons, the president of which was paid £2,000 a year, two members were paid £1,500, and two others received no pay. The main purpose of this commission was to take into consideration all schemes which were to be submitted to parliament, to make special inquiry and reports, and formally to report upon all bills before parliament on railway matters, so as to guide the parliamentary committee. But as the railway committees of the house of commons and house of lords refused to be guided by the recommendations of this commission, it was abolished, and their duties were once more transferred to the board of trade. A series of bills was passed to prevent the absorption of lines by rival companies, but the ingenuity of railway counsel was superior to the ingenuity that drafted these bills, and by the purchase of stock of other railways and appointing railway directions who were mere *simulacrums*, the railway corporations absorbed each other's lines without having parliamentary powers so to do. — In 1853 another railway special committee was appointed by parliament. This committee, after taking testimony, recommended the appointment of a committee of a more permanent character than had theretofore been in existence, to consider all schemes submitted to parliament at every session, and that a railway department of the government should be created for the purpose of affording assistance and advice whenever the committee might desire it. It then pointed out that amalgamation of railways had proceeded to such a degree in England, that each particular part of England had become the centre of a system of railway management of its own, and that the great railway corporations had swallowed up all the competing and intersecting lines. It suggested the passage of a bill relating to the traffic arrangements between different companies, and submitted a plan of a measure by which the canals were to be maintained. The result of these recommendations was the passage of the canal and railway traffic act of 1854 and a prohibition of preferences in traffic contracts given by different railways. Part of the scheme of the act of 1854 was to submit grievances to the board of trade only, after the court of common pleas, sitting as a court, assisted by an engineer and barrister, had determined that an actual grievance existed. This part of the act proved inoperative. Lord Campbell foresaw and foretold that it would become inoperative, insisting that a lay tribunal should be created for the investigation of such questions, and that judges were not the proper persons to consider matters of that kind, as they were naturally disinclined to act in an advisory manner to governmental bureaus, and that such disinclination would render resort to them well nigh useless. However, the law of 1854 contained one very useful provision, to the effect that no preferences of any kind should be given by railways for services of a like character, and forbade all discrimination between individuals as to traffic of like character. — In 1865 a royal commission was appointed to consider the subject of railway communication. It made its report in 1867, after taking a great mass of testimony as to British and foreign railways. As regards legislation, this commission insisted upon the expediency of requiring the board of trade to assist the parliamentary committees by reports. It made many valuable suggestions as to interchange of traffic; it considered the subject of amalgamation, and the necessity of checking it; nothing was done, however, to prevent the proceeding of the amalgamation and consolidation of English railways, as is shown by the fact, that, in 1845, the London & North Western railway had owned but 879 miles of road, and that in 1870 it operated and owned 1,507 miles. The Great Western, which originally consisted of 118 miles, operated and owned 1,870 miles in the year 1870. The North Eastern, which in 1846 owned 274 miles, had, in 1870, extended its line so as to be the owner of 1,281 miles; and the Great Eastern, which originally had 188 miles of road,

operated and owned 874 miles in 1870. Amalgamation had therefore proceeded in England to such a degree, that, in 1870, the field was practically divided between the great lines of railway, so that, somewhat like France, England had seven great systems of lines brought into existence without concessions of fields of territory by the state, but which by the natural course of development and consolidation, and the economy produced by such consolidation, divided the field of railroad enterprise in England, and created a concentrated power that presented at that time to the English government the formidable question, whether ultimately the state should control the railways, or the railways control the state.—We now come to the most important epoch in the English railway history, one reversing the policy which, down to that period, regarded the railway as private enterprises—the appointment of a joint select committee, in 1872, of the house of lords and house of commons, to consider the subject of railways. This committee was composed of Mr. Chichester Fortescue, Lord Derby, the Marquis of Salisbury, Earl Cowper, Lord Redesdale, Lord Belpur, Mr. Hunt, Mr. Childers, Mr. Cross, Mr. Dodson, and Mr. Stephen Cave.—After taking testimony, covering, with appendix, upward of a thousand pages of an English folio blue book, the committee recommended the organization of a new tribunal to consider railway grievances, constituted both as a court and as an advisory committee on railway legislation. The committee recommended this course in preference to fixing tariffs by statute, as the change of circumstances often makes such tariffs inapplicable or impossible. This was not only the recommendation of the committee, but followed the opinion of almost every leading railway official of England who was examined as to the proposed remedies, among whom were Mr. Allport, Sir Edward Watkin, Mr. Price, Mr. Broughton, Mr. Dawson, and others. — The committee conceded that it was difficult to provide any fixed or self-regulating rules which would, through the medium of self-interest or of the ordinary action of law, protect the public. They recommended that the proposed tribunal should be endowed with certain functions, among which were, to see to it that railways publish rates and fares and live up to them, and to consider and act upon such alterations as from time to time are adopted in the classifications; to examine into every case of undue preference; and to investigate complaints of unfairness between traders or between towns and districts, so far as they can be raised under the railway and canal traffic act (Lord Cardwell's act of 1854, and amendments). It having been found that the expense of going to the court of common pleas was so great as to give the wealthy companies great advantages over private traders, and that the non-publication of rates prevented the trader from knowing whether he had a case or not, the committee recommended that exclusive jurisdiction be given to the tribunal to examine into cases of preferences, and that appeals from these decisions be limited to such cases as the special tribunal should certify involved questions of law which should be considered by the Westminster tribunals. A further function with which, according to the recommendations of the committee, the tribunal was to be clothed, was to see to it that proper facilities be given for the forwarding of passengers and goods under the provision of the railway and canal traffic act relating to that subject. — It was conceded in the report of the committee by Mr. Broughton, Sir Edward Watkin and Mr. Price, that the courts were incompetent to deal with the subject, and that arbitration was unsatisfactory; hence the necessity for the organization of a tribunal to secure those ends. — The committee also recommended the control of tolls on canals by the tribunal, and the enforcement of any obligation imposed on the railway companies to secure the proper maintenance of free navigation on the canals. The tribunal was to settle questions between the local authorities and the companies concerning new branch lines, and also to settle all disputes between railway and canal companies. They were also to settle all questions arising between the war and postoffice departments on the one hand, and the companies on the other. — The additional duty to be conferred on this special body was to advise parliament in reference to railway legislation. As to the necessity for constituting this court, the committee say: "No existing institution possesses the necessary qualities. The board of trade has not the requisite judicial character or means of action, a court of law fails in practical knowledge and administrative facility, and the committees of the houses of parliament have no permanence." A new body, therefore, was, in their opinion, to be constituted for all these purposes, and to wield all these powers, to be called the railway and canal commission, and to consist of no less than three persons of high standing, one of whom should be an eminent lawyer, and another a person well acquainted with railway management, their proceedings to be as simple and inexpensive as is consistent with giving due consideration to and hearing questions openly and fairly. In conclusion, the committee state that "competition between railways exists only to a limited extent, and can not be maintained by legislation; that combinations between railway companies were increasing and likely to increase, whether by amalgamation or otherwise; that the self-interest of the companies alone was not sufficiently protective of public interests, and that their interest was only to a limited extent the interest of the public. And it therefore becomes necessary," they add, "to consider what can be done in the way of enforcing statutory obligations." As to the ineffectual character of past legislation, both in limiting dividends and creating a maximum of rate of charge, the committee were by no means mealy mouthed in the way of condemnation. They say of the railway companies, "They are monopolies who are unlimited in their charges for carriage except by the parliamentary

maximum, and who are restricted by no definite limit whatever as regards terminal charges; these two charges they mix up together, and under the present system do not separate. They are practically under no restriction except that of their own interest, which may not be the same as that of the public. They claim and exercise the right to vary their charges to any extent they please within the parliamentary maximum, to favor one set of men or description of goods at the expense of another; to charge high rates for short distances, and low rates for long distances, or to charge two different rates for the same service if they think it to their interest to do so; and not only do they claim to exercise all these powers, but they refuse to tell the public how they exercise them or why they exercise them. The remedies given by the canal and traffic act of 1854 must, under such circumstances, fail for want of the requisite knowledge; and the recent act, by which companies carrying goods are bound, on application made within a week after payment, to give an account distinguishing between rates for conveyance and terminal charges, is wholly useless, because, in the first place, the trader is practically unable to enforce the law against the rich and powerful company; in the second place, he wants to know what he has to pay before paying it, and also what his neighbors and rivals are paying; and in the third place, because the companies do not themselves distinguish accurately between terminal charges and mileage, and, when an inquiry is made, can only give an approximate answer." — Upon the question whether the interest of the public and that of the companies are identical in the same sense that they are in the case of a private trader, the committee say, "That it must not be hastily assumed that self-interest will play the same part in these large undertakings which it plays in ordinary trading concerns. There is a powerful bureaucracy of directors and officers. The real managers are far removed from the influence of the shareholders, and the latter are, to a great extent, a fluctuating and helpless body. The history of railway enterprise shows how frequently their interests have been sacrificed to the policy, the speculations or the passions of the real managers. On the other hand, the directors and principal officers of these great undertakings are often men of high standing, who feel that their position is something different from that of mere managers of a trading concern, and become in a certain sense amenable to public opinion, and especially to its expression in parliament. Thus for good as well as for evil the management of railways differs from that of an ordinary trade or manufacture, and approximates in some degree to the business of a public department." And as a summary of the history of legislation preceding the sessions of the committee, they state "that committees and commissions carefully chosen have for the last thirty years clung to one form of competition after another, but that it has nevertheless become more and more evident that competition must fail to do for railways what it does for ordinary trade, and that no means have yet been devised by which competition can be permanently maintained." — This report, made under a liberal government, and one which was, therefore, considerably under the influence of the very men who opposed all interference with railways, on the ground that such interference was, in one form or another, a violation of the principles of free trade, marked a complete change of the views of the leading political thinkers of England. Even Mr. Bright no longer opposed the formation of a railway commission. Experience had taught the English people that in many departments of human activity the doctrine of non-interference of government would not apply, and not only were railways rapidly being subjected to governmental supervision and control, but also factories, merchant shipping and other industrial manifestations. The report of the railway committee of 1872 resulted in the law of 1873, creating the tribunal recommended by the commission. The gentlemen appointed by the crown under this commission were Sir Frederick Peel (the second son of Sir Robert Peel), Mr. William Phillip Price, who was for many years the chairman of the Midland railway company, and Mr. Macnamara, who held the position until 1877 (the time of his death), when his place was filled by the appointment of Mr. Alexander Edward Miller. Mr. Balfour Browne became the registrar of the railway commission. A large number of cases were brought before the commission, which were promptly and ably dealt with. — The commission was originally appointed for five years. During those five years the railroad companies tried two different methods of discrediting the commission. One method was, by carrying cases up on appeal, to show that the commission acted arbitrarily and against law; the other was, to avoid as much as possible resort to the commission by complying with all the laws, and settling cases before they could be brought to the commission's attention. By the one course they tried to prove that the commission was composed of men not well qualified for the work, and by the other, that it was superfluous. In both attempts they signally failed. The cases carried up on appeal by them were generally affirmed in favor of the commission, and the fact that the fear of the railway commission induced the railway companies to behave with proper regard for the laws which constituted them and in the interest of the public, did not prove that the rod was superfluous by reason of it not being necessary to apply it, but proved that the very existence of the commission had a wholesome effect upon the railway companies. In 1878, therefore, notwithstanding the efforts of the railway corporations, and more especially the strenuous opposition of Sir Daniel Gooch, chairman of the Great Western railway, the commission was reconstituted by an act enlarging its powers, and the same commissioners were continued in office. The railway commission is now a permanent tribunal of the English judicial and administrative system,

and will in all probability be made, within a very short period, one of the branches of the supreme court of judicature, with the power of appeal limited so as to avoid the expensiveness of protracted litigation ruinous in England to a private litigant against the practically illimitable purse of a great corporation such as the London & North Western or London & Midland railway. — With the appointment of the commission of 1873, the English railway system entered upon a new phase. A proposition of the ownership by the state of the railways of England, which twenty years ago was almost looked upon as chimerical, is now regarded as a very possible, and will very soon be regarded as a very probable, contingency. The amalgamations which have been going on have somewhat facilitated this possible acquisition by the state. Lord Derby, in a discussion at a meeting of the Society of Arts in 1873 upon that subject, stated that he had not the slightest doubt, that, if the public really wanted the railways purchased by the state, it could be done, and the question of price would not present any insuperable difficulty. The first step in that direction has already been taken in England by the purchase of the telegraph lines and adding that service to the postal department of the government.— Mr. Joseph Parsloe, in a monograph on the railways, says upon this subject, after weighing the arguments *pro* and *con.* as to state purchase, "that an endeavor has been made to show that enormous benefits would accrue from the management of railways by the state. At the same time it should be only after the very fullest consideration of the question, in all its multitudinous bearings, that such a change in working the system should be introduced. It has been a common practice on the part of some critics to characterize as visionaries any who have urged the adoption of a scheme of state purchase; or the ability to form a correct judgment upon the matter has been questioned. For the most part such criticism has originated with those interested in keeping things as they are, and who, while questioning the usefulness of one proposal, have not been prepared with any other to put in its place. It will scarcely be questioned that our railways have in them the material from which it is possible to obtain a much larger amount of national benefit than is now derived. What remains to be done is, that the best means shall be adopted for the attainment of the greatest public good, and if any plan preferable to state management can be devised, it will doubtless be received with satisfaction." He himself seems to be doubtful as to whether any such plan can be devised. — One of the dangers apprehended by the opponents of state interference in England was, that in the creation of a special tribunal to supervise railway administration the individual shareholder would be injured. The very opposite has been the result. Apart from the fact, that from 1873 there was considerable additional activity in the commerce of England, a great general rise in the value of railway securities has taken place since that time, not entirely attributable to the increased activity of trade and commerce, but due in great part to the fact, that in England, as in all other countries where private administrations were freed from the direct supervision of the state, the indirect and comparatively remote supervision exercised by the shareholders over the corporate managers was not sufficient to insure the most economical and wisest administration. Special interests of railway directors would interfere with the administration, would cause the building of loop lines for the purpose of benefiting special local investments by them and their friends, and even the management of English railways is not entirely free from jobbery to benefit members of the boards of direction. The supervision of the state has made this so difficult and almost impossible, that the administration of those trusts has sensibly and visibly improved. No interest has reaped a larger benefit, not even the public, than the shareholder himself, from the reversal of the policy of the English government. Greater certainty and publicity of railway charges, and the system of interchange of traffic, facilitated and enforced by the railway commission, have been of as great a benefit to the stockholder, on the one hand, as the holding of boards of direction to a rigid amenability to the public has been of benefit, on the other hand, to the people. SIMON STERNE.

RAILWAYS, Legislation Concerning, and Management of, in the United States. After the passage by the state of New York, in 1850, of its general railway act (see the preceding article) there was inaugurated in the United States a deliberate withdrawal of governmental supervision from railway enterprises, on the theory that they were private businesses, to be left as unrestricted as the manufacture of boots or clothing. — The New York law, with but slight modifications, was enacted by the various states, so as to promote railway building, and also to remove the corrupting tendency of special railway legislation. When each railway corporation was the recipient of a special grant by legislative enactment, the railways, in consequence of the large interests involved, corrupted the members of the legislature, and it was honestly supposed that by permitting everybody to build railways the principle of competition would be applicable. It was argued that there could be no such thing as monopoly in matters free to all, and that the rivalry between the respective lines for business would create, as to railway administration and railway management, the same beneficial results that rivalry and competition create in other private enterprises. The rapid development of the country from 1850 to 1857, under the low tariff, good crops and general confidence, in connection with the rapid development of the railway system, prevented, down to that period of time, any evil effects arising from this absence of control from becoming apparent. Though some few evil consequences did come to the surface, yet these were so largely counteracted by the benefi-

cial results of railway construction, that the community regarded them as but passing vexatious incidents to a great benefit, and that time would cure the evil. — When, in consequence of the financial crisis of 1857, many of the railways became embarrassed and mortgages were foreclosed, a new device was concocted, which at the outset appeared conservative and innocent enough, but brought in its train evil consequences of considerable magnitude in the relation of the railway to the state. These foreclosures, if carried out rigorously, threatened to destroy the value of all junior mortgages and of railway stock. The junior mortgagees and the stockholders thereupon fought desperately in the courts, to delay as much as possible the right of the holders of the bonds under the first mortgage either to take possession of the railway, or, by a sale under the hammer, to cut out all equities beyond the first mortgage, in the hope that such delay would tide the road over into better times. To bridge over these difficulties, and to prevent such delays, railway lawyers devised a scheme of reorganization committees, to represent in the reorganization of railways all the rights existing with reference to the property at the time of the insolvency, and on their behalf to repurchase the property, and, by a new capitalization, to readjust these rights. Under the reorganization the first mortgage holders received new bonds representing again a first lien, and certificates or bonds to represent accrued interest; the junior mortgages were again recognized by junior liens or preferred stock; and the stockholders generally, on condition of making some payment toward defraying the expenses of the readjustment and putting the line in proper condition, received scrip or stock to represent their former interests in the roads. Bankruptcies, therefore, did not, after this device was generally adopted, produce as to railways the same result in the way of the destruction of fictitious value that they produce by failure in other departments of business, *i. e.*, to transfer the commodities or property, by means of such a sale or title, at bottom or conservative figures; but, on the contrary, the stock and bond capital of the corporations which had emerged from insolvency came to the surface with a larger capitalization than before default, with no construction to balance such additional capitalization account. Therefore, to enable the corporation to pay, in addition to operating expenses, interest upon its stock, the directions were under the strongest incentive, and even necessity, to oppress, at non-competitive points, the territory where the railways had a monopoly power. — The courts lent themselves readily to this new device of reorganization, because it appeared to be conservative of vested rights of property, and prevented waste and destruction. The possible influence of these devices upon the future development of the railway system in its relations to the state and the people, was either not thought of or disregarded. — From 1857 to 1860 many insolvent railways were reconstructed upon this plan, and, at the end of this reconstruction period these railways emerged with a considerable additional capitalization, representing simply accumulated debt. In 1861 the war broke out, severing the lines running north and south, and in consequence of the operations of the government and the increased and feverish activity of the country during the four years of the war, the trunk lines running east and west were greatly developed. It was during this period of the war that congress began, upon an extensive scale, to charter the transcontinental lines of rail so as to connect the Pacific coast with the east. — The charter of the Union Pacific railroads was passed July 1, 1862. Under this charter the right of way, and a subsidy of land and of money, were granted. By the act of July 2, 1864, the governmental subsidy was greatly increased. Land to the amount of five alternative sections per mile on each side of the road was granted to the railways. The secretary of the treasury was required, upon a certificate in writing of the commissioners, showing the completion and equipment of forty consecutive miles of railroad and telegraph lines, to issue to the company bonds of the United States, of $1,000 each, to the amount of $16,000 per mile; and as to the 150 miles westwardly from the eastern base of the Rocky mountains, and 150 miles eastwardly from the western base of the Sierra Nevada mountains, $48,000 per mile, and between the two mountain chains $32,000 per mile. The Central Pacific railroad, chartered under the laws of the state of California, was taken care of in the same manner. A like amount of land was granted to it, and a like sum of money subsidy. These were not, however, the only grants made by congress in this act. The Hannibal & St. Joseph railroad, the Leavenworth, Pawnee & Western railroad and the Kansas Pacific railroad became the recipients of sections of land and subsidies of bonds. The Burlington & Missouri railroad was also the recipient of a land grant. — The act of 1862 gave to the government of the United States, in return for the subsidy, a first mortgage upon the railway property to be created by the Union and Central Pacific railroads. The act of 1864 allowed the corporation to postpone the government's lien by a first mortgage to an amount equivalent to the subsidy given by the United States, and made the lien of the United States for its money subsidy subordinate to that of the bonds of the companies issued under such first mortgage. About $65,000,000 was thus given to these corporations, in addition to their valuable land grants, and the lien of the government postponed to that of another mortgage, authorized to be issued for an equal amount. The Union Pacific railroad was thereupon constructed by an organization known as the *crédit mobilier*, composed, as to persons interested therein, mainly of the persons who were instrumental in procuring the passage of the act, and who were the real incorporators of the road. To this corporation all the issues of bonds and stock were made, and it also was the recipient of the sub-

sidy of the United States after building and equipping certain parts of the road. It proved an instrumentality of distribution of profits under the cover of building the road. — The grants of land to the Union Pacific railroad amounted to 2,000,000 acres; to the Kansas Pacific, 6,000,000 acres; to the Central Pacific, as successor of the Western Pacific, 1,100,000 acres; to the Burlington & Missouri River, and to the Sioux City & Pacific, 2,500,000 acres. — On July 2, 1864, the Northern Pacific railroad was also incorporated, and although no money subsidy was given to that corporation, it was the recipient of the largest land grant of any of the corporations, being entitled to receive under its grant 47,000,000 acres. By the act of July 27, 1866, there was granted to the Oregon branch of the Central Pacific, 3,000,000 acres; to the Oregon & California railroad, 3,500,000; to the Southern Pacific, 6,000,000; and to the Southern Pacific branch line 3,500,000 acres. A considerable proportion of this acreage may be saved to the people by the failure of many of these railway companies to complete their lines within the time specified by the acts of incorporation. But these grants show with how liberal a hand the congress of the United States disposed of the public domain in favor of these corporations, to aid them in the construction of their lines. — During the same period of time large grants of land, owned by the general government within the states, were made by congress to the states, for the purpose of enabling such states to make large land grants to the railways proposed to be built within their borders. As early as 1850, about 2,500,000 acres were granted to the state of Illinois, and by it granted to the Illinois Central railroad, mainly, to aid in its construction. In 1856 Florida received grants of land amounting to about 2,000,000 acres, and which Florida, in turn, transferred in great part to the Florida railroad and the Florida & Alabama railroad. Arkansas was the recipient of more than 2,000,000 acres, which it, in turn, transferred almost wholly to railways. Minnesota, Kansas, Wisconsin, Michigan and Iowa were all the recipients of large grants of land, from which these states endowed railway corporations by heavy grants of land. The territory of the United States appeared to the legislator of that period an inexhaustible fund of land, and millions of acres were given away with what now appears to be reckless extravagance. Long anterior to these munificences on the part of the general government, some of the states were called upon to aid, by actual grants of money, some of the railways which were built within their borders. The state of New York paid to the various railroad corporations within its borders about $8,000,000, of which about $5,000,000, granted to the Erie railroad company, was wholly lost, and granted about $30,000,000 in municipal and county subscriptions.—The right of the United States to charter railway corporations was exercised under the power given to it by the constitution "to regulate commerce with foreign nations and among the several states and the Indian tribes, to establish postoffices and post roads," and also under the general authority to execute all powers vested by the constitution in the government of the United States, and likewise under the authority given to congress to provide for organizing the army. — The lines of the Pacific roads were constituted post roads, as they necessarily carried on the function of interstate commerce; and, as they were required to carry the army and army supplies of the United States, the establishment of these corporations as United States corporations is warranted under a liberal construction of the constitution. As these corporations have been the recipients of immense gifts of property from the general government, and as the latter is in nowise restricted by the prohibition as to impairing obligation of contracts, these beneficiaries can not possibly make any valid claim against being subjected to regulation, even if such regulation be in the nature of afterthoughts on the part of the United States government in the interest of the people of the country. — The system of through lines, now known as trunk lines, developed between 1868 and 1872. The Lake Shore road passed under the control of the Vanderbilt interest, and there was no longer any necessity to break bulk as far as Toledo. The Michigan Southern and Michigan Central likewise passed under the same control, and through lines were established to Chicago, although the several railways remained state organizations, and were never consolidated as one company. The Pennsylvania railroad, under the name of the Pennsylvania company, leased the Fort Wayne road in June, 1869; the Erie & Pittsburg, in March, 1870; the Columbus, Chicago & Indianapolis, in February, 1870; the Little Miami road from Columbus to Cincinnati, likewise, in February, 1870, and the Cleveland & Pittsburg road, in 1871. These, together with the Ohio, Madison & Indianapolis railroad, and the Cincinnati, Wilmington & Zanesville railroad, gave to the Pennsylvania line practically two lines to Chicago and one to Cincinnati during the same period. The Baltimore & Ohio road was opened to the Ohio river in 1852: it leased the Central Ohio road in 1872, and then built an independent line to Chicago in 1874, completing its through connection to Chicago. The Grand Trunk railway, by controlling and leasing other lines and building links, pushed its connection at about the same period through to Chicago, so that there were substantially, from the seaboard to Chicago, five trunk lines vying with each other for business for the west, from the time these trunk lines pushed their connections on to Indianapolis and St. Louis. — Prior to completing the organization of these trunk lines, freight was compelled to break bulk and suffer transshipment at the end of each state line, where a new corporation took up the traffic and carried it beyond. To prevent this breaking of bulk, and to expedite the carriage of freight, fast freight lines on separate capitalizations were organized, at first by the managers of the railways themselves owning or leasing their freight cars, and then made profitable by special

arrangements with the railways readily enough secured, because of the fact that the railway officials themselves were largely interested in the fast freight lines. These lines carried a considerable proportion of the traffic in the period anterior to the organization of the trunk roads. With the completion of the trunk line west came also a change in the organization of the fast freight lines. The managers of the railways became more largely interested in the success of their trunk organizations than in the subsidiary lines that were absorbing a considerable proportion of the business of the roads. These subsidiary lines were therefore broken up, and the private corporations abandoned · and each of the various railroad corporations constituting the trunk lines, in the proportion of the percentage of traffic carried over their roads, as nearly as that could be ascertained, contributed freight cars to the formation of fast freight lines intended to carry through traffic. Thus a great reduction in the cost and an increase in the speed with which goods were carried, were introduced, and it is now no longer necessary to break bulk at various points, but goods can be shipped to their terminus by either of the trunk lines through the instrumentality of fast freight lines connected with them. — From the fact that a large portion of the business of the roads was thereupon done by these fast freight lines, and that these fast freight lines were represented by an independent organization or staff of officers and agents, it was supposed by the public that these lines were barnacles fastened upon the railway companies for the purpose of abstracting from them, to the advantage of the managers and to the detriment of the shareholders, a large proportion of their traffic. —Although this suspicion was well founded in the early history of the fast freight lines, it ceased to be true after the organization of the trunk line system. A peculiar result, however, arose from the existence of the fast freight lines as an independent organization. In consequence of the freedom of the freight agent of the fast freight lines from the direct control of the trunk managers of the railroads, the railroad companies themselves found it almost impossible to fix a rate of freight which would not, in the intense desire to gain traffic, be immediately cut by the fast freight lines doing business over their roads. Thus, contemporaneously with agreements between the trunk line organizations to maintain rates, an active rivalry was kept up in the rates charged by the railroad corporations themselves and by the fast freight lines which ran over the roads and belonged to them. — The pool agreement, to which reference will presently be made, removed this difficulty. The financial crisis of 1873, like that of 1857, caused the insolvency of a large number of railroad corporations, and the same proceedings which resulted in the emerging from bankruptcy of the railroad corporations that became insolvent in the preceding crisis, followed the insolvency of the railroad corporations in 1873, by which reconstruction committees were appointed. The various corporations emerged after insolvency through this process of reconstruction with capitalizations of funded debt and stock capital generally larger than that with which they entered into this condition of insolvency, and without any additional road or construction to account for the increase. — The general depression of trade and the failure of crops succeeding the crisis of 1873, and the struggle for business between the roads, caused them to carry through traffic to the east at very low rates, for which they sought to compensate themselves by excessive charges for local traffic. This produced in the western states a very general feeling of dissatisfaction with railway methods and railway management, and gave rise to what is known as the granger movement. — The western states were more liberal than the eastern states in grants of land and money to railroad corporations. From 1860 to 1870 these railroad corporations not only obtained large donations of land, but counties, townships, cities and villages desirous to become connected with the net-work of railways of the United States, and to be brought into active communication with the movement of commerce throughout the country, vied with each other in debt accumulation for the purpose of granting subsidies to railways. A large proportion of the whole bonded municipal indebtedness of the United States is due to what may be termed the frenzy on that subject. This recklessness of debt creation for the purpose of obtaining railway communications has some degree of justification in far western states, which it would not have had in any community otherwise situated. France, England and Germany, and also the seaboard and middle states of the United States, had, prior to the existence of the railway, good means of intercommunication by canals and highways. But, in the far western states, the railway was practically the only road. The western counties, townships and cities regarded the expenditures on railways as something analogous or equivalent to expenditures on the ordinary roads, and much of this debt creation was fostered by the influences of the railway corporations themselves, and a great part of it was doubtless fraudulently contracted through the bribing of local officers. In many cases the railways obtained subsidies of bonds, which they sold, and never built the railways. A large number of litigations, on the question of the liability of the public bodies granting such subsidy bonds, arose in the states themselves, many of which were disposed of in the United States courts. The innocent holders of these bonds sought to obtain judgment against counties or towns, which, either failing to obtain the consideration for which the bonds were issued, or discovering that the bonds were fraudulently issued, or from the mere desire to repudiate the burden imposed by the issue, sought to escape from the payment of the principal, or the levying of a tax to pay the interest. In a great number of these cases the decision of the supreme court of the United States was favorable to the bondholders, and the burden once imposed

was allowed to rest, however recklessly or extravagantly the bonds were issued and the burdens assumed. — The extent of this indebtedness, however, added fuel to the spread of the granger agitation. The heavy local taxation reminded the farmer or local tradesman of the aid which he assisted in giving and was called upon to pay to the railway; at the same time, the railway, which he supposed would confer upon him a great benefit, was placing his particular locality at a disadvantage by carrying past his door to more distant points and to the seaboard freight at rates very much lower than he was charged as local rates, the reason being simply that the more distant point was a competitive point, and he was entirely at the mercy of a single railroad corporation. — The western farmer's efforts to seek relief from this condition of affairs would have met with very considerable obstruction had he not been aided by the wording and language of the constitutions of the several states, which enabled him to avoid any contract relation being successfully established between the state and the railroad corporation by reason of its original charter. — In the Dartmouth College case it was decided, in 1819, by the supreme court of the United States, that, by the legislative charter to a private corporation, a contract relation was created, which, under the clause prohibiting the states from impairing the obligation of contracts, forbade the state from thereafter passing laws substantially changing property rights of such corporation. The various states of the Union took alarm at the possible consequences of that decision, and, either by general laws or by constitutional amendment, provided that the legislature shall, at all times, be at liberty to alter, amend or repeal the rights or privileges conferred upon corporations. — The state of New York, after having had for many years a provision to that effect upon its statute books, embodied, in 1846, such a provision in its constitution; and the western states, on their organization, followed substantially the provision of the constitution of New York. In obedience to a strong public sentiment, which made itself felt during 1871–4, throughout the western territory, the legislatures of Iowa, Wisconsin, Illinois, Ohio, Missouri, Minnesota and Michigan, passed laws, known as granger laws, by which railway commissioners were appointed, railway tariffs sought to be regulated, preferences forbidden, and railways required to carry for the inhabitants of a locality freight at a rate somewhat proportionate to that which they established for through traffic. — This legislation was violently attacked in the courts by the railways themselves, and the bondholders of the railways also called it in question on the ground that such legislation impaired the obligation of their contract, because, though it left the rails and the cars, it substantially took away the profit of operating, and thus, in disregard of the constitutional provision that no private property shall, without compensation, be taken for public purposes, deprived them of property without compensation. These cases came before the supreme court of the United States in 1876, in the test cases of Munn *vs.* Illinois, and Peake *vs.* The Chicago, Burlington & Quincy Railroad. This controversy was disposed of by the supreme court of the United States adversely to the claim of the railroads and of the bondholders, by upholding the validity and right of all such state legislation. — Panic legislation of this character was, of course, faulty. It proceeded from an insufficient examination of the whole subject. It was, in fact, treating the symptom instead of the disease. Notwithstanding the complete vindication, by the supreme court of the United States, of the right of the states to enact legislation laying down tariff rates for railways, whether remunerative or not, the majority of the states which had enacted such legislation receded from their original position and modified their tariff rates; many abrogated them, and contented themselves with the establishment of railroad commissions for the purpose of investigation and examination of grievances, and to report thereon to the legislatures, but left on the statute books, however, prohibitions against preferences, and forbade the railways from destroying the commerce and trade of a locality by rival contests for through traffic. — In some of the eastern states, notably in Massachusetts, a different course was pursued. In that state an excellent board of railroad commissioners was appointed by the act of the legislature of 1869, composed of Charles Francis Adams. Jr., James C. Converse and Edward Appleton. The duty of these commissioners was to inspect the railway system of the state, and to inquire into accidents and the system of management, as well as the general question of railroad development, and the relation of the community to its railroad corporation. To entertain complaints of individuals or localities against discriminations or unjust treatment, and to report thereon, was also made part of their duties. Authority was also given them to hold public sessions, and to make report of their conclusions to the legislature. They had no judicial powers, but were constituted a general board for public investigation of railway management, thus to draw public attention to, and to bring to bear public opinion upon, the subject. To concentrate responsibility, to sift information, and to advise the legislature, also appertained to their functions. They were subsequently empowered to prescribe and enforce, and they did prescribe and enforce, a uniform system of accounts. — This board has been in successful operation since its organization; and has been of great benefit to the commonwealth which appointed it, and of great service as an example, beneficially imitated by other states, of one of the most conservative modes of dealing with railroad corporations. — Mr. Charles Francis Adams, Jr., the chairman of this commission, in an argument before a committee of the federal congress in 1880, in speaking of railroad management and its relation to the public, says: "I must ask you to dismiss all preconceptions from your minds, and to fairly consider what is the real cause

of the inequality, the injustice, the discriminations of the existing railroad service, those ills of the body politic for which you are now undertaking to prescribe. I will not stop to dwell upon them or to denounce them. It is not necessary to do so, for I hold them to be proven and their existence notorious. The record is full of evidence on the subject. We all know, every one knows, that discriminations in railroad treatment and charges do exist between individuals and between places. We all know that railroad tariffs fluctuate wildly, not only in different years, but in different seasons of the same year. We know that certain large business firms, the leviathans of modern trade, can and do dictate their own terms between rival corporations, while the small concern must accept the best terms it can get. It is beyond dispute that business is carried hither and thither—to this point, away from that point, and through the other point—not because it would naturally go to, away from or through those points, but because the rates are made on an artificial basis to serve ulterior ends. In regard to these things I consider the existing system nearly as bad as any system can be. Studying its operations as I have, long and patiently, I am ready to repeat now what I have repeatedly said before, that the most surprising thing about it to me is, that the business community sustains itself under such conditions. The first principles of law governing common carriers are habitually violated. Special contracts covering long periods of time are made every day with heavy shippers, under which the common carrier, whose first duty it is to serve all equally, gives to certain parties a practical control of the markets. There is thus neither equality nor system, law nor equity, in the matter of railroad charges. A complete change in this respect is a condition precedent to any just and equitable system of railroad transportation." — Coming as they do from a gentleman of high authority, who for ten years held the position of chairman of the railroad commission of the state of Massachusetts, and who at the time when he spoke had held for one year the position of arbitrator, selected by the great trunk lines to settle disputes and differences between them as one of a court of three arbitrators voluntarily constituted, these words are more cogent, and are to be assumed as a more correct representation of existing conditions resulting from the development of the railroad system of the United States, than any speech, either of granger suffering from his particular grievance, or of railway president anxious to retain his hold upon a monopoly interest. — The attempt to enforce upon the railways of the state of Massachusetts the adoption of a system of accounts prepared by a set of "theorists," was vehemently opposed by the railway corporations, who called it an infringement of their chartered rights, which would prove a mere appliance for exacting blackmail, and expose details of management concerning which the public had no interest. The commissioners, on the other hand, insisted that the community had an interest in its railroad lines, and that an administration which was a mere hot-bed of abuses should be thereafter managed in full public view. To the new system of accounts prescribed, the railways quickly accommodated themselves, and, much to their surprise, they experienced no evil result from their rendering of accounts intelligible to public bodies and to the public at large, but rather found great benefit flow therefrom. — The recent instances of the failure of the Eastern railroad company, the sudden collapse of the New Jersey Central and of the Reading railroads, show how utterly unable was the public to form, from the published accounts in annual reports, any adequate conception of the condition of railroad property. In each of these cases the annual report preceding the insolvency claimed the roads to be financially in flourishing condition. Against such abuses as these, the system of uniform accounts and thorough investigation seems to be a specific. On this subject and its success, the Massachusetts commissioners, in their report for 1879, draw a very correct line of distinction. In speaking of the spirit which called forth an investigating board such as the Massachusetts commissioners, and that which prescribed a hard and fast tariff of rates for railway companies such as granger legislation attempted, they say: "After a careful investigation, which extended through a year, and the conclusions of which are to be found in its earlier reports, this board wholly rejected the idea of attempting to regulate railroads in this country, at least through direct legislative intervention. It was said that such an attempt would result only in failure, or perhaps generate new and dangerous abuses of its own. The board, on the contrary, maintained that every desired result or needed reform could be secured by simply developing in the public mind the idea of corporate responsibility, and supplying the necessary machinery to act directly upon it. To bring this about, it was necessary to force the corporate proceedings into the full light of publicity, and to compel those responsible for railroad management, whenever an abuse was alleged, to submit to investigation, and to try to show that the abuse did not exist. Failing to do this, their only alternative was to discontinue its practice or to persist in it in open defiance of public opinion. This is the theory of railroad regulation now known as the commissioners' system, in contradistinction to the granger system. The public supervision of the accounts of the railroad corporations is an essential feature in the successful development of this theory. If that can be established, it will certainly lead to the gradual abandonment of the granger system in favor of a supervisory system. The commissioners believe that it has been established in the practical experience of the Massachusetts railroads in the last two years, and they further believe and say that the system works well." (Massachusetts Railroad Commissioners' Report, 1879, pp. 29, 30.) — In New York state the board of trade and transportation, a body

originally organized under the title of "The Cheap Transportation Association," set itself the task, in 1873, of bringing the railway corporations of the state of New York to public amenability. From 1850, down to that period, no serious attempt had been made in that state to create in railroad management any sense of public responsibility. The reports which the various railroad corporations of the state were required to file with the state surveyor and engineer, were almost wholly meaningless. No balance sheet accompanied the reports, and the railroad corporations, in conforming with the letter of the law, vied with each other in giving as little information as possible. The state surveyor had neither power nor desire to make any independent investigation. He simply published from year to year such information as the railway corporations saw fit to give him. No penalty, which had the slightest deterring influence, was imposed for giving insufficient or even false information. The state law forbade parallel lines from being leased to each other. Nevertheless, railroad corporations, by purchasing the majority of the stock of the parallel lines, ran them in the interest of their main railroads. — In 1868 a consolidation took place between the New York Central railroad and the Hudson River railroad, by which they subsequently became one line. On the consummation of the consolidation new stock was issued, substantially doubling the capital, or, in other words, watering the stock, of both lines. This watering of stock was promptly legalized by the legislature of the following year, which conferred authority for exchanging the certificates into shares of stock. Thus, these roads in their new capitalization neutralized all the advantages that they had of easier gradient and no mountains to pass over, which had given to New York state cheaper railway construction than to Pennsylvania and Maryland. Although during the summer months, when canal competition is active, or under circumstances when the competition for through traffic with other roads creates a strife, capitalization is of little or no consequence, yet, on the local traffic, capitalization produces the result of compelling the local shipper to pay such a rate as to make it possible for the proprietors of the road to pay dividends on their stock. By the general railroad laws of the state of New York it is provided, that when the dividends of any railroad corporation shall reach 10 per cent., the state can declare how the surplus above the 10 per cent. shall be applied. This provision, however, was made quite nugatory by the trick of stock watering. It is clear, if with each increased valuation of the road the proprietors can declare stock dividends not representing construction account, that a dividend of 10 per cent. on stock will never be declared, although in point of fact the railway may be earning 20 or 30 per cent. upon its actual cost of construction. — This bold stroke of financial policy, which laid the foundation for the colossal wealth of the Vanderbilts, drew attention to this evil, and gave to the cheap transportation association (subsequently the board of trade and transportation) an excellent ground for agitating the subject of railroad abuses. To this agitation considerable vigor was imparted about this time by the discrimination then practiced against the interest of the commerce of New York, whereby the railroad corporations chartered by the state of New York made more favorable rates to Baltimore, Philadelphia and Boston in their charges for all west-bound as well as east-bound freight, than to New York. — One of the periodical treaties of peace after a railroad war of great intensity gave to Philadelphia an advantage of two cents a hundred on freight rates from the west, to Baltimore four cents a hundred, and to Boston the same rate as was given to New York, on the lowest class of freight. On the western-bound freight the discrimination against New York in favor of Philadelphia and Baltimore amounted to from seven to ten cents a hundred on the different classifications of freight. This difference in rates was made on the theory that Philadelphia and Baltimore were relatively nearer to the western centres than New York. Boston, however, which was farther away by two hundred miles than New York, was given the same rate. On east-bound freight the theory upon which the discriminations were made against New York was, that the ship charters from and to New York were lower as compared with the other seaboard cities. This, however, on examination, proved untrue. Upon this state of affairs being made apparent, the chamber of commerce, as well as the board of trade and transportation, took up the question of railroad discriminations, and in a report published by the chamber of commerce in 1878, it appeared that during a considerable part of January of that year, the rates over the New York Central, the Erie and the Grand Trunk roads, were from Boston to Chicago from thirty-five to forty cents a hundred. From Boston to Chicago salt was shipped at fifteen cents, while forty-five cents was the lowest rate from New York. From Philadelphia to Chicago the rates during the same dates were made as low as seventy cents on first-class goods, while during the same period the rates were maintained at a dollar from New York to Chicago. The lower classes were relatively as high. The committee reported that goods stored in New York were shipped to Boston to be forwarded to the west through New York over the Erie road, or via the Boston & Albany over the New York Central road, at a saving of almost 50 per cent. over direct shipments from New York. Through freights from Liverpool to Chicago, fourth class, were as low as twenty to twenty-five shillings per ton, while the rates remained from Liverpool to New York forty to forty-five cents per hundred pounds, equivalent to about thirty shillings per ton. These facts were brought to the attention of the railway presidents, and their aid was solicited to remove the discriminations against New York. They made a contemptuous answer, Mr. Vander-

bilt more especially drawing attention to the facilities offered by other cities to their railroad corporations, and claiming that the New York Central had not the same facilities offered to it by the municipal government, and that the merchants should use their influence upon the municipality to extend the facilities afforded the railway corporations in like manner as facilities were extended to the Pennsylvania railroad by Philadelphia, and to the Baltimore & Ohio railroad by Baltimore. A commissioners' bill, which had been drawn, was, for four successive years, submitted to the legislative committees of the state of New York for action, but in almost every instance it had either been reported upon adversely, or, if reported favorably, had, through the influence of the railway companies, been smothered in one or the other of the houses. — Finding redress impossible through the voluntary action of the corporations themselves, the chamber of commerce, through its committee on transportation, therefore determined to lend its aid to procure the establishment of a railroad commission for the state of New York. — Besides the grievances before referred to, another, of an extremely burdensome character, which affected the people of the state at large, also existed at that time. Between 1875 and 1877 the great railway corporations entered into an active railroad war, and in consequence of the resulting freight rates, cereal products and flour were frequently carried by the companies at a loss from the west to the seaboard. That loss might possibly have financially ruined the railway corporations of the state had a corresponding reduction been made in their local tariff; but to recoup this loss on through rates, they maintained, as to the local shipper, rates which under such circumstances became extortionate; thus making the people of the state bear the burden, through the exactions of the local tariff, of the trunk line war, in the same manner as though the state were at war and levied a tax upon its inhabitants to maintain it. This discrepancy between through and local tariffs led to the practical abandonment of milling at the great flouring centres of the state of New York, such as Rochester and Black Rock. It was impossible for them to maintain competition against the Minneapolis miller who had his cereals produced at his door and had the flour carried to New York at twenty cents a hundred; when they were compelled to pay more than that for the mere carriage of the wheat to their mills, and a higher absolute rate for the carriage of the product of their mills to the seaboard. — The grazing and cattle interest of the western part of the state suffered in consequence of the low rates of carriage from the western country of cattle on the hoof, and a destruction of interests took place to such an extent that grazing and cattle raising became a non-remunerative occupation solely by reason of discriminating freight rates against the western part of the state. These subjects were taken up and agitated by the state grange organizations and the farmers' alliance, who joined hands with the chamber of commerce and board of trade and transportation in insisting upon some remedial measure against such discriminations. — Another abuse, which, however, was carried to its extreme limit by the New York Central railroad company, gave additional ground for complaint. This abuse was the entire abandonment of any fixed schedule of tariff rates for local traffic. There was a tariff of rates which existed only for the unwary shipper who made his shipment on the assumption that all shippers were treated alike, and he was punished for his want of knowledge by being compelled to pay extortionate rates. A special rate, which was entirely personal to the particular shipper, was made almost invariably, on application, by the freight manager of the New York Central railroad exercising his discretion to make it as he saw fit. At the time when a legislative investigation was ordered, there were in existence on the line of the New York Central railroad upward of 6,000 different contracts varying in the most arbitrary manner the published schedule rate for the carriage of local freights. Underlying these special rates there was neither principle based upon car loads or train loads as contradistinguished from single packages, nor upon extent of business or readiness of handling, nor any other well-known basis of railway management. They were granted as the caprice, the whim or the interest of the railway freight agent dictated at the hour. The charge that such discriminations and special rates existed, when made to the legislative committee, appointed in 1879, was at first flatly denied, but within the first few days of the investigation which followed, and to which reference will presently be made, it was overwhelmingly proved. — Public opinion had become so agitated upon the subject that at last all the opposing influences of the railways in the assembly were overcome. An investigation of the railway system of the state of New York was ordered by the legislature of 1879, and a committee appointed to investigate the abuses alleged to exist in the management of the railroads of the state of New York. This committee was composed of A. B. Hepburn as chairman, H. L. Duguid, James Low, William L. Noyes, James W. Wadsworth, Charles S. Baker, J. W. Husted, and Thomas F. Grady. The committee invited the chamber of commerce and board of trade and transportation, which had made the charges upon the basis of which the committee was acting, to appoint counsel to conduct the examination, and stated that the committee would give to such counsel standing before it by substantially adopting him as the counsel of the committee. Under this invitation the chamber of commerce and the board of trade and transportation appointed the writer of this article as its counsel to conduct the investigation, and then during a period of eight months the investigation proceeded in the taking of testimony and the preparation of its report. — Prior to the appointment of this committee a great change had taken place in the management of the

great trunk lines in their relation to the public. Mr. Fink—who had been the vice-president of the Louisville & Nashville railroad, and who was commissioner or chairman of the committee of the Southern railway and steamship association, which was comprised of twenty-five railroads, and who by a pooling arrangement of freights in the organization of that association had substantially stopped railroad wars and competition among them, and the success of whose management had drawn attention to his executive ability—was invited by the railroad magnates of the east to organize, upon the plan of the Southern railway and steamship association, an organization to keep the peace and maintain rates for the trunk lines centring at New York, Boston, Philadelphia and Baltimore. Down to that period of time every attempt to create a "joint purse," as it is called in England, or a "pool," as it is termed in the United States, by which, to prevent railway wars, the proceeds of freight charges were divided between the railway companies, had proved fruitless. Scarcely was the ink dry on the contract made between the railway presidents before each particular railway company attempted, in one way or another, to break away from the contract thus made. So little under control were some of the freight agents, that even if the railway presidents desired to maintain the contract in its integrity, they found it impossible to control the various freight lines doing business over their own roads, and the contracts were broken almost as soon as made. Thereupon, in June, 1877, Mr. Fink was appointed commissioner of the four trunk lines, the Baltimore & Ohio, the Pennsylvania, the Erie, and the New York Central & Hudson River railroads. In December, 1878, he was further appointed commissioner of the combined trunk lines of the western roads. A contract was made, by which, in addition to the agreement as to regular tariffs, each railroad corporation agreed to accept a certain percentage of all the freight that was offered, and to send to the other lines which had a deficiency whatever surplus was offered to it, in consideration of which it was likewise to receive from the other line its own deficiency. Substantially it was then agreed as to west-bound freight, and subsequently as to east-bound freight, that the roads were to be operated with reference to traffic as though they were one corporation, and Mr. Fink, as a commissioner, was to see to it that this arrangement was faithfully carried out. He had supplied him a large staff of clerks to make these equalizations from time to time. A further development of this principle was the appointment of arbitrators, three in number, to determine disputed questions. The system has certainly resulted, first, in maintaining rates, and secondly, in stopping railroad wars between the contracting parties. A railroad war, while, on the one hand, it reduces rates, produces, on the other hand, great demoralization in business by the element of uncertainty in commercial transactions caused by the absence of a certain rate, vastly more expensive in its ultimate results than the higher rate for freight. — The all but unanimous report of the investigating committee appointed in 1879 was made after an exhaustive inquiry, contained in five closely printed volumes of testimony. This committee, in summing up the condition of railroad management as they found it in the state of New York, pass in review the various abuses which have grown up under the management of these great highways by private corporations without responsibility to the state. They refer to the evil of the drawing room or sleeping car companies, which, by their contracts with the railroad companies, create a special interest that diminishes the return of the shareholders of the railroad companies. They speak of the fast freight lines and express companies as now conducted as free from evil. They condemn the methods by which the stock yards at the terminal points of the railways are let out to individuals, and speak of this as an instrumentality which is usually attended with additional taxes upon transportation. They consider the suborganizations of railways in the way of coal companies and elevator associations, which are designated as barnacles upon commerce, as organized for the purpose of tolling the commerce of that port (Buffalo) to the greatest possible extent. On alluding to watered stock the committee refers to the fact that it was proved before them, that $40,000,000 was probably the whole value of the property and equipment of the Erie Railway company, and that $25,000,000 more would cover all the additional value of the road, as represented by stock and bonds and interests in other corporations, while it was capitalized at about $155,000,000; that its construction account covered in 1878 an item of "legal expenses" of $891,000; and that the watering of the stock of the Erie railway, as well as its bonds, is estimated by them to be not less than $70,000,000. They proceeded to examine the accounts of the New York Central railway. They found that in 1853 the stocks and bonds of the roads which at that time formed the various links of the chain of consolidation thus effected, amounted to a total of $23,000,000, and that at the time when the first consolidation was effected, premiums, or, in other words, water, to the extent of almost $9,000,000, were given to the stockholders and shareholders of these various roads. From 1868 to 1870, by the consolidation of the New York Central and Hudson River railroads, over $44,000,000 was added to the combined capital of both the Hudson River and the New York Central roads, by stock dividends of 80 per cent. on the New York Central road in 1868, and 85 per cent on the Hudson River road. — The committee pass in review local questions, which it is not necessary to enter into here, on the subject of the terminal facilities and the injustice done by the discriminations against New York by the arrangement of discriminating rates, and then they touch upon the abuse fully developed before them, connected with the Stand-

ard oil company. — It appeared by the testimony submitted, that on Jan. 8, 1872, the Central, Erie, Lake Shore and Pennsylvania roads made an agreement with the South improvement company, a Pennsylvania corporation, giving to the improvement company, on shipment of oil to different points, rebates ranging from forty cents to $3.07 a barrel. The agreement provided that its object was to maintain the business of the South improvement company against loss or injury by competition, and that the roads would lower or raise the gross rate of transportation over their respective railways and connections, to such an extent as might be necessary to overcome all competition. — When the agreement became public, the legislature of Pennsylvania was compelled by public opinion to vacate the charter of the corporation. A more ingenious and secret agreement, however, was subsequently made with the Standard oil company, by the railroad corporations, securing to that corporation the objects which were intended to be secured to the South improvement company. This company, originally composed of a few enterprising oil men of the western states, gradually absorbed into its management the Standard oil company of Cleveland, the Standard oil company of Pittsburg, the Acme oil company of New York, the Imperial oil company of Oil City, the Atlantic refining company of Philadelphia, Charles Pratt & Co. of New York, the Devoe manufacturing company of New York, J. A. Bostwick & Co., and Messrs. Rockfeller, Day, Flagler, Warden, Frew & Co., and others. — This combination against the remainder of the trade, now banded together under the name of the Standard oil company, is characterized by the committee as a flagrant violation of every principle of railroad economy and natural justice. It resulted in driving out of business nearly all competitors, and enabled the Standard oil company to purchase, at such rates as they saw fit, the refineries distributed over the United States which they desired to control either for the purposes of manufacturing or to dismantle. This threw the production, distribution and refining of oil into the hands of a single corporation, to the extent, estimated at that time, of 95 per cent. of the whole product. In this regard the committee say, that from January to October, 1879, the total shipments from the oil regions to all points were 12,900,240 barrels, and that all shipments to the seaboard would have easily borne one dollar more per barrel than they did (the rate then being about twenty-five cents a barrel); that, tested by the charge which the roads imposed upon every other commodity, it should have borne that much more; and that all the trunk lines have grown into such relations with this oil company that they were forced to forego all these millions they might have earned, and compelled to look to the other products of the country for their revenues; thus burying their own interest in the interest of the Standard oil company, and joining in this war of rates to protect the latter against injury by competition. — The attention of the committee had been drawn to the evils connected with the proxy system, by which railways were captured by the mere purchase of voting power from persons, mainly bankers, in whose names large amounts of stock were registered, but which had been sold and distributed to their customers, and were left on the stock books of the companies, standing in their names, simply for prudential reasons. This situation gave to such persons a large voting power in the railway without a substantial interest or stake in the result of the vote. To persons who desired to capture the road, it was a strong temptation to purchase such voting power; and, to persons who had no permanent interest in the road, it was a corresponding temptation to sell the power, the evil effects of which sale they were not called upon personally to bear. The committee, therefore, recommended the passage of a bill to remedy this abuse. — The committee likewise condemned the system of the reports to the state engineer and surveyor, and then passed under review the system of special rates, which was founded upon no other basis than the arbitrary will of the freight agent in giving individual shippers, located in the same town, rates varying as much as thirty cents a hundred. The committee investigated the theory that had been advanced by all the railroad experts of "charging a traffic what it will bear." Of this they said, that, "as to an increase of from fifteen cents in August to forty cents in November on grain, the rate was raised simply because the condition of the market warranted it, and the product could bear it. It would be difficult to make a criticism upon that raise which public judgment would sustain, but we are distinctly told that public interest plays an insignificant rôle in the theatre of railroad management. It is at best but a service waiting upon the interest of the stockholders. The wrong consists in exercising a censorship over the business affairs of the community; secretly, arbitrarily and unequally varying rates, building up this, developing that; not only performing the proper functions of transportation, but taking into consideration the probable or possible profit of a shipment, and adjusting their rates accordingly. If the shipper is likely to make a large profit, they compel him to divide; if the margin is a close one, they determine whether the shipment shall be made or not, whether it shall result in a profit or loss. Thus, under this system of management and this method of giving rates, is every merchant, every manufacturer, every shipper, and, through them, every individual along the 5,500 miles of railroad in this state, with its five hundred millions of capital, measurably in the power of these corporations. Conciliate their good will, court their favor, and favorable rates will follow; incur their hostility, and the margin of their displeasure may be read on your freight bills." — The committee speak of the enormous political influence which is wielded by corporations having in their employ, in 1879, upward of 30,000 voters.

They speak also of the contemptuous disregard exhibited by the railroad corporations of the state to the milling interest, in April, 1879, when they answered a temperate statement of grievances by saying, "that the first condition of having them listened to was to retract their signatures from a certain circular, dated March 15, 1879," in which these grievances were stated in moderate terms, and "to withdraw their support from a *pro rata* freight bill, which was then before the assembly." — The committee conclude their analysis of the testimony with the citation of the Shoelkopf & Matthews agreement, whereby the New York Central railroad bound itself to carry to New York, for these millers situated at Niagara Falls, at a pro rate of the through east-bound rate on grain or flour, whatever it may be, which enabled these millers to maintain their mill in full operation while their neighbors were going out of business simply because they had not as favorable a contract. The contract appeared to have been made for five years, and was to be valid on condition that it was to be kept secret. Personal discrimination could no farther go than was illustrated in that case. — This investigation proved conclusively that every charge that had been made against the railway corporations by the commercial bodies of the state was under-stated rather than over-stated; that these great trusts had fallen into the hands of persons who exploited them for their personal benefit solely; that the public was only in so far regarded as any tyrant would regard the public; that it was dangerous to exasperate them too much; and that as freight charges are in the nature of taxes, if you want a continuous revenue from taxation, it must stop short of confiscation. — The recommendations of the committee, therefore, were embodied in bills which embraced, in substance, the commission bill which, with some slight modifications, had been previously drafted at the request of the board of trade and transportation; a bill upon the subject of railway proxies, railway consolidations and stock waterings; a bill to regulate the transportation of freight by the railroad corporations, so as to prevent unjust discriminations; and a bill to insure a uniform system of accounts and a different system of reports. — Of these bills, the one to create a board of commissioners became law; likewise the one, with considerable modification and amendment, upon the subject of proxy voting; also the one which prescribed a different method of rendering accounts. The other bills failed of adoption. — During this period, the valuable reports on internal commerce, issued by Mr. Joseph Nimmo, chief of United States bureau of statistics, aided considerably in creating an enlightened public opinion on the relations of the railways to the state, and the part that they perform in the movement of the commerce and development of the industry of the nation. — The New York commission bill was passed, and Gov. Cleveland, as one of his first acts after his installment into office, appointed Messrs. Kernan, O'Donnell and Rogers commissioners. The bill authorized the chamber of commerce, the board of trade and transportation, and the anti-monopoly league, to nominate one of the commissioners to the governor; and Mr. O'Donnell was so nominated by two of the three bodies, and the governor, under the bill, made the appointment. — By the establishment of this commission, the long struggle between the railways of the state of New York and the people was brought to a close, favorably to the people. A body was now interposed, with power somewhat similar to that of the Massachusetts commission, between the people and the powerful railway corporations, clothed with authority for searching and continuous investigation and, in all probability, that body will prove to be a permanent one. The sense of responsibility in the performance of the task, together with the natural aptitude of intelligent men to grow to the work they have in hand, will, in time, make this commission a valuable aid to proper legislation. The important interests constantly connected with the subject committed to their care, will cause the work of the commission to be carefully watched, and the strong temptations that are placed in the way of these commissioners, in consequence of the enormous wealth and power of one of the parties constantly before it, will inevitably cause the commission to act with prudence, for the purpose of shielding themselves against suspicion. — During the same years, other states had parallel experiences with struggles for the appointment of railroad commissioners. There are now in existence fourteen railroad commissions in the various states of the Union, whose business it is to supervise and investigate, if not control, the railroad corporations within the state; to report such amendatory laws as in their opinion are necessary for the purpose of correcting the abuses incident to railroad management; and to cause actions to be instituted to prevent either violations of charter limitations or violations of the rights of shippers or passengers, which may be brought to their notice. — During the last five years, efforts were made in the United States congress to create a board of railroad commissioners for the United States, to exercise over all the railway corporations doing an interstate business the same kind of supervision and control as is exercised by the various state commissions over corporations chartered by the several states. Almost *pari passu* with this attempted reform, an annual effort is made in congress to regulate interstate commerce, without the intervention of a commission, in the passage of a freight bill, in the nature of a *pro rata* bill, containing anti-discrimination clauses. Thus far, the advocates of the two measures have opposed each other, and no good results will probably be accomplished until the friends of federal legislation agree upon a commission bill, as the entering wedge to such legislation as should properly be passed by the United States, for the purpose of making this enormous interest, in the

aggregate more powerful than any single state organization, amenable to the better concentrated public power, as represented in the United States congress. The railroad corporations, organized by the states, have thus far resisted, at every step, every attempt to make them amenable to federal legislation. Although many of these corporations derive their charter powers from several states, and substantially run cars over the territory of half the Union, they nevertheless insist that they are amenable only to such states as have granted them their charter privileges, and that the United States congress can not properly exercise any control over them. The necessity of the case, as well as sound logic, fights against their cause; and the time is not far distant when all the people of the United States, as represented in the general government, must take in hand the railway corporations of the United States, concentrated as they now are in power by becoming more and more under the control of a few leading minds, who can be gathered together in a single room of a private gentleman's house, and, for weal or for woe, can, and do, more materially affect the welfare of the people of the United States than can any representative body which has been organized in any of the states of the Union, or under the federal constitution. It is, therefore, not a figure of speech to say that an *imperium in imperio* has grown up in the community, which, by combination and concentration of power, is more powerful than the community, and that the question of making it amenable to the general powers of the government is no longer one of expediency, but one of prime necessity. — This brings us to a consideration of some of the general questions, which are as yet unsolved problems, with reference to the government of railways, either by the state or by private management. — The general result of investigation upon the question of railways within the past fifteen years, in the United States, and the development that has taken place, both in railway construction and in many of the evils incident to railway administration, have modified both public opinion and the opinion of experts who are not blinded by personal interest, on the subject of the extent to which competition is a regulator of the price of service in railway transportation. It went hard for the free trader to surrender his faith in competition, and to admit that it is not a universally applicable principle. It has now been ascertained that, notwithstanding the enormous progress of railway construction in the United States within the past thirty years, railways can never be multiplied to such an extent as to make them compete in the same sense that grocers, butchers, hatters and shoemakers compete. They will be at war for a time, and then comes a long period of peace, when the railways work under combination even at competitive points. It is difficult to tell whether the war is not more injurious than the peace, so far as public interests are concerned. When there is competition between rival hatters, customers are treated alike at one or the other shop in the purchase of the commodity they want, and even if they were not so treated, no great harm would be done. A railway war is generally carried on secretly for a considerable period of time before open hostilities begin. Railways, in vying with each other, seek to obtain the more important customers from each other, and make concessions to larger shippers, which they are not ready to make to the smaller men. This instantly gives to the larger shipper so great an advantage in addition to that which he already has by reason of his greater capital over the smaller man in the same line of trade, that the smaller dealer does his business at a loss; he discovers that his formidable rival can offer goods at prices with which he can not compete, and he is frequently driven out of business or into bankruptcy by reason of a secret advantage which his stronger competitor has in transportation rates. Thus monopoly breeds monopoly, and centralization of business is built up, not by greater natural aptitude, but by injustice and wrong. Even during periods of railway peace these advantages are frequently got and maintained by the more formidable shipper for the purpose of tying him to a particular railway, with the mischievous tendency to make the poor poorer and the rich richer. This personal system of tariffs produces absolutely the same effect as unequal taxation. As the beneficial results of competition are not obtained by duplicating lines such additional routes are an evil rather than a good. The large expenditure of capital in creating the duplicate line might have been saved, since but very few railway corporations in the world have their road bed taxed to their maximum capacity. The existence of the new line built for competition is in reality an investment of an enormous amount of capital to divide the traffic which the existing line is perfectly competent to carry, and results in the traffic being done at a very much greater expense for fixed charges than if the existing road had added to its rolling stock facilities and had been permitted alone to accommodate such traffic. When peace is made, rates are fixed so high as to afford a reasonable expectation of a return upon a very large amount of capital unnecessarily expended in the building of so-called rival lines. This has led to the general conviction, that, for economizing capital and producing, through these instrumentalities of commerce and of trade, the maximum result for the benefit of society, it would be better were we to start *de novo;* and instead of dealing with existing conditions, to transfer to a corporation a definite field for its operations, under strict supervision of its tariff rates, and to stipulate that the corporation shall not be interfered with as to the field so long as it keeps down its rate to a certain percentage of profit. At almost every western point, whether in Colorado, Utah or Arizona, we find railway corporations just constructed, and who operate upon their roads two or three trains a day all included, threatened with rival enterprises,

which propose to divide between them the little traffic that there is, and to destroy the profitableness of the capital investment in the original line, so that in the end the business divided between them, at extortionate rates, is not sufficient to pay for operating expenses and fixed charges on both capitalizations. But we are not now called upon to deal with this question *de novo*, as railway development in the United States has proceeded to a point to make assignments of fields almost impossible of accomplishment through the instrumentality of legislation. The railway companies themselves are beginning to discuss the expediency, as a matter of self-preservation, of coming to some agreement as to fields between them. This, however, will be extremely difficult to accomplish by voluntary action. However faithfully existing railroad corporations adhere to an agreement not to invade each other's field, the absence of legislation holding the railway corporation to a strict accountability as to charges within the field with reference to which it by common consent thus obtains a monopoly, makes such an agreement one that the courts would probably declare void as against public policy, and it would, in reality, in the absence of such supervision and control, be a conspiracy against the public. That the railway corporations already discuss these questions, and begin to regard the occupation of a field as a right arising from the circumstances of the case in favor of the particular railway occupying it, is an indication that the railways themselves have abandoned all pretense of competition in the same sense in which that term is understood in private enterprises. The practical consolidations rapidly proceeding under the commissionerships such as that of Fink's, will tend somewhat toward the solution of this problem, because it will enable the government to deal with these corporations upon the basis of their dealing with each other, and at some day or another to practically appoint fields to conglomerate bodies of railway corporations in following out the line traced by their voluntary action. — One of the peculiarities of railway competition is, that the unsuccessful competitor in a railway war, driven to insolvency, unlike the unsuccessful competitor in mercantile life who is driven into insolvency, is not thereby driven out of the market. The insolvent corporation becomes in many respects a menace to the solvent corporation more formidable than it was in its solvent condition. It begins, in railway parlance, to "run wild" after its insolvency, being exonerated from paying interest upon bonds, or dividends upon stock. Being required to earn simply operating expenses, it carries on a war of rates with a recklessness that threatens to break the solvent corporation fighting it into the same condition of insolvency. Therefore, during the active railway war of 1875–7, carried on between the New York Central, the Erie, the Baltimore & Ohio and the Pennsylvania railroads, the more favorably placed New York Central railroad did not dare to carry the war to a point which would drive its adversaries into insolvency, lest the insolvency of the Baltimore & Ohio railroad, and possibly of the Pennsylvania railroad, might threaten the solvency of the New York Central. The motive and the facility for combination are so great that combination will almost invariably take the place of competition; and railway managers and legislators must now recognize as a fact that the railways are not, and can not, without the interference of government, be subjected, within any period of time about which we need give ourselves any concern, to the law of competition to that degree that we may look for the same results as in other departments of human activity, with any confident expectation of maximum results to society at minimum expense. The natural law of competition being inapplicable, the question of governmental interference, therefore, resolves itself simply into one of degree: how far is it expedient to regulate railways by the public? and that depends very much upon other questions to which in this country we can not shut our eyes. — As political machinery has, by a vicious party system which by no means can find its complete corrective in the rules of civil service reform, more and more insidiously divested the people of self-government within the past generation, we are in a condition in which is presented the question when we speak of governmental control, not whether the railways shall manage themselves, or the people, through the government, shall control their management, but whether the railways, banded together in organizations, having at their head powerful, astute, intelligent and somewhat unscrupulous men, shall, in affairs in which they have a large interest and in which they must pay to public welfare some regard, varying in degree according to circumstances, manage those important trusts, or whether the politicians, equally unscrupulous and astute, but not quite equal in intelligence as banded together in party machinery, shall, in the interest of those political organizations which represent even more remotely the public interests than the railway direction represents them, manage those important trusts for them. There are many important reforms, therefore, in our governmental machinery which must proceed contemporaneously with the transfer of power from the corporation management to public control before we can hope for any great relief from public control as compared with corporate management. It is, therefore, well to proceed slowly even in a proper direction until the machinery of government in the United States shall be emancipated more from the bossism, political corruption and chicanery concomitant and attendant under existing representative and party conditions. It must be admitted that the direction must be toward governmental control, but this imposes upon the people of the United States the duty of making its governmental machinery fit to exercise such control. Neither the state nor federal machinery is as yet in that condition. — Another important

question which must be taken in hand with reference to railway management, is to find some proper basis for railway charges. The doctrine which now prevails among railway managers, of charging the traffic all that it will bear, the basis upon which its classification as well as its tariff rates depends, is monstrously unjust, and should be radically changed. It is true that the responsibility on the part of a corporation for the carriage of a case of silks is greater than it is when it carries a bale of cotton. But the difference in the rate charged is not based upon the slight premium which would represent an indemnity fund for the losses they might possibly incur by the loss of the package, but the difference is based really upon the supposed profit that the merchant or jobber makes on a case of silk as compared with the bale of cotton, and that he can afford, therefore, to divide with the railway the larger amount in the general result. This makes this service differ from that of any other rendered under competition in society. What regulates prices ordinarily is the cost of production, not benefit to the consumer. The ounce of laudanum that is intended to cure a toothache costs at the store of the druggist the same sum as the laudanum which is to save a life. The use to which the object is to be put, or the benefit conferred upon the consumer, does not affect the price. It is said, in answer to this position, by the railway manager, that he must regard his traffic as a whole, and that, by reason of the greater value of these first-class goods and the higher charge which he can make on them, he is enabled to carry the lowest price goods at a rate at which they can be moved, and that, if he were precluded from charging the higher rate on goods as readily handled, but which are much more valuable in money, he could not carry ores, coal or stone at any such rate as would justify their transportation from place to place. There is force in this position, but not to the extent to which it is claimed, and in that respect intelligent investigation and careful governmental control will have to strike a mean which will be more just than the existing classifications, and so adjust the rates both to consumer and producer as to enable all classes of commodities to be moved without doing injustice to the railway corporation. — The application of the doctrine of charging what the traffic will bear, substantially makes the railway corporation a special partner, without investment of capital, in every enterprise along its line. The extent to which unscrupulous traffic managers and agents can, for their private emolument, carry this power of enforced copartnership, and that this power is availed of, is exemplified in the fact that on comparatively moderate salaries these traffic managers very often do become men of great fortunes, within a very few years. It is a power to which modern society has known no parallel since the days of the farmers general of France, who, in consideration of a sum total paid into the French treasury during the corrupt regency of the duke of Orleans, and the reign of Louis XV., obtained the privilege of having a section of France farmed out to them to tax at their own will. It is therefore absolutely essential with reference to transportation lines, that without thereby fixing absolute rates, severe penalties shall by legislation be imposed for breach of the public trust for personal ends, and also stringent penalties imposed upon the making of discriminations between persons of the same locality. It is likewise the duty of the public to see to it that some unit, whether car load or train load, be established, upon the basis of which all shippers shall be treated alike, and to place the smaller shipper upon some basis of equality with the larger shipper. The smaller shipper should by law be permitted to avail himself, in combination with other people, of the car load unit. — Maximum charges have, in the experience of England, been found to be almost universally useless. The economies in railway traffic arising from steel rails, improved roadbeds, better gradients, the greater power of engines, reduced rates of fuel, and through lines obviating breaking of bulk, have been so great within the past fifteen years that any fair rate at one period of time becomes at any other period so excessive as to cease to be a criterion. Maximum rates, therefore, when fixed, must be so arranged as to be under the supervision of some tribunal commanding public confidence and authorized to exercise such supervision, and to be from time to time registered upon a lower scale with reference to cost of traffic. — A serious grievance in relation to American railway administration arises from railway tariffs being secret, and subject to sudden changes or modifications. No tariff of transportation rates should be permitted to be changed, except upon previous notice of a considerable period of time. Even the lowering of a tariff rate produces at the outset as much financial and commercial disturbance as the raising of it does. It is said that the knowledge obtained by the officers of the Standard Oil company in 1880, that the tariff rates on oil would be suddenly increased by the railroad corporations, gave to that combination a profit of several millions of dollars. Whether true or not, is immaterial. It is possible for special favored private interests to be informed secretly of an intended sudden change of tariff on an important commodity. In consequence of that information, which necessarily changes the price of that commodity at the point of delivery or at the point of shipment, the making of a purchase or a sale in advance, based upon that knowledge, gives absolute certainty of a large profit, which is so much wrested from those who do not know it. This is an advantage which should not be permitted to remain in the hands of railway administrators to make use of, either for personal ends or for the benefit of friends as they may see fit. A law, therefore, providing with great stringency that all tariffs shall be published for at least six months in advance, and that no modifications thereof shall

be permitted during that time, is a necessity to avoid this mischief. Tariffs also should be published at every station, with classifications, so that every man doing business with the railway corporation should be permitted, at a glance, at every station either of delivery or of receipt, to compare his freight bills with the published tariff rates, and see to it that he is fairly treated. Every deviation from the tariff to a favored shipper should result in imposing upon the railway corporation that allows such a deviation the payment, to every other shipper, of a rebate based upon the lowest shipment made. This penalty would be so severe that there would be no longer any favored shippers, and it is right that it should be so, because, of all evils incident to American railway administration, that of personal favoritism has been the most shameless and the most mischievous. — Another problem presented by the existing condition of the railways in the United States, is that which arises from secrecy of management. This evil must be dealt with radically. One of the prime motives for secrecy of management is the enormous advantage which at the present day it gives to the managers in the maintenance of their power. They alone know where the stockholders are to be found, and can therefore control votes by the knowledge of how to reach or buy them, thus perpetuating their control. Another motive is the advantage thus afforded for stock speculations. The board of managers, by keeping unto themselves the knowledge that their property is losing heavily in comparative traffic, can sell their own holdings and go short of the market, under circumstances which will yield them an absolute certainty of profit on the transaction. This gives them an enormous advantage over the community by depleting the pockets of the unwary, who find themselves saddled with stocks at high prices, bought months in advance of the public announcement that the road is in difficulties. The knowledge of rapid gains in the development of business likewise gives, so long as it can be kept secret, a like advantage in purchase of stock. This advantage has been exploited to such a degree in the United States that the investing public has become inspired with a general distrust for railroad stock investments. — In the states of the Union and in the United States the existing condition of legislation which gives the absolute control of corporate enterprises into the hands of majorities of stock, and which gives to such stock equal weight, lends itself to this species of management, and places the stockholders' interest, as well as the public, at the mercy of this class of railway directors. The majority of the holders of record at the time of the closing of the books of a corporation, have, at the annual election, the power to elect the whole board of directors. As much of the stock of great railway lines in the United States is held abroad, and is not transferred on the books to the actual owners of the property, but remains registered in the names of the persons who had long before parted with all interest therein, there is, at the time of the closing of the books in a great many of these railroad corporations, a large fictitious holdership, ranging from one-half to one-eighth of the whole capital stock holding interest, and this fictitious holding frequently controls such election. Who are fictitious and who are true holders are, as a general rule, approximately known to the directors. The directors, therefore, can sell their real holdings at high prices, and can purchase at low prices the fictitious holdings or power to wield proxies, and thus, for the purpose of depleting the road, capture the railway, in which neither they nor the constituency that elected them, have a substantial interest. This evil also can be remedied by legislation. Severe penalties should be imposed upon any one, having no interest in the corporation, offering to vote, or voting, either personally or by giving a proxy to vote, at any election of directors of such corporation. — The severest blow, however, which could be dealt to corporate mismanagement, would be the rigorous introduction of minority representation in boards of direction, which would make secrecy of management, as against the interest of shareholders, substantially impossible, and would prevent the possibility of the recurrence of some of the worst abuses which characterize their administration. Suppose twenty directors were to be elected, the reform would consist in allowing each section of one-twentieth of the stockholding interest to elect one director, by accumulating their votes upon a single name, or by distributing their votes for one or more, as they may see fit. This is the cumulative plan. Another is the preferential or list plan, in allowing each twentieth part of the constituency to elect one director, by preferences indicated on a ballot, in the order of the names as printed. When the first name has a quota sufficient to elect him, *i. e.*, one-twentieth of the votes cast, the ballot is counted for the second name, and so forth. The result of this system of minority representation would be to make of the board of direction a reduced photograph of the whole constituent body, and make it impossible to capture an organization like a railway from the actual owners thereof. Any one of the numerous plans suggested for securing minority representation, if applied to corporate management, would successfully accomplish that result. The objection which has been urged to the adoption of minority representation in public representative bodies, has no validity to corporate elections, as in corporations neither localities nor persons are supposed to be represented, but pecuniary interests only. It would better secure fair representation than does the English system of diminished value of votes in proportion to stockholders' interests, *i. e.*, one vote for every share up to ten, an additional vote for every five others beyond the first ten, and one vote for every ten beyond one hundred shares; or the classification plan, by which only a few directors of the whole retire each year; minority representation would give permanency in management, and prevent

the swamping of the interests of the smaller shareholders. — *Pro rata* tariffs are the refuge of people of little thought on the subject of railway management. It is fair that for the haul or for the car load alone there should not be permitted a higher rate for the shorter distance than for the longer, as it is manifestly unjust artificially to wholly wipe out and even to reverse the advantages of proximity to the market; but to arrive at anything like a just conclusion on this subject, it will be necessary for the railways themselves, or through legislation to be compelled, to make a distinction in their freight rates between what they charge for terminal handling and what they charge for the haul. The terminal handling at a great market is effected on so large a scale that it can be done at very much lower rates for each particular package than the terminal handling at a way station. The cars are more likely to be filled than they are at way stations, so that a perpetual difference must exist in favor of the facilities of commerce which the great centres of activity produce. This would be represented by lower terminal charges for places like New York, Buffalo and Chicago, than at the small way stations or small hamlets along the line. And the haul would be proportionately much less, and justly so, from extreme points of concentration of freights to extreme points of market, because the whole train loads would go unbroken straight through. On the other hand, it should not be permitted to be so much less as to invert the situation, and to make the more distant point more favorably situated to the seaboard than the nearer point. — *Pro rata* freight rates disregard the laws of commerce in that particular, and must therefore be receded from wherever introduced. On the other hand, we must not be blind to the justification which lies at the root of the demand for *pro rata* rates, *i. e.*, the unrighteousness of inverting the natural situation, which is ordinarily done under the spur of a railroad war at competitive points, under the effect of which the intermediate localities, which are at the mercy of the monopoly power of the railway, must suffer the burden of the war. This can be remedied only by legislation, but in that particular care must be taken that the legislation shall not go too far, as in doing so it defeats its own ends, because it becomes impracticable to work under it, and the repeal of the law leaves matters worse than before the law was enacted, as the unsuccessful law is used as an argument against the expediency of any law on that subject.—A director found speculating in the stock of his own road, either by purchase on margins or sales on margins, should be severely punished. The temptation to sacrifice the interests of the road to subserve his stock operations is too great to be permitted to exist. The man who desires to speculate in the stock of his own rail way should be required first to leave the board of direction; if he fails to do so, he should, on detection, be punished as a malefactor. — The fictitious capitalization of railroads in the United States is an evil more difficult to deal with. Many motives combine to create such fictitious capitalization. Some are justifiable, others are sinister. Take the case of a mining property. A prospector discovers a silver mine; he sells it for $30,000 to a capitalist in the neighborhood. The property is not developed; the discovery may amount to nothing. It may also be worth millions of dollars. The capitalist, the first investor, spends a few thousand dollars in developing the property, and thereby ascertains that the leads open into a vein within the domain of the lines of the stakes. He has his ore analyzed, and discovers that it yields from sixty to eighty dollars a ton. He thereupon proposes to sell this property, and does sell it to a stock company, who capitalize the property at a million of dollars, pay him a hundred thousand dollars cash, and something less than half the capital stock, and with the remainder of the capital stock, they supply the treasury sufficiently to develop the property. They find some takers on the basis of a million; others on the basis of half a million; others on the basis of a quarter of a million; but, as it is possible that the mine may be worth a million of dollars by capacity to yield sufficiently to pay interest upon such a sum and to return the capital invested within a given period of time, there is no public wrong in such fictitious capitalization, unless it is accompanied by fraudulent pretenses. The injury, if any is done, is limited also. The individual has invested his money at an excessive valuation, and there is an end. Railway corporations are, however, organized upon fictitious capitalization upon a different basis. A line from one point to another, say a distance of a hundred miles, is surveyed. It is ascertained that it will cost about $15,000 a mile to build, including acquisition of land, and about $5,000 a mile to equip; a total of $20,000 a mile. Application is then made for town and county aid, which aid is generally represented by investment in the stock of the road. The first purpose is to give as little as possible in the way of value in return for such money aid, and it is, therefore, necessary to interpose between the stock and the property a sufficient number of mortgages to make the prospective value of the stock of little or no value. A construction company is then organized, which takes the town and county aid as part of its capital, and the railway corporation, instead of making its contract upon the basis of cash, issues to the construction company, say first mortgage bonds of $20,000 a mile, or possibly $25,000 a mile; second mortgage bonds of $20,000 a mile, and stock of an equal sum, making a total capitalization of $65,000 a mile, instead of the $20,000 a mile at which the road could be constructed. The construction company is composed generally, directly or indirectly, of the officers of the road and their friends, who build the road upon the basis of cash obtained by negotiating through bankers the securities represented by the bond issues of the railroad company; they acquire the stock for little or nothing, and also frequently a

large proportion, if not the whole, of the second mortgage, and in prosperous times they may succeed in building and equipping the road on the issue of the bonds secured by the first mortgage alone. By this system the road comes into existence laboring under the necessity to earn, over and above operating expenses, interest on a funded debt, about double the cost of the enterprise, and, if possible, to earn dividends on the stock beyond that sum. That this rate of earnings has been accomplished in the United States to a very considerable degree is an illustration of the remarkable development which the country has experienced in every direction during the past twenty years, and is an illustration, likewise, of the enormous growth and progress of all material interests which have taken place; because this mode of stock and bond issue is the all but universal rule with reference to the construction of new lines in the United States.—The excuse made by railway builders for this course of proceeding is, that upon the basis of an ordinary profit no one would undertake the extremely hazardous task of introducing railways into new territory. The peculiar risks incident to such an enterprise are, that if the traffic fails to come they lose their money, and if the traffic develops they are in imminent danger of being immediately compelled to divide such traffic with some other rival line; that, therefore, they must find the return of the capital and their profit, not in waiting for the development of the business, but in selling bonds and stock to the investing public upon a basis of fictitious value. So long as investors purchase without proper investigation this class of securities, it is difficult to see how they have any ground for complaint; as the mode of manufacturing these securities is sufficiently well known to be a matter of public notoriety. As to the people at large, however, the effect of this fictitious capitalization bears a different aspect. It is true that the cost of a road and its capital account have but little to do with the rate at which it is required to carry to and from a few competitive points. It has, however, very much to do with the fixing of the local rates, and is a constant incentive to increase the rates for the purpose of paying interest and return upon all the capital issues of the road. For the state to interfere and absolutely forbid any false capitalization, which is, in other words, the anticipation in the capital account of the development in time of the traffic, would probably interfere considerably with the undertaking of new railroad building, unless such interference and prohibition are accompanied with some guarantee of the field.—The two evils, unrestricted competition in railroad building and false capitalization, hang together. Were railway projectors secure that a certain territory would be left in their possession until they could receive back the return of their capital and a reasonable percentage on the outlay, there would be no reason for continuing the incentive to railway construction of false capitalization, so that the promoters can immediately obtain by means of this quasi-fraudulent element a return and profit for the outlay of their money; they could then contentedly wait to receive an adequate return for their money upon the basis of a capitalization bearing a close relation to the actual cost of the construction and its equipment. Justified as is the opposition to stock watering, both on the part of the investor and on the part of the public, the reform of this evil can only then be safely entered upon, so as not to avoid materially checking new railway enterprises, with a concomitant change in the policy of the state governments as well as the national government, recognizing the fact that railway construction should not be left to absolute free competition, but is a trust which should be given with circumspection, and, when given, surrounded, first, with guarantees to the state and to the people that the men who undertake it will faithfully perform their trust, and secondly, with guarantees from the people and the state to the *entrepreneurs* that they will permit them for a given number of years undisturbedly (under limitations as to charges) to obtain the advantage of the traffic development which their enterprise has created, without incurring the danger of being compelled to divide such traffic with another organization, which takes possession of the developed field, not to render additional services to the public embraced within its line, but simply to take away from and divide the income of the existing road.—There is no question but that the system is entirely vicious, but it is a system that has its roots in the false path which the public has traveled in relation to railway enterprises by treating them as private enterprises instead of public ones, and therefore has given a basis for the railway speculators point of view, that it is their business, and not the public's business, at what rate they see fit to capitalize their roads; and, as the public gives no care to protect the railway constructor in his enterprise, the railway builder, in his turn, imagines that he owes nothing to the public in that regard.—Mr. Poor, in his introduction to his Manual for 1888 (and he speaks from the railroad point of view), can not but admit "that the increase of share capital and indebtedness of the railroad companies for the three years ending Dec. 31, 1882, was $2,023,646,842, the average cost per mile of the new roads being in round numbers $70,000." He estimates that the cash cost of all the railroads built in the United States in the last three years did not exceed probably $30,000 per mile, or $900,000,000 in all. He estimates, therefore, that more than half of this enormous capitalization is entirely fictitious. He says, with great frankness, "Of course such an enormous increase of liabilities over cash outlay is to be greatly regretted, and is well calculated to create a distrust of all securities, good and bad." There is an abuse connected with railway administration which requires legislative remedy—the granting of the right of way for telegraphic purposes at the same time

with that for railway purposes. With every extension of an old railroad or the building of a new one, the Western Union telegraph company is ready to step in and stretch wires for the new corporation or line, under a contract that the railway company gives to the Western Union telegraph company the exclusive right to maintain the telegraph service to the towns and stations along the line, in consideration of which the railway company can, for its purposes in the management of its road and in the dispatching of its trains, use the telegraph line thus built. This gives to the telegraph line a free right of way; and, as the railway in all territory west of the Mississippi and south of the Potomac is in reality the main line of travel, along the line of which towns spring up and population congregates, it gives to that particular organization an enormous advantage over its competitors and all new organizations, inasmuch as it not only gives the free right of way along the line of the railways, but an exclusive service in connection with the railways. This abuse, which as yet has scarcely attracted public attention, came to the surface only during the recent controversies in relation to the stock waterings and acquisitions of rival properties by the Western Union telegraph company. This is also difficult of remedy without legislation recognizing the monopoly character of railroad and telegraphic enterprises, and should, if permitted hereafter, be allowed only on condition that such field may be secured in consideration either of lower charges to the community, or providing some species of sinking fund by which the community shall ultimately acquire the property. — This brings us to the final consideration of what is the probable future of the railway question in the United States. The railways now represent an aggregate capital of something approaching $7,000,000,000. A considerable proportion of that total capitalization is in the hands, or largely under the control, of less than one hundred men, who are not the highest type of modern civilized life. After giving them credit for business capacity, shrewdness and intelligence, there are still lacking some elements of character which are created by living up fully at all times to contracts, the basis of the modern social organism. Unlike increase of capitalization in any other business, increased capitalization in railroad enterprises does not increase the number of great capitalists engaged in the business, but has a tendency to decrease them, because amalgamation and consolidation proceed with greater rapidity than extension of mileage. Compared with the power represented by this vast aggregate of capital, the power and the influence of nobility in any civilized community are small. — One of the arguments in favor of a great national indebtedness at the time when it was in process of growth, was, that, though unfortunate for the country to be compelled to roll up so large a debt, yet it had a counterbalancing good, inasmuch as it interested vast numbers of people in the success of the government and in its stability by the pecuniary interest of the bondholders. As the indebtedness of the United States was, at its very highest, less than one-half of the aggregate capital now represented by the railway interest, it is clear that there is a larger pecuniary interest on the side of the railway to-day, arising from capital investment in its obligations, than there was at any time on the side of the government. Railway capital is now *four* times the amount of the public debt. In any contest, therefore, between the government and the railway enterprises, it is clear, that, so far as mere pecuniary interests are concerned, the railway enterprises largely preponderate. Adding to this the circumstance of the concentration of this great railway power in comparatively few hands, the extent to which they can corrupt the commonwealths is practically limited only by their will. — At the time of the institution of the government of the United States and of the various states, European governments were great monopolies in the hands of the few. From the corrupting influence of a like power American statesmen sought to shield the American people. Governmental responsibility and prerogatives of executive power, instead of being centralized, were diffused and split up, and to a large extent sacrificed, for the purpose of creating a larger degree of individual freedom. The governments of the states of the Union were therefore loosely put together, so that public opinion could break through at any point and influence them. Permanent large ownerships of land; titles of nobility, special privileges and great accumulations of capital were guarded against by abolishing the right of primogeniture, of patents of nobility and of accumulations. The corporation was but little extended, because credit was but little developed at the time of the organization of the United States government. Hence it was not observed that some of the evils which were thus carefully intended to be guarded against, such as primogeniture and accumulations, were allowed to come back in more aggravated form through the perpetual existence of the corporation, making a continuous increase of capital accumulations possible through its instrumentality, with the aggravating circumstances, that, instead of those vast properties being in the hands of individuals responsible for their right conduct in their individual capacity, and distributed by the natural process of death into a greater number of portions, the great accumulations and vast possessions of modern times are under the control of boards of directors having less immediate responsibility than the individual to legal influences, and being less governed by considerations of a social character properly to administer their trusts. The United States constitution and the constitution of the states contain provisions against unjust taxation by carefully worded provisions that taxation shall be equal. The amount collected for freight and passenger traffic in the United States by the railways of the United States in 1882 was $770,000,000, an amount double that of the revenues of the

United States government. Every dollar of this, as to mode and manner of expenditure, is in the hands of boards of direction, with scarcely any accountability to the public, and but a very remote one to their own shareholding interests. — In every presidential election for the past twenty years the railway corporations took an important part. In the election of governors in the various states and in the formation of the state legislatures, in influencing appointments of committees, they play a significant rôle, and one which is scarcely any longer disguised. They do this avowedly on the theory of self-protection; but no irresponsible body ever stopped short at self-protection, because the power which enables them to protect themselves against aggression is likewise a power which may be wielded in aggressing upon the rights of others. — The mode and manner of the collection of this revenue is not yet amenable to public control in the United States, and yet the cost of transportation more closely resembles taxation in all its incidents than any other method of receiving return for services in the industrial world. — When the railway corporations, under the administration of Mr. Fink, in July, 1882, raised their rates on west-bound freight from New York to Chicago, from forty-five to sixty cents per hundred pounds on first class, from thirty-two to fifty cents on second class, from twenty-six to forty cents on third class, and from nineteen to thirty cents on fourth class, every commodity transported from New York to Chicago had this additional tax imposed upon it as part of its cost of production in Chicago, in the same manner as though the government had imposed the tax, and there was little and even less possibility of escaping from that imposition than there is from a governmental tax. — It is, therefore, of at least as much importance to a community to be fairly and equitably dealt with in its cost of transportation as it is to be fairly and equitably dealt with as to taxation. And unfairness and injustice in the cost of transportation bring about the same disastrous consequences to individuals and to classes as unfair and unjust taxation does. It is, indeed, a mild statement of the case to say that the injury inflicted by the unfair cost of transportation is as great as that inflicted by unequal taxation, because the mischievous consequences of unfair or unwise transportation rates are necessarily greater than those that arise from unequal taxation, and dry up, more rapidly than would bad taxing laws, the prosperity of a community. Therefore, by carefully worded constitutional provisions, to protect the community from the evils of oppressive and unequal taxation by government, and then to leave this great and growing power of private taxation without responsibility to government in its administration, is to guard the public against the ravages of the wolf, and to leave it unguarded from the attacks of the tiger. That already the legislative bodies of the states of the Union are as wax in the hands of the modeler under the manipulations of these great corporations, is a truth which, in all the more densely populated states, in the north and the east, the people have been made to feel. How to get back their control, and yet not change it into a control of a very dangerous character, by adding the supervision of the expenditures of the enormous revenues of the railways to the supervision of the enormous revenues of the United States, and of state and local administrations, administered as they are in the main by politicians not much, if any, above the status of the railway magnates, is probably the most serious problem which, since the abolition of slavery, has confronted the people of the United States. There is much keen perception and wisdom in the way Professor Sumner puts the relation of the government to the people in the United States, when he says that the government, in the abstract, is all of us, and, in the concrete, some of us, who, by accident or chicane, obtain control, and those some of us not the best of us, and that, therefore, it always becomes a serious question what these some of us should be permitted to do for all of us. Therefore, no heroic measures can, in the present aspect of political conditions in the United States, safely be entered upon. These very political conditions suggest a possible point of view from which we can regard this powerful *imperium in imperio* of the aggregated railway corporations as something other than an unmixed evil. The corruption of our political machinery has proceeded almost simultaneously with the growth of the railway corporation. As the basis of civilization, the security of capital is certainly of as much importance to a community as its form of government. Peoples have become civilized, and enjoyed a certain degree of prosperity, under forms of government other than our own. No community can enjoy prosperity, or attain any high degree of civilization, where property rights are not secured. Property protects itself best from aggression, or unjust tribute, when it is congregated under corporate management, in few hands, because it becomes, in its centralized form, capable of wielding a power which the politician is bound to respect. Under the corrupting conditions of existing administrations, it has, perhaps, been one of the modes of preserving property from the grasp of those who, in national, state and municipal governments, represented public power ostensibly, but really represented their personal interests first, and party caucus and boss interests in the second rank. In the long run, however, this condition becomes intolerable. No community can safely pursue its course of happiness and well-being where the actual highest power wielded in the community is not responsible to the people, where its government is a mere simulacrum, and all real power is moulded behind the throne by a moving power. It is just as objectionable if this moving power be a band of railroad directors who move the government, as that it should be the mayor of the palace, a church institution, a cabal of courtiers or loose women.

Against such an insidious power the ballot is ineffectual, and even revolution almost hopeless.—It is, therefore, essential, as a necessary part of the solution of the problem before us, that the people of the United States should awaken to the fact that their methods of legislation and their methods of selecting legislators, their political organization and political administration, must be reformed as well as the railway administration, and that the amenability of railways to the public is very largely dependent upon such reform in political administration. The civil service reform is already a step in the right direction, and its permanent establishment will make thoughtful investigators on current events less fearful of clothing governments, both state and national, with the additional powers necessary to cope with the railway problem. The other more important reforms, however, are those of methods of legislation and representation. (See LEGISLATION, REPRESENTATION.) The people must concede, once for all, that the line of policy as to railway management has proceeded upon a mistake. They must recognize the fact, that in all services, the supply of which is limited to a certain locality, and which, as to such locality, can practically be indefinitely increased without proportionately increasing the plant, there is a monopoly character implanted upon such service, whether it be the supply of ways and means of transportation, of gas, of water, of electricity, or of motive power on some general plan, which takes these enterprises out of the domain of competition, and compels a treatment separate and apart from that of strictly private enterprises. Some modification must be made, limiting the existence of corporations, so that from time to time something analogous to the service that death performs in the individual world shall happen to their accumulations and power. Some plan should be provided, by way of sinking fund, or gradual acquisition by the government, by which enterprises of this character shall in time become the property of the state. Such a plan of compulsory sinking fund to repay capital must, of course, in all cases be accompanied by some guarantee against invasion of the field by other organizations; and, as Mr. Fink observes, in his answer to inquiries of Mr. Nimmo, in his report for 1878, "In the consideration of this subject one important fact should always be kept in view, to-wit, that the effect of the construction of a greater number of railroads than are necessary to accommodate the traffic, is to increase to a great extent, not decrease, the cost of transportation. The interest on the cost of two roads built for the purpose of transacting the business that could be transacted by one, and the cost of maintaining the two roads, are of course twice as much as the interest and the cost of maintaining one road." The interest and cost of maintaining a road, he estimates as from 40 to 60 per cent, of the whole cost of transportation. "It follows, therefore," he continues, "that for every additional road built for the purpose of transacting the business that could be accommodated by the road already built, the cost of transportation is increased from 40 to 60 per cent." This truth borne in mind would enable the government to give practical control of the field, without thereby adding to the cost of transportation. It could at all times annex the condition that no more than a certain percentage of profit shall be earned, and that out of this surplus a sinking fund shall be provided, to repay capital outlay, and that, when the cost shall be repaid, the road shall become public property.—We are very far yet from this solution. The course which is likely to be run in the United States in regard to the railway problem is the extension of the commissioner system by state legislation and its adoption by the federal government. A mass of light thrown through the investigations of these bodies upon the subject will make matters appertaining to railway administration more generally understood by the people of the United States. And, by the time the railways are ripe for more heroic treatment of the question, the people in all probability will also be ripe to treat it more intelligently, and will have made such progress in the moral development of the administrative machinery of the government that the additional powers to be intrusted to that machinery can safely be to it delegated by the people. SIMON STERNE.

RAILWAY CLEARING HOUSE. (See CLEARING, AND CLEARING HOUSES.)

RANDOLPH, John, was born in Chesterfield county, Va., June 2, 1773, and died at Philadelphia, May 24, 1833. From 1799 until 1813 he was a democratic congressman from Virginia. After 1801 he was for some years the administration leader in the house; but in 1805 he quarreled with his party (see QUIDS), and for some years he was a free lance, claiming to be a better democrat than the dominant party, and yet opposing the embargo and the war of 1812 in company with the federalists. He was out of congress 1813–15, having been defeated by Jefferson's son-in-law, John W. Eppes, but was again in congress 1815–17, 1819–23 and 1827–9, and in the last interval was United States senator, 1825–7. During a part of the year 1830 he was minister to Russia.—Randolph's attenuated frame, his shrill voice, his powers of bitter sarcasm, his extraordinary eccentricities of speech, dress and manner, his pride of descent from Pocahontas, and, with it all, his real political power of thought, made him the problem of his own time. He was variously supposed to be crazy, emasculated, or guilty of some enormous secret crime; but he seems to have been only a supremely selfish spirit, loving a few others because they belonged to him, and his selfishness was concentrated into disease as they were taken from him by death.—See Garland's *Life of Randolph;* F. W. Thomas' *John Randolph;* Parton's *Famous Americans;* 2, 5 *Harper's Monthly;* 103 *North American Review.* ALEXANDER JOHNSTON.

REBELLION. By rebellion is understood the act of resistance by one or more individuals to lawful authority acting within the limits of its power. Insurgents are those who attack the government with the intent of overturning it, and rebels those who refuse to obey it. It is true that rebellion quickly becomes insurrection. The distinction between them, consequently, exists especially at the beginning, but exact definitions are necessary in political language. Rebellion is, at bottom or in principle, a refusal of obedience, which manifests itself either by violence and assault, or by passive resistance.—There is no rebellion unless the public force, against which the rebels rise, be acting in the execution of the laws, or of legitimate orders of the authorities or the courts. This is the essential element of rebellion. When peace officers act outside of their right, or exceed their power, resistance is not rebellion. This principle was written in the Roman law (see law 5, of the Code *De jure fisci*); it was even taught in French law by Jousse (*Traité des mat. crim.*, vol. iv., p. 79). In such a case, the act of the officer is an act of brute force. But the presumption of legality is in favor of the officer, and it is for the person who believes himself to have the right to resist, to show grounds of excuse in justification. And, further, when a public officer acts within the limits of his power, an irregularity of form which clouded his title or acts would not constitute an excuse, because then the officer commits no violence, and at bottom his title and acts are legal. But if, for instance, the officer purposes to make an arrest, except in the case of *flagrante delictu*, or to effect an execution without a judgment, resistance is an act of lawful defense, provided that it does not go beyond the bounds of strict necessity.—These are the least serious cases of rebellion. They are what may be said to constitute petty rebellion. Rebellion, in its greatest development, goes much farther than contesting the acts of a police officer; it calls in question the very government whose orders he executes; it raises against the government the same objections, of incompetency, or of exceeding its powers, which we have just supposed in the case of public officers. The same principle, as to the lawfulness of the resistance, must be applied here.—Rebellion, we have said, may show itself without violence, and be entirely passive. Thus, breaches of certain legal obligations are, in our opinion, acts of rebellion. If the commander of an armed force refuse to cause it to act, though he be lawfully required to do so by the civil authority, he deserves, according to our idea, the title of rebel, quite as much as the wretch who meets a sheriff with a blow from his fist. F. A. HÉLIE.

REBELLION, The (IN U. S. HISTORY). The name rebellion has been retained in this article for the struggle of 1861–5, in preference to that of civil war, which has latterly obtained considerable currency as a milder expression. Whether it was a rebellion or a civil war could only be decided by its result. If it had been successful, it would have decided that the United States had never been a nation in its domestic relations, and the conflict between the states of a voluntary confederacy might very properly have been termed a civil war. As it was unsuccessful, and as the nation maintained its previous and future entity, the logic of events has stamped the struggle as a rebellion by individuals, not a civil war between states. It is true that many of the enactments of congress and of the judicial decisions from 1861 to 1867 can only be explained on the theory that the war was maintained against states: these instances have been collected by Mr. Hurd, as cited below. But they are opposed by more numerous instances to the contrary, and are rather proofs of haste than of a consistent theory or policy. Legally, it may have been a civil war as well as a rebellion; politically, it was a rebellion only. Mr. A. H. Stephens, who regards the struggle as a revolution by which a voluntary confederacy was transformed into a nation, very properly entitles his history of it "A Constitutional View of the War Between the States"; but even he would be compelled to call any similar struggle in the future a rebellion. The name is retained here, therefore, not in any invidious sense, but as one which can not truthfully be avoided. (See NATION, STATE SOVEREIGNTY.)—It is impossible to date the outbreak of the rebellion exactly. The secession of South Carolina, or of any other state, can not be taken as the date, for it might have been possible for a state to pass an ordinance of secession, refuse to take part in the government, and yet remain peacefully in the Union so long as the execution of the laws was not resisted. The seizures of federal forts, arsenals, mints and vessels in January, 1861, bear far more affinity to a rebellion; and yet these were so irregular and scattered, some of them with, others without, and others disavowed by, the authority of the state, that there seems even yet to have been a *locus penitentiæ* to the participants. But the organization of the new government at Montgomery (see CONFEDERATE STATES), was a different matter; this was a step which there was no retracing, and with it the rebellion takes a tangible form. From that time there were two incompatible claims to the national jurisdiction of the seceding states, and neither of the two claimants could exist except by forcibly ending the claim of the other. War was a necessity, and the rebellion a fact to be acknowledged.—The rebellion, however, was not at first acknowledged, nor were instant measures taken for its suppression. The responsibility for this mistake has been concentrated by popular belief upon the head of President Buchanan (see his name), but it is unfair to deny a very large share of it to the politicians of all parties in and out of congress, to their complete ignorance of their constituents, of their associates, and of themselves, and to the inevitable tardiness of action in a republic. Hardly a northern man in congress felt sure of his footing, or felt certain how far his

constituents, who were quietly and steadily working at the plow, or in the office, or at the mill, would support him in the hitherto unheard-of measure of "making war upon a sovereign state." And so, through the whole dreary winter of 1860–61, the air of congress was redolent with propositions for compromise; with protestations of belief that the seceding states could never mean it, and that the republic would yet go safely through this crisis; and with appeals to the erring sisters to reason together, to pause a moment, to reflect and see if something may not yet be done; but, so far as preparations to suppress the rebellion were concerned, that congress, on its final adjournment, was as if it had never existed. It is not true that northern politicians hurried the northern people into the war against the rebellion; it is rather true that the uprising of the north and west, after the capture of Fort Sumter, April 13, 1861, educated their politicians as they had never been educated before. A decade before, July 22, 1850, Clay had passionately said of Rhett in the senate, "If he pronounced the sentiment attributed to him, of raising the standard of disunion and of resistance to the common government, if he follows up that declaration by corresponding overt acts, he will be a traitor, and I hope he will meet the fate of a traitor." Unfortunately, it required a popular uprising to bring the average congressman up to Clay's level. — It is, therefore, almost a waste of space to detail the failures of congress to act in 1860–61. The president auspiciously opened the session with a message which John P. Hale, in the senate, very fairly summed up under three heads: "first, that South Carolina has good cause to secede; second, that she has no right to secede; third, that we have no right to prevent her from seceding." Much of the time of the session was consumed in the consideration of proposed compromises (see, for the principal ones, COMPROMISES, VI.; CONGRESS, PEACE; CONSTITUTION, III., B.), the debates being occasionally interrupted by the farewells and departure of the representatives of the states which seceded without waiting to be conciliated. In the south everything was drifting straight toward war. In Charleston harbor Maj. Anderson, with his force of eighty men, had abandoned Fort Moultrie, Dec. 26, 1860, and established himself in Fort Sumter, a far stronger position, commanding the mouth of the harbor. The same day commissioners from South Carolina to the president arrived in Washington, but he refused to recognize them officially, and they went home again, Jan. 3. Thereafter the state continued to erect batteries at every advantageous point around the fort, and these were strong enough to fire upon, Jan. 9, and drive back the steamer "Star of the West," with provisions for the fort. The confederate government, immediately after its organization, appointed three commissioners to treat with the federal government. These arrived at Washington March 5, and at once opened communication with Seward, the new secretary of state. March 15, Seward refused to recognize them as diplomatic agents of any government, but his reply was not delivered to them until April 8, on which day official notification was sent to Gov. Pickens, of South Carolina, that Fort Sumter would be provisioned at once, and by force, if necessary. On this delay of twenty-three days in delivering the reply, the commissioners based a charge of bad faith against Seward, but it seems to be unjust. Seward seems to have been personally in favor of abandoning Fort Sumter, and the reply was sent only when the rest of the cabinet had persuaded the president not to yield. The notification to Pickens was effectual in one way. Before the relief expedition could reach the fort, it had been summoned and bombarded, and had surrendered. — Some of the northern states were at least partially prepared for the struggle. In 1857 and 1858 the militia of Ohio had been thoroughly reorganized by Gov. Chase. Gov. Andrew, of Massachusetts, in his inaugural address, in January, 1861, had advised the legislature to put a part of the militia on a war footing, and immediately afterward had sent an agent to Europe to purchase arms, and invited co-operation by Maine and New Hampshire. Jan. 11, the New York legislature voted to offer the whole military force of the state to the government, and five days later the New York city militia formally offered their services to the president. But all these were exceptional instances, and as a general rule the northern and western states were quite unprepared. The president's proclamation, April 15, commanding insurgents to disperse within twenty days, and calling for 75,000 of the militia to secure the execution of the laws in the southern states, met with varying responses. In the south the proclamation was answered by the rapid secession of those states which had hitherto refused to secede, but were opposed to coercion. (See SECESSION.) In the border states, Missouri, Kentucky, Delaware, and, probably most important of all, Maryland (see that state), refused to secede, and gradually came over to an acceptance of the idea of coercion. In the north the response to the call for men was instant, and the quotas of the states were filled twice over. One regiment, the Massachusetts sixth, mustered early on the morning of April 16, and reached Washington three days afterward, after the first loss of life in the rebellion, during a street fight with a mob in Baltimore, April 19. The day before, several hundred unarmed Pennsylvania troops had arrived. April 25, troops began to pour into Washington, having made their way around Baltimore, and the capital became, as it remained for four years, an entrenched camp. — In the meantime, by alternate proclamations of Presidents Lincoln and Davis (see ALABAMA CLAIMS), open war had begun, the latter regarding it as a war declared by the United States against the confederate states, the former as the suppression of a rebellion. The two difficulties which most embarrassed President

Lincoln are elsewhere detailed (see INSURRECTION, I.; HABEAS CORPUS); but, besides these, there were others, more serious, if not so annoying. The loss of Harper's Ferry, April 18, involved a loss of very much of the government machinery for making arms. The burning of Gosport navy yard, April 20, almost annihilated the little remnant of the federal navy. The wholesale resignations of southern-born and even northern-born officers in the public service had seriously crippled it, and of those who remained it was impossible to know whom to trust, or to be confident that any given officer would not resign without notice and betake himself to Montgomery. The treasury had been so nearly bankrupted in the preceding December that the robbery of about $1,000,000 from the Indian trust fund in the war department could hardly be made good. An army, navy and treasury were to be evolved out of nothing, by an administration and a people who knew nothing of war, and all was to be done without legal appropriations of money or authorization by law, for congress, by the president's summons, was not to meet until July 4. For this failure to summon the special session for an earlier date, Lincoln has been sometimes severely censured, but it was either very fortunate, or the result of a wise forecast. So late as July there were among the members of congress several, such as Breckinridge and Burnett, of Kentucky, who were with the confederacy in spirit, and were soon afterward with it in the body. The number of such would undoubtedly have been much larger if May 1 had been fixed for the meeting of congress. And, further, congress would have been divided and probably incompetent at the earlier date. A part of its members would have come only to renew the tedious attempts at compromise of the past winter, and a part animated only by the enthusiasm of the Sumter rising; and internal dissension would have had more attention than the public good. As it was, when congress met, the time for conciliation and compromise was evidently past; a sober realization of the enormous task to come had taken the place of the first inconsiderate, and sometimes foolish, excitement; and congress was a homogeneous body, well fitted for the emergency. — When congress met, the area of the rebellion had been fairly defined. Its northern boundary was an irregular line from the Atlantic to the gulf of Mexico, following the Potomac and the southern boundary of Pennsylvania to the Blue Ridge; then trending southwest through western Virginia and west through southern Kentucky to the Mississippi; thence west through central Missouri to Kansas, and south and southwest to the gulf of Mexico, taking in the Indian territory, whose people had replaced their former treaties by new ones with the confederate states, and Texas. South of this line the whole people was in rebellion, for the sincerest Union men among the local leaders felt bound to obey the final action of the state (see ALLEGIANCE), and the new national government claimed and received the allegiance of the doubtful mass. Within this line the southern states stood in the attitude of a beleaguered fortress, covering an area of more than 700,000 square miles, with a line of investiture of 10,500 miles, and containing within it a population of 8,000,000 whites, 1,400,000 of them fighting men, and 4,000,000 blacks, most of whom remained faithful laborers to the end. The military and naval events of the rebellion need be only briefly summed up here. — At first the rebellion was to be overthrown by the "anaconda system," if it can be called a system. The line of investiture was to be assailed at every available point, and the rebellion was to be pressed to death. In the east this idea had several important results, only one of which, the blockade, was of any use, if the captures of Port Royal and Hatteras are to be considered as an integral part of the blockading system. Outside of the blockade, without which the rebellion could never have been suppressed, it is very doubtful whether any military operations in the east were ever of any great service, beyond employing a large part of the confederate armies to counteract them. Even if they had been successful in the first years of the war, they could only have had the distinctly evil result of pushing the rebellion, with its natural energies unimpaired, into the infinitely stronger positions of its central territory. In the west the one great object of desire was at first the opening of the Mississippi to the gulf, and this was effected by the capture of New Orleans, April 24–27, 1862, by the capture of Vicksburg and Port Hudson, July 4 and 8, 1863, and a countless number of subordinate battles. But during this struggle the war had practically been ended, though indirectly, for the enormous wedge of highland east of the Mississippi, running south into the heart of the confederacy, and the natural citadel of the continent, was almost entirely in the hands of the western armies. In November, 1864, Sherman's army, gathered on the southern edge of the great citadel, and, assured of Thomas' ability to master the only confederate army in their rear, had only to choose the direction in which they should pour down upon the plains below and push the rebellion *from* the mountains *to* the coast. Thereafter there could be but one object for the officers and men of the confederate armies, to maintain undiminished to the end that high reputation for personal bravery which the national armies have always and cheerfully acknowledged. Lee's surrender took place April 9, 1865, and the first amnesty proclamation of President Johnson, May 29 (see AMNESTY), may be taken as the formal close of the rebellion, though isolated surrenders continued throughout the following month. — During this long struggle, another was going on at Washington, even more difficult. In the field the general line of success was only developed when the original disadvantages of civil life had worn away, when the original leaders, who fought with one eye on the war and the other on home poli-

tics, had been eliminated or forced to subordinate positions, and when the new group of professional soldiers had been developed, Grant, Sherman, Sheridan, McPherson, and others, who were for the time absolutely reckless of political and civil considerations, and who knew but one object—war. But at Washington no such development could or ought to have taken place. There politics had to have at least an equal consideration with war, and the difficulties arising from the complication of the two subjects did not cease even with the cessation of the war itself. — The 37th congress met July 4, 1861. In the senate there were thirty-one republicans and eighteen opposition, ten of the latter being democrats, and eight "unionists," remnants of the old "American party," such as Garret Davis, of Kentucky, and Anthony Kennedy, of Maryland, supporters of the war, and opponents of every interference with slavery. In the house there were 106 republicans and seventy-two opposition, forty-two of the latter being democrats and thirty "unionists." The house voted to consider at this session only bills relating to the military, naval and financial operations of the government; and July 15, by a vote of 121 to 5, it pledged itself to vote any number of men and any amount of money necessary to put down the rebellion. Laws were passed, by heavy majorities, to authorize a loan of $250,000,000, to define and punish conspiracy, to increase the tariff, to appropriate money for the army and navy, to suppress insurrections (see INSURRECTION, I.), to authorize the president to collect the revenue in federal vessels or to close southern ports in case collection was impossible (July 13), to call out 500,000 volunteers, if the president should think so many necessary (July 22), and to confiscate property, including slaves (see ABOLITION, III.), if permitted to be employed against the government (Aug. 6). A resolution to validate and confirm the president's "extraordinary acts, proclamations and orders," his calling out men, blockading southern ports, and suspending the privilege of the writ of *habeas corpus*, failed to pass, but was made the third section of the act of Aug. 6, to increase the pay of the army. (See HABEAS CORPUS.) An important act of the session was the passage of a resolution that the war had been forced on the government by southern disunionists; that it was waged by the government in no spirit of oppression, and for no purpose of conquest, subjugation, or interfering with the rights or established institutions of the seceding states, but to defend and maintain the supremacy of the constitution, and to preserve the Union with all the dignity, equality and rights of the several states unimpaired; and that, as soon as these objects were accomplished, the war ought to cease. It passed the house, July 22, by a vote of 117 to 2, and the senate, July 26, by a vote of 30 to 5. (See RECONSTRUCTION.) Aug. 6, congress adjourned, having voted all that the executive had asked for. When it reassembled in December (see CONGRESS, SESSIONS OF), the scattered drops of July had settled down into the heavy and steady storm of war which was to beat upon the country for more than three years to come. From the first day of meeting, it was evident that congress had very considerably changed its views as to the proper mode of dealing with slavery. In both houses a large number of resolutions were immediately introduced, looking toward emancipation, and with them began the course of legislation which ended in the general abolition of slavery. (See ABOLITION, III.; FUGITIVE SLAVE LAWS; WILMOT PROVISO.) These acts were then, and have since been, denounced as in violation of the good faith pledged in the resolution of July 22, above mentioned. That resolution undoubtedly expressed what was then the policy and intention of both congress and its constituents, when the magnitude of the war was not yet apparent, and its interdependence upon slavery was not yet plainly perceived. But a congressional resolution is certainly not a part of the organic law, but a mere piece of legislation open to change or repeal at any moment. Other governments are never reproached for vitally changing their policy as a war in which they are engaged grows more desperate. It is a tribute, though sometimes a provoking tribute, to the exceptional good faith of the American republic, to find canons of good faith laid down for it which would not be considered applicable elsewhere. Outside of anti-slavery legislation, and the appropriation bills, the most important action of the session was the act of Feb. 25, 1862, authorizing the issue of $150,000,000 non-interest bearing notes, receivable for all dues to the United States, except duties on imports, and for all claims against the United States, except interest on the public debt, and a legal tender for all debts, public and private, within the United States, with the exceptions above noted, which were to be paid in coin. The legal tender clause was much disliked by Secretary Chase, who only finally yielded to it on the score of military necessity, and as a war measure. (See, in general, FINANCE.) This development of anti-slavery feeling and action in the dominant party, the preliminary proclamation of the president looking toward emancipation (see EMANCIPATION PROCLAMATION), and the summary suppression of opposition to the war by arrest (see *Arbitrary Arrests*, under HABEAS CORPUS), produced almost a complete political change of relations in the north. Hitherto, democrats in and out of congress had very steadily voted for all measures designed to suppress the rebellion by arms, while they as steadily accompanied their votes with the declaration that the republicans, by abolition agitation, had been as much to blame for the war as the secessionists. They now alleged that the new anti-slavery policy had been adopted mainly for the purpose of forcing their party into an attitude of opposition to the war itself. If there was any truth in the charge, the manœuvre was successful: the democratic party gradually became a peace party (see DEMOCRATIC PARTY, VI.), and those of its mem-

bers who were willing to include slavery as one of the vulnerable points of the confederacy were forced into the "union party," as the republican party was henceforth frequently termed. The first results of this *bouleversement* were unfavorable. In the autumn elections of 1862 the great middle and western states, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, and Wisconsin, all of which had voted for Lincoln in 1860, gave democratic majorities. But, as it happened, the democrats gained and the republicans lost little by these elections: in only two of these states, New York and New Jersey, the election involved a change of state government; and in the members of the house of representatives of 1863–5, chosen this year, the republican majority was hardly impaired. The results were just sufficient to confirm the democrats in opposition to the war, and the republicans in active opposition to slavery, while it should have been evident that, as the two ideas became familiar in the future, the tide of recruits must run steadily from the democrats to the republicans, and no longer from the republicans to the democrats. The democratic party touched high-water mark in 1862–3; thereafter it could only recede. — The session of congress which began in December, 1862, was used by the republicans mainly in securing the positions which they had already gained, and in making the necessary appropriations for the war. No great advance was made in anti-slavery legislation, except that the final thirteenth amendment was introduced and left to become familiar. The fundamental idea of final reconstruction by congress was also plainly put into form, and left to become familiar. (See RECONSTRUCTION.) In practical legislation the great features of the session were the conscription act (see DRAFTS), by which the national power to compel the military service of its citizens was for the first time declared and maintained; and the national bank act of Feb. 25, 1863. (See *National Banks*, under BANKING.) West Virginia was admitted (see that state); and the suspension of the writ of *habeas corpus* was confirmed and regulated. (See HABEAS CORPUS.) The appropriation for the navy this year footed up $71,041,401.01; and for the army $729,861,898.80, with $108,807,645.20 for deficiencies. — The wonderful tenacity with which the majority in congress held its ground during this last session, taking no step backward on the slavery question, and actually advancing in other respects, in the face of the adverse majorities of 1862, was fully justified by the event. Every day increased the number of democrats to whom the idea of emancipation as an incident of the war became less dreadful as it became more familiar. July 4, 1863, seems to have been the political as well as the military turning point of the war. From that day it was certain that the confederate armies in the east were to be so held in play as to be unable to defend successfully their vital point in the west. Nothing succeeds like success; and every mile of advance by the western armies was a new guarantee to the republicans of security for the past and for the future. Everything had been gained, and nothing lost, and it was only necessary now to pass at leisure the crowning amendment for general emancipation (see CONSTITUTION, III., A.), and to wait patiently while the armed forces worked out the already secured political future. The autumn elections of 1863 were not generally for important offices; but they indicated a strong republican gain for the first time since 1860; and in the states of Ohio and Pennsylvania, where the control of the state government was involved in the election (see those states), the republican majority was decisive. — A new congress met in December, 1863, the republican majority being 36 to 14 in the senate, and 102 to 84 in the house. Its action was mainly confined to the routine business necessary for prosecuting the war, and to the amendment and enforcement of previous legislation. Provision was also made for the admission of Nevada, Colorado and Nebraska as states (see those states), and for the repeal of the fugitive slave laws. (See that title.) A first attempt was made to pass the thirteenth amendment; the portentous question of reconstruction was fairly introduced; and the existence of the new class of professional soldiers was recognized by the revival of the grade of lieutenant general commanding all the armies. This last grade was intended to be filled by Gen. Grant. — With the adjournment of this session of congress, the political history of the rebellion practically ends. Little was to be done by the dominant party, beyond gathering up the fruits of victory, and drawing breath for the coming struggle of reconstruction. Lincoln's reelection, in the autumn of 1864, hardly doubtful in the event of any action by the opposition, was made certain by the democratic peace platform of that year. This was followed by the final adoption of the thirteenth amendment, abolishing slavery, the only work of the session of 1864–5 which rises above routine. During the year, it was ratified by the states. (See CONSTITUTION, III., A.) — Throughout the political work of congress in these eventful four years, its main characteristics are its general reflection of the will of its constituency, its openness, and its determined resolution to retain the supremacy of congress over the generals and armies in the field. In the last two points it differed absolutely from its rival, the confederate congress. (See CONFEDERATE STATES.) At the opening of the war, while most of the military leaders retained the habits of civil and political life, these characteristics led to many evils; annoying interferences and conflicts by the committees on the conduct of the war, with various military leaders; needless assertions of power and dignity by the disputants; and the revelation in the debates, of things in which not only military science, but common sense, should have dictated secrecy. But these evils cured themselves. As the new class of generals grew up, habituated to regard congress as a master, not as a would-be tyrant, congress itself learned self-control by bit-

ter experience; and the war ended with entire harmony between the civil and military agents in it. — Nor can it be doubted now that congress generally reflected the will of its constituents. The single plausible exception is the winter of 1862–3, above referred to. But, in that instance, the majority in congress, if its members chose to risk their political existence on the supposition, had a fair right to presume, 1, that the elections of 1862 were lost through their own lack of importance, and the consequent neglect of many republicans to take part in them; 2, that the coincident choice of a republican majority in the next congress was a fair popular indorsement of their own change of policy; and, 3, that every indication showed that the popular tide in their favor would inevitably be strengthened by the success of the union forces, without which any policy would, of course, have proved a failure. The result proved that in all three suppositions they were correct. — For the special lines of work done by the congresses of 1861–5, see ABOLITION, III.; AMNESTY; BANKING; CONSTRUCTION; DISTILLED SPIRITS; DRAFTS; ELECTORS, III.; FREEDMEN'S BUREAU; FUGITIVE SLAVE LAWS; HABEAS CORPUS; INCOME TAX; INSURRECTION, I.; INTERNAL IMPROVEMENTS; INTERNAL REVENUE; JUDICIARY; MONROE DOCTRINE; RECONSTRUCTION, I.; SLAVERY; TERRITORIES; WAR POWERS; WILMOT PROVISO; and the authorities cited under them. See also (GENERAL) 2, 3 Draper's *History of the Civil War;* 12–14 *Stat. at Large;* Moore's *Rebellion Record;* Guernsey and Alden's *Pictorial History of the Rebellion;* Appleton's *Annual Cyclopædia* (1861–5); 3 Wilson's *Rise and Fall of the Slave Power;* 2 Greeley's *American Conflict;* Victor's *History of the Rebellion;* 4 Bryant and Gay's *History of the United States;* Botts' *Great Rebellion;* Pollard's *Lost Cause;* (POLITICAL) McPherson's *Political History of the Rebellion;* Raymond's *Life of Lincoln;* Giddings' *History of the Rebellion* (to 1863); Wilson's *Anti-Slavery Measures in Congress;* Hurd's *Theory of Our National Existence* (index under *States, status of*); Boutwell's *Speeches and Reports;* H. W. Davis' *Speeches and Addresses;* Hurlburt's *McClellan and the Conduct of the War;* 2 A. H. Stephens' *War Between the States;* Harris' *Political Conflict;* Gilletts' *Democracy in the United States;* (MILITARY) Callan's *Military Laws of the United States;* Wilson's *Military Measures in Congress;* Count of Paris' *History of the Civil War;* Gen. U. S. Grant's *Report of the Armies* (1864–5); *Reports of the Committees on the Conduct of the War;* W. T. Sherman's *Memoirs;* Swinton's *Twelve Decisive Battles of the War;* Appleton's *Campaigns of the Civil War;* Ingersoll's *History of the War Department;* Boynton's *History of the Navy During the Rebellion; Records of the Rebellion; Confederate Official Reports* (1863); (FINANCIAL) Schuckers' *Life of Chase*, 216, 293; Von Hock's *Die Finanzen der Ver-Staaten; Laws of the United States relating to Loans and Currency* (to 1878); Spaulding's *History of the Legal Tender Paper Money of the Rebellion;* Perry's *Elements of Political Economy*, 459; Gibbons' *Public Debt;* McPherson's *Index of House Bills on Banks, Currency, Public Debt, Tariff, and Direct Taxes* (1875); Lamphere's *United States Government*, 44; John Sherman's *Select Speeches on Finance;* Nimmo's *Customs Tariff Legislation;* and, in general, Bartlett's *Literature of the Rebellion* (6,073 titles of books, pamphlets and magazine articles relating to the rebellion, directly or indirectly, up to 1866).

ALEXANDER JOHNSTON.

RECIPROCITY is a relation between two independent powers, such that the citizens of each are guaranteed certain commercial privileges at the hands of the other. Up to the middle of the present century the term referred almost exclusively to the grant of privileges to foreign shipping. The earlier English policy had been very illiberal in this respect, carrying out the principles of Cromwell's navigation act, and of the colonial system of the last century. But as time went on, it became more important for England to extend her carrying trade in foreign lands than to monopolize it in her own; and in the early part of this century, under the influence of statesmen like Huskisson, reciprocity treaties were concluded with the leading maritime powers, by which each of the contracting parties admitted the other's ships in its ports to the same privileges as its own in the matter of the international carrying trade. This system aroused much opposition at different times in England; and in the United States was strongly opposed by Webster; but it soon became the prevailing one. — The commercial treaties of earlier times aimed at securing special privileges and discriminating rates of duty. The one most commonly referred to as a type of them all is the Methuen treaty of 1703 between England and Portugal, by which England made special rates for Portuguese wines, and Portugal removed her prohibition of the import of English woolens. The same general principles, but applied with far sounder judgment of political and social needs, appear in the series of German treaties beginning with that between Prussia and Hesse in 1828, culminating with the establishment of the Zollverein, and ending with the treaty between the Zollverein and Austria in 1853. — The treaty between England and France in 1860 was the beginning of a new order of things. Preceding treaties had been dictated by special reasons of social policy: this was intended and understood as an attempt in the direction of free trade. France had an almost prohibitive tariff; Napoleon wished to reduce it, but in the existing state of public opinion dared not do so without the appearance of international co-operation. He had in view the general development of French commerce, but he wished to be able to show definite advantages to distinct interests. The treaty with England, arranged in 1860 by Chevalier and Cobden, was the first result of this policy. The English tariff was already on a revenue basis; yet in return for the important

French concessions it was still further reduced on French articles of export. But what distinguished this treaty from preceding ones was the fact that these reductions were not bargained for as special and exclusive privileges. This treaty was intended to become part of a system; it was contemplated that both England and France would make similar treaties with other nations, and in view of this it was provided, that in case either of the contracting powers should subsequently grant to a third power conditions more favorable in any respect, the other should have the benefit of such conditions. This provision constitutes what is known as the most favored nations clause; it was incorporated in subsequent treaties, as had occasionally been done in previous treaties, and soon became the important element in them; for by it a special concession made in favor of any one nation at once inured to the benefit of all who had similar treaties. It is this provision that distinguishes the modern European reciprocity system, and has caused that system to work so strongly in favor of free trade. — The gain to the commerce of France and England was so great that other nations hastened to secure the same advantages. Similar treaties with France or England were made by Belgium in 1861, Prussia in 1862, Italy and Spain in 1863, Switzerland in 1864, and by most of the other European states in 1865 and 1866. Even Russia ultimately secured at the hands of some of the powers the benefit of the most favored nations clause, though without much reciprocity on her part. Within ten years the system seemed to be firmly established all over Europe, and to insure steady progress in the direction of free trade. (For certain special statistics, see Leone Levi in Journ. of Stat. Soc., 40, 1; for discussion of principles, a work entitled "Letters on Commercial Treaties," etc., "by a disciple of Richard Cobden.") — But several circumstances combined to stop this progress, and to a certain extent unsettle the system. The first of these was the downfall of Napoleon III He had not only started the system, but had by his strong influence done more to extend it than most people were aware of. It had never been really popular in the sense of calling forth general enthusiasm. It savored too much of bargaining, too little of principle. And it was rendered less popular than ever by wars like that of 1870, which intensified the opposition of national feeling, and substituted a spirit of embittered rivalry for one of mutual help. This acted against the reciprocity system in a variety of ways. Increased military expenditure demanded larger revenue; and nations chafed under treaty restrictions which hampered them in raising this revenue. The commercial treaties looked toward free trade; but national pride and the constant possibility of war led men to demand a protective system. While men's minds were in this state came the crisis of 1873; and public feeling was only too ready to attribute the hard times which followed to the one tangible grievance of foreign competition, and to seek to be rid of this grievance in all possible ways. — The diplomatists were mainly free traders; and it was some time before they understood the strength of the feelings they had to contend against. The failure of the English negotiators in 1876 to obtain some expected concessions from France, began to reveal the true state of the case. The termination in the same year, by the action of Italy, of the French-Italian treaty, and the rejection by France of a proposed compromise treaty in 1877, were equally significant. Of still greater importance was Bismarck's change of attitude in 1878. Ever since the year 1818 the Prussian government leaned toward a free trade policy, much more so than any other great power except England. In 1862 their steps in support of the reciprocity system had been bold in the extreme. Now, such a change on the part of Prussia, as well as France and Italy, rendered the future of the system extremely doubtful. — To understand the negotiations which followed, we must observe that in the application of these treaties of commerce, two different courses had been pursued by different states. One group of states, headed by England and Prussia, had no sooner made a concession to a single nation, than they modified their whole tariff in accordance with it, so that all nations, even those outside of the system, at once had the benefit of the change. Another group, represented by France, left their general tariff unchanged, but in the collection made a deduction of that amount in favor of nations having the benefit of a treaty. Spain went so far in this direction as to have two tariffs, the lower for "most favored nations," the higher for all others. — As long as the statesmen on both sides were animated by common aims, this distinction made very little difference. But when it became a matter of international bickering, the nations of the first group found themselves at a great disadvantage. What special privileges are you offering us under the treaty? French negotiators constantly asked of the representatives of those nations which had reduced their general tariff. To this question there was no thoroughly available reply; and it was this diplomatic helplessness that led to the "fair trade" agitation in England, and to a full discussion of certain points in the theory of reciprocity into which we can not here enter. (Westminster Rev., 112, 1; Contemp., 35, 269; Nineteenth Cent., 5, 638, 992; 6, 179; Fawcett, "Free Trade and Protection," last chapter.) — In the year 1881 a number of French treaties were about to expire; and it was felt that a critical point had come in the history of the system. After some difficulties, particularly in connection with the Italian and Swiss treaties, they were nearly all renewed on the basis of increased duties on either side. The treaty with England was not renewed, but a special act was passed placing England on the footing of the most favored nations. On the whole, it may be said that the continuance of the system has been secured, but its efficiency in the direction of free trade destroyed. — The United States has never

been in any way connected with the system. At the time of its adoption and growth, American tendencies were all in the direction of increased duties. Our reciprocity treaties have all belonged to the earlier type of special arrangements. By far the most important of them was the one with Canada, proclaimed Sept. 11, 1854, and terminated March 17, 1866, on notice given by the United States one year previous. By the terms of this treaty food products of all kinds, nearly all raw materials, and some half-manufactured articles, were allowed to pass free from one country to the other. The dissatisfaction with the treaty arose from the owners of mines, timber, etc., in the United States, who found the price of their products kept down by Canadian competition. A memorial in favor of its renewal was presented to the United States government by the national board of trade in 1873, but without calling forth vigorous general support. — A similar treaty was concluded with Hawaii in the summer of 1876, for the benefit of certain business interests of the Pacific states, particularly the sugar refiners. It was severely criticised by Secretary Sherman, after having been in operation about two years; but it now seems to have accomplished what was expected of it. The position of the United States government on the subject of commercial treaties is illustrated by the fact, that, when the Hawaiian authorities attempted to negotiate a similar treaty with Germany in 1879, they were checked by an intimation from the United States that the value of those privileges lay largely in their exclusiveness, and that the treaty must guarantee the United States exclusive rights. — In the years succeeding the exhibition of 1876, strong efforts were made by French exporters to secure reciprocity privileges from the United States. It was hoped that if France would place America on the basis of the most favored nations, America would lower its duties on French wines and silks. In spite of the repeated efforts of the French manufacturers' agent to secure public sentiment in its favor, the subject was never officially taken up.

ARTHUR T. HADLEY.

RECOGNITION. It is customary for princes to notify the states with which they hold relations of their accession to the throne. The same is the case with all new governments. As a rule, especially in the case of a prince who succeeds regularly and peaceably, this announcement is met by congratulations and sometimes by sending ambassadors, more or less extraordinary. At other times only an official certificate of the notification is given, and the receipt of it acknowledged. There are even cases in which, at the time of a change, no formality is employed; relations with the new government are entered upon, and it is thus recognized *de facto*. — International recognition was formerly of much greater import than in our day. The dogma of national sovereignty had as yet been accepted by but a few daring innovators; and right, justice and law were summed up in the will of the prince. This was the period in which a haughty king could say: *l'état, c'est moi.* — It is now admitted that a people is independent by its own right, exclusive of any recognition. Let an island arise in the Atlantic to-morrow; let people land and settle there; let them form themselves into an independent political society and choose a government; and that island would form a state as lawful and regular as any other. International recognition is at bottom only the authentication of a fact, an anthentication which requires no formality. In entering into relations with Japan, with Burmah, or with any country, the remoteness of which preserves it from European enterprise, it never occurs to any one to begin by recognizing the government with which they are about to treat. It is sufficient that it exists, and in treating with it recognition is implied. — In such cases as these, there could never be any doubt; but doubt has arisen sometimes, when, in consequence of internal revolution, one government has been replaced by another. The independence of the state is not called in question, but it is hoped to authenticate or legitimatize the new government by recognizing it, though often again family motives or interested motives may prevent this being done. The principle of national sovereignty, better understood, has silenced all these scruples. Recognition no longer implies approbation, and foreign countries are not obliged to distinguish between the government *de jure* and the government *de facto*. If the government appear established, if the nation accept it, and, above all, if it has appointed it, it has all the legitimacy necessary in order to be recognized. — Thus recognition adds nothing to the right of existence of a state; it is only a means of facilitating international relations. A state which is not recognized is regarded as not existing for those which deem it expedient to remain a stranger to it; but if any inconvenience result from this lack of intercourse, both the states suffer. The injury is greater, however, to the state which refuses recognition than to the one which is deprived of it. Spain lost nothing from the fact that the emperor of Russia would not recognize Isabella II., while Nicholas I. made it impossible to exercise an influence over Spain. Besides, it was Russia which was destined to yield in the end, and, in such a case, the longer the sulkiness has lasted, the more it costs to effect a reconciliation. — We have just been speaking of governments established in consequence of a profound change, violent or peaceful, in the constitution of a state. But before the new public powers are well established, several cases may occur, and we must review them. In the first place, there may be a "provisional government." A diplomatic official agent, ambassador or minister is never accredited to a provisional government; but power may be given to an agent more or less official to enter into relations with it, and to treat with it on all pressing matters. In reality, such an agent is an ambassador deprived of the honorary immunities customarily enjoyed by the repre-

sentatives of foreign powers. However, many shades of difference are possible here. Then, two parties may be contending for power. As long as there is a doubt as to the definitive success, foreign governments recognize only the one to which its agents have been accredited. The new government does not as yet exist; there is, consequently, no occasion for recognizing it. Besides, if relations are prematurely entered into with the chiefs of an insurrection, the government still established would have a right to consider itself offended. When there is too much haste to recognize, it is often in order to aid or intervene. The third case to consider is, when a part of the territory, a province, or colony, wishes to detach itself from the state of which it has hitherto formed a part. If this territory be victorious in the contest, to the extent that its independence is recognized even by the state from which it has separated, foreign powers can have no doubt what to do: recognition is then a simple authentication of a patent fact. If peace have not been formally concluded, each foreign state will be able to estimate, at a given moment, if the territory which claims to be independent has acquired sufficient political stability to offer a guarantee for the future. But we must not lose sight of the fact that a state threatened with the loss of a province will always see with displeasure that the separation is looked upon as accomplished, and, according to circumstances, it will protest or declare itself offended. A powerful country will pay no attention to these complaints, but a weak country will act with prudence. — We do not need to say that to recognize the independence of a country at the moment when the insurrection begins, constitutes a real *casus belli*. War will not be recoiled from, unless the insult come from too powerful a state. — In 1861 a new situation was introduced into international law, the *recognition of belligerents*. We have had as yet but one example of this, that which recognized as belligerents the confederate states fighting to separate themselves from the United States. It will be understood that to recognize the southern states of the American Union as belligerents, was to close the English ports to war vessels from the northern states, which was an act of indirect hostility. Sympathy was extended to the confederates, not because their cause was considered just, but because their cotton was needed. We can not foresee what use may be made one day of this *semi-recognition*, the only example of which we have just cited, but we instinctively regard the precedent as a thing to be regretted. It may more than once encourage malcontents to revolt, without its being deemed expedient to come to their assistance otherwise than by this indirect aid, which we can not help regarding as a sort of intervention, perhaps without danger, but more generally without honor or profit. — When one state does not recognize a change in the constitution of another, diplomatic relations cease, as in war, and the subjects of the disaffected states are commended to the good offices of an allied state; they are thus officiously (*officieusement*), using the term in a good sense, instead of officially, protected.

MAURICE BLOCK.

RECONSTRUCTION (IN U. S. HISTORY), the political problem of the restoration of the seceding states to their normal relations with the Union after the suppression of armed resistance therein to the constitution and the laws. Such a problem would have been easy of solution under a simple and direct acting government; in a highly complicated system like that of the United States, in which the parts and their action are so delicately adjusted, any derangement shows its effects everywhere; and a derangement so great as was introduced by secession, since it can not check the national force, is almost certain to throw all the wheels out of gear, convert the national machine into a blind and guideless power, and make a bad master out of a good servant. In the matter of reconstruction the difficulty was increased, 1. By the length and bitterness of the war. The terms of reconstruction which were possible in 1862, 1863, 1864, or 1866, were each of them impossible within a year thereafter. Every battle lost and won, every vessel sunk, every house burned, every case of mistreatment of prisoners, was in its way a factor not only in anti-slavery action, but in final reconstruction. 2. By the status of the freedmen. It was impossible that the successful party should feel no interest whatever in the fate of the beings who had been converted by its success from chattels into persons. It was natural that the disposition of the conquered toward the freedmen should be keenly and suspiciously scrutinized; and thus every act of individual violence, every appearance of organized repression, which came to light before the work of reconstruction was completed, became a silent factor in the work. 3. By the existence of a written constitution which provided for no such state of affairs. An omnipotent British parliament would have soon hit on a formal settlement, though its success in solving the Irish problem has not been so swift or sure as to make us wish for a change of régime. The American government could only engage in a series of experiments, more or less successful, and finally rest content with that solution which seemed to offer the least difficulty and the greatest advantages to the nation. "Happily for the nation," says Brownson, "few blunders are committed that with our young life and elasticity are irreparable, and that are greater than are ordinarily committed by older and more experienced nations. They are not of the most fatal character, and need excite no serious alarm for the future." — In considering the question, it is proposed, 1, to give, as briefly as possible, the successive theories of reconstruction; 2, to detail the work as it was finally done; and 3, 4, to consider its failures and its successes. In so doing, there are certain precedents which are often referred to by all of them, and these may as well be given now, for reference.

— *The Guarantee Clause.* The constitution (Art. IV., § 4) speaks as follows: "The United States shall guarantee to every state in this Union a republican form of government." To this was often added the following paragraph from the powers of congress (Art. I., § 8): "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States or in any department or officer thereof." This, it was claimed, gave congress power to pass all laws which it should consider "necessary and proper" for carrying into effect the guarantee clause. This would have been undeniable if the language of the clause had been "congress shall guarantee," or "the government shall guarantee," or even any "department or officer shall guarantee"; but the peculiar phraseology, "the United States shall guarantee," seems to exclude all these interpretations, and give the power concurrently to all the governmental agents, executive, legislative and judicial. Even in this view, however, the case of Luther *vs.* Borden would seem to show that congress has the power to enact laws to carry into execution its concurrent power in the premises, and that the president is bound to execute them. — *The Resolutions of* 1861. At the special session of 1861 joint resolutions were introduced to define the objects of the war. That which was pertinent to this subject was as follows: "* * That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of those states, but to defend and maintain the supremacy of the constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality and rights of the several states unimpaired; that as soon as these objects are accomplished, the war ought to cease." It passed the house, July 22, 1861, 117 to 2; and the senate, July 26, 30 to 5. — *The Law of* 1861. The act of July 13, 1861, authorized the president, when he should have called out the militia against insurgents claiming, without dispute, to "act under the authority of any state or states," to proclaim the inhabitants of the insurgent states to be in insurrection against the United States; and ordered commercial intercourse with the insurgent states to cease. Accordingly the president issued a proclamation, Aug. 16, declaring the inhabitants of Georgia, South Carolina, Virginia (except those west of the Alleghanies), North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida, to be in insurrection. — For the blockade of 1861 see ALABAMA CLAIMS. — I. THEORIES OF RECONSTRUCTION. As a summary of the changes of theory, we may say that the war was begun under the theory of "restoration," and that this theory was persistently maintained by the democrats to the end; that the presidential theory was developed by Lincoln in 1863, and carried out by Johnson in 1865, but fell back under the hands of the latter into a modification of the restoration theory; that the Sumner and Stevens theories received no formal ratification from any quarter; but that congress, having advanced so far as the Davis-Wade plan of 1864, was pressed by the force of contest with the presidential theory into a plan of its own in 1867, consisting of the Davis-Wade plan, increased by the suffrage features of the Sumner theory, and the whole based on a modification of the Stevens theory of the suspension of the constitution. — 1. *Restoration.* The war began under the influence of the idea that there was "not one of these states in which there were not ample numbers of Union men to maintain a state government after the rebellion shall have been put down." There were some warnings to the contrary. "It may be," said Baker, of Oregon, in the senate, "that instead of finding, within a year, loyal states sending members to congress and replacing their senators upon this floor, we may have to reduce them to the condition of territories, and send from Massachusetts and Illinois governors to control them; and, if there were need to do so, I would risk even the stigma of being despotic and oppressive rather than risk the perpetuity of the union of these states." But such warnings were unheeded, and the general feeling was well represented by the resolutions of 1861. The actual shock of war, and the evidently universal transfer of allegiance in the south to the confederate states (see that title), at once worked a change. In December, 1861, the resolutions of July were again offered in the house, but were laid on the table by a vote of 71 to 65. The same result with increasing majorities met subsequent reintroductions of the resolutions. In December, 1862, these resolutions took another shape, that of a simple declaration that the war was prosecuted only to maintain the integrity of the Union and of the states as they were at the beginning of the war. In this form they were ruled out of order, or laid on the table, by majorities small at first but steadily increasing. They owed their defeat mainly to the fact that they squinted at slavery and the admission of West Virginia: if confined to the question of restoration, they could as yet hardly have been defeated. Even Vallandigham's resolutions, long, cumbrous, and containing the invidious word "professedly" in reference to the original object of the war, were only defeated by a vote of 79 to 50. Generally, however, democratic members hardly felt it to be necessary to defend their position vigorously until reconstruction began to loom up plainly in 1863–4. Pendleton's statement of democratic views may then be taken as authoritative. "These acts of secession were either valid or invalid. If they are valid, they separated the state from the Union. If they are invalid, they are void; they have no effect; the state officers who act upon them are rebels to the federal government; the states are not destroyed; their constitutions are not abrogated; their officers are com-

mitting illegal acts, for which they are liable to punishment; the states have never left the Union, but so soon as their officers shall perform their duties, or other officers shall assume their places, will again perform the duties imposed, and enjoy the privileges conferred, by the federal compact, and this, not by virtue of a new ratification of the constitution, nor a new admission by the federal government, but by virtue of the original ratification, and the constant, uninterrupted maintenance of position in the federal Union since that date. Acts of secession are not invalid to destroy the Union, and yet valid to destroy the state governments and the political privileges of their citizens." This ground was held thereafter by the democratic conventions of all the states, and by the national convention of 1868, but it was unsuccessful. Indeed, it was worse. Nothing is more curious in the congressional votes on this question than the manner in which democratic consistency and persistency thwarted all propositions for mild terms to the insurrectionary states. The names of democrats and "radical" republicans, of Fernando Wood and Thaddeus Stevens, appear side by side in voting down the successive and increasingly severe propositions for reconstruction, until, after 1865, the "radical" republicans, falling back a step, united with the moderate republicans and swamped the democrats. — Kindred to this general principle were the constant demands of the democrats for a national convention of states. They began July 15, 1861, when Benjamin Wood, of New York, offered a resolution recommending such a convention, which was tabled by a party vote of 92 to 51; and they continued until the democratic national convention of 1864 demanded "a cessation of hostilities with a view to an ultimate convention of all the states." Toward the end of the war, and particularly just before the presidential election of 1864, many southern authorities inclined to accept this scheme, if offered to the seceding states; but they still insisted that the states were not to be bound by the action of the convention. — Another kindred proposition, offered in December, 1861, and several times thereafter, was to appoint ex-Presidents Fillmore and Pierce, Chief Justice Taney, Edward Everett, and seven other commissioners, to confer with a like number from the seceding states for the preservation of the Union. It was either left unconsidered or tabled. — In the conference at Hampton Roads, Feb. 2, 1865, between Alex. H. Stephens, R. M. T. Hunter, John A. Campbell, President Lincoln, and Secretary Seward, Mr. Stephens says that he asked "what position the confederate states would occupy toward the others, if they were then to abandon the war? Would they be admitted to congress? Mr. Lincoln very promptly replied that his own individual opinion was that they ought to be. He also thought they would be, but he could not enter into any stipulations upon the subject. His own opinion was, that, when the resistance ceased and the national authority was recognized, the states would be immediately restored to their practical relations to the Union." This statement, however, is opposed to the known fact that the president was then fairly committed to the presidential theory of reconstruction. — The last attempt at "restoration" was the memorandum of April 18, 1865, between Generals W. T. Sherman and Joseph E. Johnston. It provided for the disbandment of the confederate forces at their state capitals, the re-establishment of the federal courts, and "the recognition by the executive of the United States of the several state governments on their officers and legislatures taking the oath prescribed by the constitution of the United States; and, where conflicting state governments have resulted from the war, the legitimacy of all shall be submitted to the supreme court of the United States." The agreement was repudiated by President Johnson, and an unconditional surrender took its place, April 26. — 2. *The Presidential Theory.* President Lincoln seems to have held from the beginning, that while, as commander-in-chief, he was bound to carry the war into the heart of the seceding states, he was also bound, as civil executive, to endeavor to restore civil relations with the states themselves. His theory is detailed in his proclamation of Dec. 8, 1863, and his defense of it in his annual message of the same date. The proclamation, 1, offered amnesty to all but specified classes of leading men; 2, declared, that a state government might be reconstructed as soon as one-tenth of the voters of 1860, qualified by state laws, "excluding all others," should take the prescribed oath (see its form under AMNESTY, I.); 3, declared that, if such state government were republican in form, it should "receive the benefits" of the guarantee clause; 4, excepted states where loyal governments had always been maintained; but, 5, added the caution that the admission of senators and representatives was a matter exclusively "resting with the two houses, and not to any extent with the executive." The proclamation further remarked, that "any provision which may be adopted by such state government in relation to the freed people of such state, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent, as a temporary arrangement, with their present condition as a laboring, landless, homeless class, will not be objected to by the national executive." The message says: "There must be a test by which to separate the opposing elements, so as to build only from the sound, and that test is a sufficiently liberal one which accepts as sound whoever will make a sworn recantation of his former unsoundness." The presidential programme thus included but four points: cessation of resistance, the appointment of a provisional governor, the taking of the oath of amnesty by at least one-tenth of the white voters, and the formation of a republican government; there was no negro suffrage or supervision by congress in it, and the only action of congress was to be the separate decision of the two houses on the admission of members.

It is impossible to see any difference between this and Johnson's "policy." The features are identical. Johnson always declared that they were the same, and in his speech of Feb. 22, 1866, asserted that Lincoln had told him, a year before that time, that he was "pretty nearly or quite done with amendments to the constitution," provided the 13th amendment were ratified. Seward and other intimate friends of President Lincoln maintained the identity of the systems. Gen. Grant, in his testimony before the house judiciary committee, July 18, 1867, said that the first of Johnson's reconstruction proclamations (for North Carolina) was the same, and he thought the same *verbatim*, as one which had been read to him twice in a cabinet meeting before Lincoln's assassination. We may safely take the two systems as identical, as the "presidential theory." — So long as slavery was not a point of attack, it is evident that restoration and the presidential theory were very much the same thing, the only new point in the latter being the exclusion of white voters unable or unwilling to take the oath. In this sense, Virginia (see that state) was restored or reconstructed from the beginning: the Pierpont government was recognized by the president at first as the government of all Virginia, then of the conquered portion of Virginia proper (after the separation of West Virginia), and at the close of the war it superseded the rebellious government of Virginia, without objection from any quarter. Nor did it lack congressional recognition, in both its aspects: congress admitted West Virginia by virtue of the formal assent of the "Virginia government" of Pierpont; and the separate action of the two houses, according to the presidential theory, was illustrated by the refusal of the house to admit Pierpont members after 1863, while the Pierpont senators held their seats, one until 1865, and the other until his death, in 1864, when the senate refused to admit his successor. — A new feature came in with the president's adoption of an anti-slavery policy, in September, 1862. Thereafter, the presidential theory included the abolition of slavery, and a recognition of the anti-slavery laws and proclamations in the amnesty oath. In other points, it remained the same: no legislation by congress, and separate action of the houses on the admission of members. In this way, Louisiana, Arkansas and Tennessee (see those states) were reconstructed, in 1863–5. The legality of these governments was always stoutly maintained by President Lincoln. In his proclamation of 1864, hereafter referred to, in regard to the Davis-Wade bill, he says that he is "also unprepared to declare that the free-state constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging, as to further effort, the loyal citizens who have set up the same."— The counter-proclamation of Davis and Wade alleged that an unsuccessful expedition into Florida had the same object, to organize a presidential government. However true that may be, the operation of the presidential theory, in its second aspect under Lincoln, stopped with Virginia, Arkansas, Louisiana and Tennessee. Even these examples were fortified by the separate action of the houses upon them: the Louisiana representatives were admitted in February, 1863, while the senators were refused admission, as were the representatives also after March 4, 1863; the Arkansas senators and representatives did not apply for admission until 1864, and then the temper of congress had risen so high that they were refused; the admission of the Tennessee senators and representatives, in July, 1866, was, as is hereafter noted, the point where the congressional theory superseded its predecessor. — Congress adjourned, March 3, 1865, until Dec. 4 following; Lincoln died April 15, 1865; and Johnson succeeded to his theory, with far inferior prospects of success. Precedents were in his favor, the admission of West Virginia, the presence of senators from Virginia 1861–5, of representatives from Virginia 1861–3, and of representatives from Louisiana in 1863; he was supported by Lincoln's name and cabinet; and, above all, he had a clear field for nine months before congress could meet. Against him were his unfortunate temper, his inability to temporize, and his controlling sympathy with non-slaveholding southerners. It was certain, that, at the first sign of failure in the presidential theory, popular opinion would strike at Johnson far more willingly than at Lincoln, and that Johnson was far less qualified than Lincoln to meet or evade the attack. — Gen. Johnston surrendered April 26, 1865, and May 29 following, President Johnson began to put into operation the presidential theory, accompanying it with a new amnesty proclamation (see AMNESTY, II.), such a measure being an integral feature of the plan. In each state, the sequence of events was, 1, the appointment of a provisional governor; 2, the summoning of a convention, composed of, and voted for, by whites able to take the amnesty oath; 3, the adoption of a constitution, or ordinances, forbidding slavery, repealing or declaring null and void the ordinance of secession, prohibiting persons in the "excepted classes" from voting or holding office, and repudiating the rebel debt; 4, the ratification of these by popular vote; and, 5, the election of legislatures, state governments, and members of congress. There seems to have been absolutely no check upon the action of the conventions, except the president's proclamations, and telegraphic information from him that their action seemed to him satisfactory, or the reverse. Excluding the states (Virginia, Arkansas, Tennessee and Louisiana) already reconstructed, there remained but seven states. In each of these, provisional governors were appointed, as follows: North Carolina, Wm. W. Holden, May 29; Mississippi, William L. Sharkey, June 13; Texas, Andrew J. Hamilton, June 17; Georgia, James Johnson, June 17; Alabama, Lewis E. Parsons, June 21; South Carolina, Benj. F. Perry, June 30; Florida, William Marvin, July 13. The first

proclamation of the series, as to North Carolina, may stand for all: its preamble recited that the United States guarantee to each state a republican form of government, that the president is bound to take care that the laws be faithfully executed, that the rebellion had deprived the state of all civil government, and that it was now necessary and proper to carry out the guarantee of the United States to North Carolina.* In Mississippi, Georgia and South Carolina, the late governors attempted to convoke the legislatures, and anticipate reconstruction, but the attempts were promptly suppressed by the military commanders. The governments of Virginia, Louisiana, Arkansas and Tennessee were left undisturbed. In all the others the work of reconstruction was so actively carried on during the summer and autumn of 1865, that, when congress met in December, claimants for seats in the house and senate were ready from all the seceding states, except Texas. The work of reconstruction was then ended, so far as the presidential theory could carry it; and, as if to clinch and fasten it permanently, Secretary Seward issued his proclamation, Dec. 18, 1865, announcing the ratification of the 13th amendment. In its adoption, the ratifications of the legislatures of the seceding states had been essential, and it seemed as if no one could now reject the presidential theory, without impugning the validity of the amendment. — 3. *The Sumner Theory.* Mr. Sumner offered a series of resolutions in the senate, Feb. 11, 1862, "declaratory of the relations between the United States and the territory once occupied by certain states." The preamble recited the action of the several seceding states, through their governments, in abjuring their duties, renouncing their allegiance, levying war on the government, and forming a new confederacy. The resolutions were nine in number, as follows: 1, that an ordinance of secession is inoperative and void against the constitution, but is an abdication by the state of its rights under the constitution, and thenceforward the state, *felo de se*, ceases to exist, and its soil becomes a territory, under the exclusive jurisdiction of congress; 2, that secession is a usurpation, and action under it is without legal support; 3, that the suicide of a state puts an end to any peculiar institution upheld by the state's sole authority; 4, that slavery is such an institution; 5, that it is the duty of congress to put a practical as well as a legal end to slavery; 6, that any recognition of slavery is aid and comfort to the rebellion; 7, that it is also a denial of the rights of persons who have been made free; 8, that, as the allegiance of all the inhabitants of the seceding states is still due to the United States, the protection of the United States is equally due to all the inhabitants, regardless of color, class, or previous condition of servitude; 9, that congress will proceed to establish republican forms of government in the "vacated territory," taking care to provide for the protection of *all* the inhabitants. The essence of the resolutions is the idea of "state suicide"; that no territory can be compelled to assume, and no state can be compelled to retain, the public rights and duties of a state against its will; that, as Brownson expresses it, "a territory by coming into the Union becomes a state, and a state by going out of the Union becomes a territory." The resolutions were never formally considered or adopted; but their theory remained, and undoubtedly colored to some extent the final work of reconstruction. — 4. *The Stevens Theory.* From the outbreak of the rebellion until the end of reconstruction but two parties consistently maintained a consistent theory, the democratic party and Thaddeus Stevens (see his name). The democratic theory has already been given. The Stevens theory may be briefly stated as the suspension of the constitution in any part of the country in which resistance to its execution was too strong to be suppressed by peaceful methods. He held that the mere fact of resistance suspended the constitution for the time; that it could not truly be said that the constitution and laws were in force where they could not be enforced; that the termination of the suspension was to be decided by the victorious party; that, if the rebellion was successful, the suspension would evidently be permanent; and that, if the rebellion was suppressed, the suspension would continue until the law-making and war-making power should decide that the resistance had been honestly abandoned. Here the theory shaded into the indefinite "war-power" (see that title). But it differed more than it agreed. Republicans generally held that armies were marching and battles were fought and states were reconstructed throughout the south by virtue of the constitution and its war power, and they were forced to strain the written instrument into the most extraordinary shapes, and to take lines of action which were radically contradictory. To cite a single example: unless the Pierpont government was the legal government of Virginia in 1861, West Virginia is not, and never has been, a state of the Union; and yet, if the Pierpont government was legal in time of war, its reconstruction by congress in a time of profound peace was unwarranted by any law. But both these contradictions were accepted. West Virginia was retained as a state, and its members even voted on the reconstruction of the parent state of Virginia. All this, and countless other contradictions, were blotted out by Stevens' all-embracing theory. From it he never swerved. At the special session of July, 1861, he declared it as follows: "These rebels, who have disregarded and set at defiance that instrument, are, by every rule of law, estopped from pleading it against our action. There must be a party in court to plead it; and that party, to be entitled to plead it, must first acknowledge its supremacy, or he has no business to be in court at all. Those who bring in this plea here, in bar of our action, are in a legal sense the advocates of rebels, their counselors at law; they are speaking for them, not for us, who are the plaintiffs in the action. I deny that they have any right to plead at all. I deny that they have

any standing in court." For this reason he voted for the admission of West Virginia, while he still considered the Richmond legislature the legislature of Virginia, and ridiculed unsparingly the action of "the highly respectable but very small number of the citizens of Virginia, the people of West Virginia," who had "assembled together, disapproved the acts of Virginia, and with the utmost self-complacency called themselves Virginia." In the same way he voted for every war measure without leaving any unpleasant precedents for the final work of reconstruction. Throughout the war his views were always repudiated by Colfax and other leading republicans, and he said in 1863: "I know perfectly well that I do not speak the sentiments of this side as a party. I know, that, for the last fifteen years, I have always been a step ahead of the party I have acted with in these matters; but I have never been so far ahead but that the members of the party have overtaken me and gone ahead, and they will again overtake me before this rebellion is ended. They will find that they can not execute the constitution in the seceding states; that it is a total nullity there; and that this war must be carried on upon principles wholly independent of it." Even in the final process of reconstruction he took no step backward. In his theory the guarantee clause and the other constitutional grounds of congressional action had no place. Congress had omnipotent power, because the seceding states had repudiated the constitution. If that body chose to offer mild terms, so much the better for the conquered; if harsh, no one had a right to complain. Democratic votes aided him in defeating the offer of any terms until his own party was so near him that he could rejoin it with the sacrifice of little in fact and nothing in theory. This result came about in December, 1865, when he became the leader of the joint committee of fifteen on the rebellious states; and from that time much of the work of reconstruction was his own, modified by the restraining influence of his colleagues. The fundamental condition of negro suffrage was one of his purposes, but he persistently advocated even harsher terms of peace. In a speech at Lancaster, Pa., in September, 1865, he proposed the confiscation of the estates of rebels worth more than $10,000 or 200 acres of land, forty acres of land to be given to each freedman, and the balance, estimated at $3,500,000,000, to go toward paying off the national debt. He supposed that only one-tenth of the whites would lose their property, while nearly all southern property would be confiscated. This proposition was never formally considered, but it made Stevens the incarnation of all evil in the eyes of southerners. His name and his purposes occur in the debates of all the southern conventions of 1865, and are introduced as incentives to the prompt acceptance of the presidential policy. — 5. *The Davis-Wade Plan.* The adoption of an anti-slavery policy during the war made necessary the imposition of some condition on reconstruction; and this condition was first stated in the presidential plan of 1863, in the form of the oath to support the anti-slavery proclamations and laws, as well as the constitution. But, if any such condition could be imposed, there was practically no limit in theory to the conditions which might be imposed: there was no middle ground between unconditional restoration and the discretion of the conquering government. The appearance of a condition in the presidential policy was therefore the signal for the appearance of a condition in congress also. In the president's policy no security was asked for the faithful execution of reconstruction, beyond the taking of the oath, the oversight of the president, and the separate action of the houses in admitting members. To fill this defect, a bill was privately drafted in 1863, reported to congress by the committee on rebellious states, of which Henry Winter Davis and Benj. F. Wade were the leaders, and came fairly before the house, March 22, 1864. By its terms the president was to appoint provisional governors, who were to enroll the white citizens through the aid of United States marshals. When a majority of these citizens in any state should take the oath of allegiance, they were to hold a state convention, excluding from voting or being delegates, all confederate office-holders and all who had voluntarily borne arms against the United States. The constitution was to repudiate the rebel debt, abolish slavery, and prohibit the higher military and civil office-holders of the state and confederacy from voting for or serving as governors or members of the legislature. When this was done, the provisional governor was to notify the president; when the assent of congress was obtained, the president was to recognize the new government by proclamation; and then senators and representatives were to be admitted. It declared forever free the slaves in seceding states, and made the holding of any such person in slavery an offense punishable by fine and imprisonment; but there was still no attempt to introduce negro suffrage. The bill was defended on the ground that "we are now engaged in suppressing a military usurpation of the authority of state governments, and our success will be the overthrow of all semblance of government in the rebel states. The government of the United States will then be in fact the only government existing in those states, and it will be charged to guarantee them republican governments. When military opposition shall have been suppressed, not merely paralyzed, driven into a corner, and pushed back, but gone, then call upon the people to reorganize in their own way a republican government in the form that the people of the United States can agree to, subject to the conditions that we think essential to our permanent peace, and to prevent the revival hereafter of the rebellion." Its basis was therefore the same as that of the final congressional plan: that of a war measure passed, if not *bello flagrante*, at least *bello non cessante*. Its advocates objected to the president's plan for the reason that the latter "pro-

posed no guardianship of the United States over the reorganization of state governments, no law to prescribe who shall vote, no civil functionaries to see that the law is faithfully executed, no supervising authority to control and judge of the elections." These defects the Davis-Wade bill proposed to rectify by the introduction of the local machinery of marshals, and the final authority and assent or rejection of congress. But who or what was to prevent reconstructed governments, after the admission of their senators and representatives, from amending their constitutions and eliminating the conditions of reconstruction? Here was the weak point of the bill, which congress finally endeavored to strengthen in 1867 by negro suffrage and constitutional amendment. — The bill was passed by the house, May 4, by a vote of 73 to 59, but did not come up in the senate until July 1. On the last day of the session it was passed by the senate, but the president refused to sign it for the reason that he had not sufficient time to examine it. July 8, 1864, he issued a proclamation explaining and defending his reasons for not signing the bill. Messrs. Davis and Wade replied in a counter proclamation "to the supporters of the government." They had read the president's proclamation "without surprise, but not without indignation." They asserted, on the contrary, that the substance of this bill had been before the president for more than a year for consideration; that he himself had intrigued to delay the passage of the bill so as to obtain an excuse for refusing to sign it; that senator Doolittle, of Wisconsin, had written to the Louisiana authorities that the house bill would be held as long as possible in the senate, and finally killed by a pocket veto; that the president's persistence in his own plan, and his hostility to that of congress, were both inspired by the desire to use, if necessary, the electoral votes of Louisiana and Arkansas to secure his own election in November, and that an abortive military expedition into Florida had the same object; and they ask, "if those votes turn the balance in his favor, is it to be supposed that his competitor, defeated by such means, will acquiesce?" In conclusion they warn the president that their support "is of a cause, and not of a man; that the authority of congress is paramount and must be respected; and that, if he wishes their support, he must confine himself to his executive duties, to obey and execute, not make the laws, to suppress armed rebellion by arms, and leave political reorganization to congress." In the following session the bill was again introduced in the house, but it was already obsolete, and was laid on the table. Instead of it, the bill of 1865 (see ELECTORS, V.) forbade the counting of electoral votes from any of the seceding states, for the reason that their inhabitants had rebelled, and that the states were "in such condition" that no valid election could be held. The phrase quoted was a compromise between the views of those who wished to except Louisiana from the list of states excluded, and of those who wished to declare explicitly that all the states (including Louisiana, Arkansas, Tennessee and Virginia) were "still in such state of rebellion" in November, 1864. Electoral votes were sent by Louisiana and Tennessee, but were rejected under the law. Thus the whole question was still left in suspension, and the war ended with no other preparation for reconstruction than the policy which Lincoln had inaugurated, and Johnson was to carry into general effect. — 6. *The Congressional Plan.* The acceptance of the presidential policy by the state conventions of southern whites was so swift that northern democrats, before the end of July, 1865, generally supported the whole scheme as the best practical form of "restoration," taking the changes in state constitutions as the voluntary act of the states, not as conditions imposed by the president. The resolutions of successive state conventions of 1865 show constant change. Democratic resolutions grow steadily stronger in their approval of the presidential policy. Republican resolutions grow steadily more reserved in their approval of the president and his policy, and steadily stronger in their approval of "impartial suffrage" as a condition precedent to the reconstruction and recognition of seceding state governments. For this change in the republican position, there was undoubtedly party reason. Stevens said frankly in 1867: "White union men are in a minority in each of those states. With them the blacks would act in a body, form a majority, control the states, and protect themselves. It would insure the ascendency of the union party, for I believe, on my conscience, that on the continued ascendency of that party depends the safety of this great nation." But this reason alone, however it might have controlled the policy of the party, could never have made that policy a success: it could never have carried as it did the elections of 1866, the very crisis of congressional reconstruction. The controlling reason will be found in the constant irritation kept up by the general cast of the legislation in regard to freedmen by the reconstructed legislatures of 1865–6, supplemented by the indiscreet, unconciliating and inflammatory tone of the president himself. — In regard to marriage and testimony or standing in court, most of the southern legislation was alike. Former slaves, who had cohabited as man and wife were to be deemed and taken as married, but marriage between the two races was forbidden under penalties. Negroes were to sue and be sued like whites. The testimony of a negro was only to be received in cases where a negro should sue a white, where a white had injured a negro, or where the rights of a negro were in question, always provided that the testimony offered was essential to the case. Contracts between blacks and whites were to be void unless put in writing and witnessed by a white man. A benevolent exception should be noticed in the law of Virginia, that contracts between blacks and whites were not to be binding

upon the black unless put in writing before a magistrate and fully explained by him. The criminal laws were generally fair and equal, except that rape of a white woman by a negro was made punishable by death. In many minor points this species of legislation was no doubt objectionable. Taken as a whole, and considered as the work of men who had within a year been absolute masters of the freedmen, and who had been dispossessed of their control by war and conquest, it must be conceded that it exhibits remarkable self-control, public spirit and equity. — The case was very different with the vagrancy and stay laws passed by most of the southern legislatures. We have already noticed that the proclamation of 1863 made "no objection" to a temporary regulation of the status of the freedmen, "as a laboring, landless, homeless class." On this subject the legislation of North Carolina, Tennessee and Texas, was comparatively unobjectionable. The Virginia act declared all persons vagrants who refused to work for the wages common and usual in the place where they lived, or who broke a contract with an employer, and in the latter case authorized the employer to work the runaway an additional month, with ball and chain, if necessary. The act was revoked by Gen. Terry, Jan. 24, 1866, for the reason that combinations of employers were reducing wages below a fair rate, and then punishing as vagrants the laborers who refused to accept them. The most comprehensive system was that of Mississippi, passed at various times during the last two weeks of November, 1865. Negroes who were orphans or unsupported were to be apprenticed until the ages of twenty-one for males and eighteen for females, and the masters were to have power to inflict "moderate corporal chastisement," and to recapture fugitives. Negroes, or whites habitually associating with negroes, were declared vagrants if they had no lawful employment, or assembled themselves together unlawfully. They were to be arrested and fined, and, if unable to pay the fine, were to be hired out to the bidder who would pay the fine for the shortest term of service. The evidence of a "lawful employment" was to be the negro's written contract for labor, or his license from a mayor or police board to do job work. These, renewed annually, were to serve as a pass: without them the negro was a self-confessed vagrant. All the laws respecting crimes committed by "slaves, free negroes or mulattoes," were reenacted, and declared to be in full force and effect against "freedmen, free negroes and mulattoes." Any negro who "carried arms without a license, committed riots, routs, affrays, trespasses, malicious mischiefs or cruel treatment to animals, seditious speeches, insulting gestures, language or acts, or assaults on any person, or disturbance of the peace, or who exercised the functions of a minister of the gospel without a license from some regularly ordained church," was to be fined, and hired out if unable to pay. Any laborer who should break his contract, and leave his employer, was to be arrested and returned to his labor, and the expenses of the arrest were to be deducted from the runaway's wages. Any attempt to entice a contract laborer from his employer was made a finable misdemeanor. The fundamental features of the Mississippi code, its application of the vagrant laws to recalcitrant laborers, its hiring out of those unable to pay fines, and its prohibition of the enticing away of laborers, were adopted by Florida, Alabama and Georgia; but none of them had by any means so comprehensive a negro code. In December, 1865, South Carolina adopted a vagrant code much like that of Mississippi, but with some features of its own. Persons of color (defined as persons with more than one-eighth negro blood) were not to pursue any trade, business or occupation, other than that of husbandry or contract service, without paying a fee of $100 a year if a shopkeeper or peddler, or $10 a year if a mechanic, for a license; and they were not to sell any farm product without written license to sell. It was made felony for any person of color to attempt rape upon a white woman; for any person under sentence of transportation from the state to return before the end of his term; or for any person to steal a horse, a mule, or cotton packed in a bale ready for market. No negro was to enter the state to reside there without giving bonds for his good behavior and support. The whole code of laws was revoked by Gen. Sickles, Jan. 17, 1866. The Louisiana law, in December, 1865, required "agricultural laborers" to make written contracts for a year's labor before Jan. 10 in each year, and forbade the laborer to leave his place of employment before the end of his time of service, unless by consent of his employer, or on account of harsh treatment or breach of contract by the employer. Refusal to work out the time of contract was to be punished by forced labor on public works, unless the offender should consent to return to his labor. Runaways from an employer were declared vagrants, and were to be hired out for not more than twelve months, the employer having the preference, and the wages to go to the poor fund. An aggravation of the contrast between the status of the two races was presented in those states in which suits of the employer against the laborer were decided summarily by arrest and hiring out: at the same time "stay laws" operated to postpone execution of judgment in suits at law for one, two, three or more years for different fractions of the judgment debt, so that a laborer had little prospect of satisfaction from a suit against an employer. — Such legislation as this is mainly responsible for the reconstruction of the seceding states by congress. It forced a very fair observer to conclude, in 1865, that, if they should "get the troops away and the states into congress, three-fourths of the counties in the state [Georgia] would vote for such a penal code as would practically reduce half the negroes to slavery in less than a year." In the northern states it came to be generally believed

that this was the deliberate southern policy; and this belief carried with it a majority ready to support congress in any counteracting policy whatever, no matter how radical. Not that the vagrant laws worked any great harm in practice: when they were not formally suspended by the strong arm of military power, the officers of the freedmen's bureau (see that title) withheld from state courts the cognizance of cases in which freedmen were interested. They served, then, only as an irritation; and the utter futility of the irritation only makes its folly the more glaring. And it was accompanied by other irritations, smaller, indeed, but perhaps as effective. Almost the first business of the reconstructed legislatures, still existing only under military sufferance, was to pass acts laying special taxes, or setting aside portions of the state's income, for pensioning confederate soldiers, widows and orphans; to pass resolutions demanding the pardon of leading confederates; and to change the names of counties to honor their captured chieftains. In the state conventions, highly injudicious language had been used by a few of the more violent delegates; and, though few of these delegates had been warlike during the war, their utterances were quotable. Further, the peculiar action of the North Carolina, South Carolina and Georgia conventions, which "repealed" the ordinance of secession, instead of declaring it null and void, was imprudent, to say the least. If it is prudent to build a bridge of gold for a flying enemy, it is infinitely more advisable to avoid irritating a victorious enemy who is disposed to be at peace. — Before congress met, in December, 1865, the mass of legislation above summarized had fairly taken shape; and, as it seemed to look toward the re-establishment of an *imperium in imperio*, it had already swung the whole republican party into opposition to the presidential policy. The elections of 1864 had given the republicans a majority of 40 to 11 in the senate, and 145 to 40 in the house; and southern vagrant laws and similar legislation had at last brought this majority abreast of Stevens and made him its leader, as he remained until his death, in 1868. The first step was taken on the opening day in the house, when the clerk, McPherson, in calling the roll, declined to call the names of any of the seceding states, even of Tennessee, Louisiana and Virginia. He refused to state his reasons, unless by desire of the house. Immediately after the election of a speaker, Stevens offered the concurrent resolution which contained the essence of reconstruction: that a joint committee of nine representatives and six senators should inquire into the condition of the seceding states, and report whether any of them were entitled to be represented in either house; that, until the committee should report and their report should be finally acted on by congress, no member should be received by either house from any of said states; and that all papers relating to the matter should be referred to the committee without debate. On this pregnant resolution he called for the previous question; debate was shut off, and the resolution was carried by a party vote. This was a declaration of war against the presidential policy, under which the two houses were only to decide separately upon admission of members; and the more cautious senate, Dec. 12, struck out the last two of its three features. The house agreed, Dec. 14, but pledged itself against any admissions until the committee should report. Jan. 8, 1866, the house further resolved that the troops should not be withdrawn from the seceding states until the two houses should direct their withdrawal. The chasm between the president and the majority in congress rapidly grew wider. Feb. 20, Stevens again brought up his fundamental idea in a "concurrent resolution concerning the insurrectionary states." It resolved, in order to close agitation and quiet the uncertainty in the south, that no senator or representative should be admitted by either house until congress should declare the state entitled to representation. This was passed at once under the previous question. March 2, the senate passed it, and the manner, though not the exact method, of reconstruction, was settled, so far as congress could then settle it. — It was by this time an open secret that there was a very decided disagreement between President Johnson and the party which had elected him. Had Lincoln been one of the parties to the disagreement, there can be no doubt that an adjustment of ideas would have been arranged: Johnson preferred to declare war. The occasion was found, Feb. 22, two days after the passage of the definitive resolution by the house. A Washington mass meeting sent a committee to the president with resolutions approving his policy. In his reply he passed beyond the arguments to which he had hitherto confined himself in public speeches, the necessity for conciliation, the impossibility of any withdrawal from the Union, and the right of states to representation. He now proceeded to attack congress, as having transferred its powers to "an irresponsible central directory" (the leaders of the republican caucus); he named Stevens, Sumner and Wendell Phillips as the leading northern disunionists; and he even taunted his opponents with their cowardly unwillingness "to effect the removal of the presidential obstacle otherwise than through the hands of the assassin." There is no excuse for such language in the provocative speeches of several of the radical republicans in and out of congress. By replying in this fashion, the president only played into the hands of opponents who never gave away a point in the game. He aimed at the Stevens faction, but he only succeeded in alienating the whole mass of the republican representation. Thereafter, there was no possibility of co-operation between the president and this congress. — At the beginning of the session many amendments to the constitution had been proposed, intended to void the rebel debt, and secure the rights of freedmen, that is, to counteract the southern legislation of 1865–6. One of them, afterward elabo-

rated into section two of the 14th amendment, was passed by the house, Jan. 31, 1866, but failed to receive a two-thirds vote in the senate. The speech of Feb. 22 not only brought the senate to agree to the concurrent resolution: it made constitutional amendment possible as well. April 30, Stevens introduced an amendment to the constitution, and a bill providing, that, when this amendment should become a part of the constitution, any seceding state which had ratified the amendment, and altered its constitution in conformity therewith, should be entitled to representation at once. The amendment was that which in June became the 14th amendment. (See CONSTITUTION.) It differed from the latter in three essential points: 1, it had not the first sentence of section one, declaring who are "citizens of the United States"; 2, section three forbade all persons who had voluntarily taken part in the rebellion from voting for members of congress or for electors before July 4, 1870; and 3, it had not the first sentence of section four, declaring the validity of the national debt. But the substance of section three of the amendment, as finally adopted, disqualifying certain classes of leaders from holding office, was contained in a separate bill reported by Stevens at the same time, as an essential part of the whole plan. In the house the amendment was passed March 10, by a party vote, under the previous question. In the senate it was debated until June 8, when it was passed, having been altered into its present form, and the substance of the house disqualifying bill having been substituted for the original third section. June 13, the house concurred with the senate's alterations, and the amendment was proposed. This may be considered as closing the first stage of reconstruction by congress. The terms now offered to the seceding states were the ratification of the 14th amendment, repudiation of the rebel debt, disqualification of the specified classes of confederate leaders until they should be pardoned by congress, and a grant to congress of power to maintain the civil rights of the freedmen. There was no effort to control suffrage within the state; only an effort to induce the states to grant universal suffrage, and thus increase their representation in congress. — While this perfecting of the first congressional plan was going on, the conflict between the president and congress had gradually become open and bitter. A bill to strengthen the hands of the officers of the freedmen's bureau (see that title) in resisting southern legislation, was passed and vetoed; and as the second vote upon the vetoed bill took place, in the senate, Feb. 21, before the president's declaration of war, it did not secure a two-thirds vote. The veto of the civil rights bill (see that title) in March met a different fate: the bill was passed at once in both houses by the necessary two-thirds vote, and became law. A similar result took place upon the veto of a second and still more stringent freedmen's bureau bill in July; and, when congress adjourned, it was very certain that the southern vagrant laws had as yet no chance of practical enforcement. Before the adjournment, Tennessee (see that state) was restored to representation by joint resolution, July 24, the senate so amending the preamble as to state that "said state can only be restored to its former political relations in the Union by consent of the law-making power of the United States." Evidently, the president had been so poor a strategist that he had only succeeded in putting himself, for the present, outside of the "law-making power" which was to do the work of reconstruction. Everything depended on the result of the congressional elections of the autumn, which were to decide whether the two-thirds republican majority in congress would be continued after March 3 following. — As one of the means of preparation for the autumn campaign, the majority of the committee of fifteen presented a report, June 18, 1866, with a great mass of testimony going to show the prevalence of disloyalty in the seceding states. The report asserted that the seceding states in 1860–61 had deliberately abolished their state governments and constitutions, so far as these connected them with the Union; had repudiated the constitution, and renounced their representation; that as the constitution acted on individuals, not on states, the people were still bound to obedience to the laws, though they had abolished their state governments; that the war could not be considered as terminated when the people of the seceding states yielded "an unwilling admission of the unwelcome fact" of their inability to resist longer; and that it was an essential condition that such guarantees of future security should be given as would be satisfactory to the law-making power, which, in the law of 1861, had recognized the existence of rebellion. This, it will be seen, was not quite the theory of either Sumner or Stevens: unlike the former, it considered the states as existing, though their governments were in a condition of suspended animation; unlike the latter, it maintained the continued existence and force of the constitution in the seceding states. Practically, however, it agreed with both, in that it made congress the final arbiter of the guarantees of peace. — The president and his supporters had not spent the winter in idleness. Early in the year a "national union club" had been formed in Washington, composed mainly of republican supporters of the presidential policy. Its executive committee, June 25, issued a call for a national convention to meet at Philadelphia, Aug. 14, to be composed of northern delegates, representing the Lincoln and Johnson vote of 1864, and of southern delegates who would unite with the former in supporting the presidential policy. July 4, the democratic members of congress issued an address approving the proposed convention. A request to the members of the cabinet for their approval was followed by the resignation of three of them (see ADMINISTRATIONS, XX.) the rest were as yet a unit in support of the president. The convention met as proposed, John A. Dix, of New York, being tempo-

rary chairman, senator Doolittle, of Wisconsin, president, and Henry J. Raymond, of New York (chairman of the republican national committee), chairman of the committee on resolutions. The resolutions fully sustained the president and his policy. The somewhat theatrical entrance of the delegates to the building, headed by the delegates from Massachusetts and South Carolina, enabled its opponents to give it the nick-name of the "arm-in-arm convention." But it was certainly a well-contrived political movement, and the first prospects of its effectiveness are shown by the anger aroused against its supposed contrivers, Seward and Raymond. The latter was expelled by the republican national committee, and the former was specially denounced in almost every republican platform. — With the first prospects of success, however, the president's public language became more indiscreet than ever. In his answer to the committee which brought him the Philadelphia resolutions he said: "We have witnessed in one department of the government every effort, as it were, to prevent the restoration of peace and harmony in the Union. We have seen hanging on the verge of the government, as it were, a body called, or which assumes to be, the congress of the United States, but in fact a congress of only part of the states. We have seen this congress assume and pretend to be for the Union, when its every step and act tended to perpetuate disunion, and make a disruption of the states inevitable." Indeed, his pugnacity had so far gained the upper hand of his discretion that he even gratified his congressional opponents by descending personally into the arena. He chose this most inopportune of all seasons for an excursion to Chicago, for the purpose of laying the corner-stone of the Douglas monument. Starting Aug. 28, with a large party, including three of his cabinet, General Grant, Admiral Farragut, and others, he made speeches at various points from New York city to Chicago, and thence to St. Louis, Sept. 8; and the matter and manner of his speeches grew worse from the beginning. It was alleged that his opponents hired men to irritate and provoke him to indiscretions; but such a political manœuvre was entirely unnecessary. An extract from his Cleveland speech of Sept. 8 will serve as evidence that the president's own temper was the source of a large part of the scandalous interchange of vituperation between himself and his audiences, which disgraced his progress: "I came here as I was passing along, and have been called upon for the purpose of exchanging views, and ascertaining, if we could, who was wrong. [Cries of 'It's you.'] Who can come and place his finger on one pledge I ever violated, or one principle I ever proved false to? [A voice, 'How about New Orleans?' Another voice, 'Hang Jeff. Davis.'] Hang Jeff. Davis, he says. [Cries of 'No,' and 'Down with him.'] Hang Jeff. Davis, he says. [A voice, 'Hang Thad. Stevens and Wendell Phillips.'] Hang Jeff. Davis. Why do n't *you* hang him? [Cries of 'Give us the opportunity.'] Have n't you got the court? Have n't you got the attorney general? [A voice, 'Who is your chief justice who has refused to sit upon the trial?'] I am not the chief justice. I am not the prosecuting attorney. [Cheers.] I am not the jury. I will tell you what I did do. I called upon your congress that is trying to break up the government — [cheers, mingled with oaths and hisses. Great confusion. 'Do n't get mad, Andy.'] Well, I will tell you who is mad. 'Whom the gods wish to destroy, they first make mad.' Did your congress order any of them to be tried? [Three cheers for congress.] * * [A voice, 'Traitor.'] I wish I could see that man. I would bet you now, that, if the light fell on your face, cowardice and treachery would be seen in it. Show yourself. Come out here where I can see you. [Shouts of laughter.]" The colloquies between the president and his hearers grew more unpleasant as the trip went on, but, nothing daunted, the president continued speaking, and playing into the hands of his opponents to the end. — July 30, 1866, the report of the majority of the reconstruction committee received an unexpected indorsement. An attempt was made on that day to revise the constitution of Louisiana (see that state) by reassembling the adjourned convention of 1864, in New Orleans. The convention's leaders are described by the military commander, Sheridan, as "intemperate political agitators and revolutionary men," whom he himself intended to arrest on the first overt act against the public peace. But the city authorities saved him the trouble, dispersing the convention "with firearms, clubs and knives, in a manner," says Sheridan, "so unnecessary and atrocious as to compel me to say that it was murder." About forty whites and blacks were thus killed, and 160 wounded. When the smoke of the congressional elections had cleared away, it was found that the republican majority had hardly been changed in numbers: in the next congress it would be 42 to 12 in the senate, and 143 to 49 in the house. This was more than sufficient to override the president's veto, and continue to keep the president out of reckoning as part of the "law-making power." In *personnel* the new majority was still more pronounced and united than the old majority in opposition to the presidential policy. — When congress met in December, 1866, the majority came as victors, not as combatants; and their first and natural impulse was to superadd punitive damages. Their first terms, of June, had been rejected: the defeated party was now to pay the penalty of the refusal in the imposition of negro suffrage upon reconstruction. This had always been an essential feature of the Sumner and Stevens programmes, but now for the first time the party majority was united by stress of conflict in support of it. An effort was at once made to impeach the president, but it at first was abortive. (See IMPEACHMENTS, VI.) The republican caucus at once took place as the practical

governing body of the nation. It requested the senate to reject the appointments made by the president for political reasons during the recess, and its executive committee was directed to prepare business for congress. The committee rapidly reported several bills, which were passed under the previous question. 1. The act of Jan. 22, 1867, directed succeeding congresses to meet at noon of March 4. This was to prevent the president from enjoying any nine months interregnum in future. 2. The act of Feb. 19 directed the clerk of the house to make out the roll of representatives elected to the next congress, and to place thereon the names of only such states as were represented in the next preceding congress. This was to anticipate the possible formation of a *pseudo* congress, composed of northern democrats and southern claimants, which might be formed and recognized by the president. 3. The tenure of office act (see TENURE OF OFFICE) limited the president's power of removal, which had been made a political weapon during the campaign. 4. The advanced feeling on the subject of suffrage was shown in the passage of acts establishing universal suffrage in the District of Columbia, Jan. 8, in the territories, Jan. 24, and in the admission of the state of Nebraska, Feb. 9, the first and third being passed over the veto. (See also COLORADO.) 5. In passing the army appropriation bill, in February, a section was added which practically took the command of the army from the president, gave it to Gen. Grant, and made him irremovable. (See RIDERS.) This step was indefensible on any theory. All these measures, however, were only adjuncts of the real business of the session, the consummation of the work of reconstruction. — Between October, 1866, and February, 1867, the legislatures of all the seceding states, except Tennessee, rejected the 14th amendment by votes nearly or quite unanimous. This action had a double result: as a final rejection of the first terms of reconstruction, it made subsequent terms more severe; and, as it showed the absolute impossibility of obtaining the ratification of the 14th amendment by three-fourths of the (then) thirty-six states while the ten southern states remained *in statu quo*, it forced congress to choose between the presidential policy and negro suffrage. So evidently ready was congress to make the choice, that, in February, 1867, an official effort, indorsed by the president, was made to induce the southern legislatures to propose an amendment of their own. It was the 14th amendment without the disqualifying clause, but with a new clause forbidding a state to secede, or the federal government to eject a state or deprive it of its representation in congress. The plan also included the amendment of each state constitution by giving the right of suffrage to all male citizens who could read and write, and owned $250 worth of taxable property. The amendment was offered in the legislatures of Alabama and North Carolina, but their refusal to consider it put an end to the proposal. In the meantime, congress had gone on with its work. Dec. 13, 1866, Stevens introduced a bill to reconstruct the government of North Carolina, giving the right of suffrage to males able to read and write. Jan. 3, 1867, he called up, in place of the former, a general reconstruction bill. It was sent to the reconstruction committee, which reported, Feb. 6, the bill finally adopted. Here there was some republican hesitation. Blaine offered an amendment promising representation on the terms of June, 1866; but this was voted down by democrats and radical republicans, and the bill was passed by a vote of 109 to 55. In the senate the Blaine amendment was offered by Sherman, and carried; but the house refused to concur, the democrats and radical republicans again voting in company. The only result of this temporary republican division was that the majority now reunited, and passed the bill, given below, without the Blaine amendment, and with the far more stringent fifth and sixth sections, which were not in the original bill. The final votes, Feb. 20, were 128 to 46 in the house, and 35 to 7 in the senate. — 7. *First Reconstruction Bill.* The preamble of the "act to provide for the more efficient government of the rebel states," recited that no legal state governments, or adequate protection for life and property, now existed in those states, and that it was necessary that peace and good order should be enforced in them until loyal and republican state governments could be legally established. The six sections were as follows: 1. The states were to be made subject to the military authority of the United States, and divided into the following districts: I., Virginia; II., North and South Carolina; III., Georgia, Florida and Alabama; IV., Mississippi and Arkansas; V., Louisiana and Texas. 2. The president was to appoint the commanding officer of each district, not to be below the rank of brigadier general, and furnish him sufficient military force. 3. The commanding officer was "to protect all persons in their rights of person and property, to suppress insurrection, disorder and violence," either by military commission, or by allowing local courts to act; "and all interference, under color of state authority, with the exercise of military authority under this act, shall be null and void." 4. Trials were to be without unnecessary delay; punishments were not to be cruel or unusual; and sentences of military commissions were to be approved by the commanding officer, or, if they involved death, by the president. 5. The people of any state might hold a delegate convention, elected by the male citizens of the state on one year's residence, excluding only those disfranchised for participation in the rebellion, or for felony at common law; but no person excluded from holding office by the proposed 14th amendment was to vote for delegates or become a delegate. The constitution framed by the convention was to give the elective franchise to those citizens who were allowed to vote for delegates, and was to be ratified by a popular vote under the same condi-

tions of suffrage. When these conditions were fulfilled, when congress had approved the constitution, when the new legislature had ratified the 14th amendment, and when that amendment should become part of the constitution, the state was to be entitled to representation in congress. 6. Until thus reconstructed, the civil governments of the rebel states were to be "deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control or supersede the same;" and, "in all elections under such provisional governments," the only voters or office-holders were to be those entitled by this act to vote or hold office. — The bill was vetoed, March 2. The message denied the truth of the preamble; protested against the bill as a needless and utterly unconstitutional attempt to establish an unrestrained military despotism over part of the country in a time of profound peace; and appealed to congress to admit loyal and qualified members from all the states. The bill was passed over the veto the same day, the vote being a strictly party vote, except that Senator Reverdy Johnson voted in the affirmative. It may be considered the second stage of reconstruction. Military government was to be established, but the reconstruction was still to be done by the state, subject to the final approval of congress. In order to *induce* such action by the state, its citizens were given the option of a surrender of civil government or voluntary reconstruction; for the sixth section, applying the principle of the bill to "all elections," made reconstruction ultimately inevitable, if elections were to take place. It is certain that several states were moving in the direction of voluntary reconstruction when the new congress, which met March 4, 1867, anticipated them and hastened the process. — 8. *Supplementary Reconstruction Bill.* March 19, the new congress passed an act in nine sections, as follows: 1. Before Sept. 1, 1867, district commanders were to register male citizens qualified to vote under the act, taking from each registered voter an oath that he was qualified by residence and age, and that he had never engaged in rebellion after taking the oath of allegiance as member of any state legislature or of congress, or as an officer, executive or judicial, of the United States or of any state. 2. The district commander was to hold an election for delegates, equal in number to the lower house of the state legislature, and apportioned according to registration. 3. The question of holding a convention was to be decided at the same election. 4. If a majority of registered voters consent to the convention, the district commander was to give the delegates sixty days' notice of the time and place of meeting; and when the constitution was framed he was to give thirty days' notice of an election to ratify or reject it. 5. When the constitution was ratified, it was to be sent to the president, and by him sent to congress. If congress approved it as in conformity with the reconstruction acts, the state was to be declared entitled to representation, and her senators and representatives were to be admitted. 6. All elections were to be by ballot, and false swearing was to be punished as perjury. 7. The expenses of the commanding officer were provided for. 8. The convention in each state was to have the power of taxation to meet its own expenses. 9. A verbal mistake in the original act was corrected. — This may be considered the third stage of reconstruction by congress. Its essential point of difference was that the work of reconstruction was now taken out of the hands of the state, and given to the military commander. In brief, it was, so far as the state was concerned, involuntary reconstruction. — II. THE WORK OF RECONSTRUCTION. March 11, 1867, the president appointed the district commanders; and the appointees, Generals Schofield, Sickles, Thomas, Ord and Sheridan at once took command of the five districts in the order given. March 15, Thomas was replaced by Pope. In all the districts the first order was generally an announcement of the assumption of command; and a general direction to the "officers under the existing provisional government" of the state to perform their duties as usual until otherwise directed, though the legislatures were forbidden to meet in the following autumn. Then came a notice that whipping and maiming in punishment of crime must cease, and that the militia must be disbanded. Then came the appointment of boards of registration, and the notification of the test oath; the election of delegates; the meeting of the convention; and the framing of the new state constitution. The machinery worked with comparatively little friction. The whites were in no condition for forcible resistance; and when state treasurers or other officers attempted to balk the work in any way, they were promptly removed, and replaced by civilians or military appointees. The state of Mississippi attempted to obtain from the supreme court an injunction forbidding the president and Gen. Ord from executing the reconstruction acts, but the court refused it, April 15, on the ground that it could not thus interfere with the purely political acts of another department of the government. (See EXECUTIVE, IV.) The attorney general gave an opinion, which practically bound the boards of registration to take the oath of an applicant as good evidence of his right to register. This and other impediments to reconstruction were removed by the supplementary act of July 19, 1867. It gave district commanders and Gen. Grant power to suspend, remove and replace any state officers who should hinder reconstruction; empowered boards of registration to take evidence, strike off names fraudulently entered, and add names entitled to registry; and provided that no district commander or his appointees should be "bound in his action by the opinion of any civil officer of the United States." The Alabama constitution was ratified by less than half of the registered vote. The supplementary act of March 11, 1868, therefore, provided that reconstruction elections should be decided by a majority of the votes actu-

ally cast. — In all the states the local work of reconstruction went on rapidly. The first of the conventions, in Alabama, met Nov. 5, 1867, and the others followed at various intervals. (Their time of meeting, action, and the ratifications, will be found under the several states.) The constitutions agreed in abolishing slavery, repudiating the rebel debt, renouncing the claim of a right to secede, declaring the ordinance of secession null and void, giving the right of suffrage to all male citizens over twenty-one years of age on a residence qualification, and prohibiting the passage of laws to abridge the privileges of any class of citizens. Further, all the constitutions, except those of North Carolina, Florida and Georgia, disfranchised all who were disqualified from holding office by the (proposed) 14th amendment. This disfranchising clause caused the rejection of the constitution in Mississippi, while in Texas and Virginia the popular sentiment was so adverse that no submission to popular vote was ventured on as yet. In the other states, as rapidly as possible, legislatures and governors were elected. the former met and ratified the 14th amendment; and the latter were formally appointed military governors until reconstruction could be completed. June 22, 1868, an act of congress approved the constitution of Arkansas as republican, and admitted the state to representation on the fundamental condition that the grant of universal suffrage should never be revoked. June 25, a similar act admitted North Carolina, South Carolina, Florida, Georgia, Alabama and Louisiana. July 20, 1868, an act to exclude electoral votes from unreconstructed states was passed over the veto. — The 14th amendment thus secured the requisite number of state ratifications, and an act of June 25, 1868, directed the president to announce the fact by proclamation. July 11, he issued a laboriously ambiguous proclamation, announcing *seriatim* the reception of "papers purporting to be resolutions of the legislatures" of the various states, attested by the names of various persons "who therein sign themselves" governor, president of the senate, etc.; and July 20, Secretary Seward issued an equally ambiguous proclamation, detailing the ratifications and the withdrawals of Ohio and New Jersey, and announcing that, if these withdrawals were invalid, the amendment was a part of the constitution. Subsequently (see CONSTITUTION, III.) he issued another proclamation, free from ambiguity. In the presidential election of 1868 the two parties, of course, took opposite grounds. The republican platform congratulated the country on the assured success of the reconstruction policy of congress. The democratic platform, while it recognized the questions of slavery and secession as settled by the war, declared "the reconstruction acts (so called) of congress to be usurpations and unconstitutional, revolutionary and void." This declaration was emphasized by the Brodhead letter, June 30, 1868, of the democratic nominee for vice-president, Blair: "There is but one way to restore the constitution and the government, and that is, for the president elect to declare these acts null and void, compel the army to undo its usurpations at the south, disperse the carpet-bag state governments, and allow the white people to reorganize their own governments, and elect senators and representatives." The country was not ready for such a programme, and the presidential and congressional elections of 1868 resulted in renewed republican success. — Much suspicion had been felt by congressional leaders as to the action which the supreme court would take if the constitutionality of reconstruction should come legitimately before it. (See JUDICIARY, II.) Early in 1868 such an occasion seemed probable on an appeal from Mississippi on a writ of *habeas corpus* sued out by one McArdle, who had been convicted by a reconstruction military commission. To meet this danger, Stevens at first reported from the reconstruction committee a bill declaring that the jurisdiction of the supreme court should not extend to reconstruction legislation. This met little favor, and instead of it the act of March 27, 1868, passed over the veto, repealed the supreme court's statutory jurisdiction over appeals on *habeas corpus*. The question, however, could not be kept down, and in the December term of 1868, in the case of Texas *vs.* White, the court decided in favor of congress. During the rebellion Texas had sold a number of the bonds given her by the United States in 1850 (see COMPROMISES, V.), and the new state government sought an injunction to prevent payment to the purchasers. As Texas was still unreconstructed, the court agreed, that, if she was not a state, the suit must be dismissed, so that the whole suit turned on this point. The court held that the Union was "an indestructible Union of indestructible states"; that ordinances of secession were null and void, but that the states which passed them did not cease to be states of the Union; that their own act of rebellion had suspended their governmental relations to the United States; that congress must decide, as in the Rhode Island case (see DORR REBELLION), what government is established, before it can decide whether it is republican or not; that reconstruction by congress was valid; and that the governments instituted by the president were provisional only, to continue until congress could act in the premises. This was not the Sumner nor the Stevens, but the congressional, theory. It is fully summed up in an opinion of attorney general E. R. Hoar, of May 31, 1869: "The same authority which recognized the existence of the war is the only authority having the constitutional right to determine when, for all purposes, the war has ceased. The act of March 2, 1867, was a legislative declaration that the war which sprang from the rebellion was not, to all intents and purposes, ended; and that it should be held to continue until state governments, republican in form, and subordinate to the constitution and laws, should be established." It is, therefore, not correct to say that

the precedents of reconstruction give congress the right to reconstruct any state government at pleasure. Such a reconstruction can only come as the result of a rebellion recognized as such by the national authority, and ending in the overthrow of the state government with the rebellion. For example, the republican state convention of Maryland, Feb. 27, 1867, denounced the proposed state convention (see MARYLAND), and threatened, if it were persisted in, to appeal to congress for a reconstruction of the state government. The threat was carried into effect, March 25, when a reconstruction memorial from the republican members of the state legislature was offered in congress; but congress very consistently declined to interfere. — Some additional work remained to be done, for reconstruction still hung fire in Texas, Mississippi and Virginia. The act of April 10, 1869, therefore authorized the president to call elections in those states for the ratification or rejection of their new state constitutions, submitting such sections as he pleased to a separate vote; but, as punitive terms for their delay, the new legislatures were required to ratify the proposed 15th as well as the 14th amendment. This may be considered the fourth and final stage of reconstruction by congress. In the states named, the objectionable clauses were voted down, the rest of the constitution was ratified, the legislatures fulfilled the conditions required, and the states were admitted by the acts of Jan. 26 (Virginia), Feb. 23 (Mississippi), and March 30, 1870 (Texas). In the same year, however, an attempted evasion of conditions by Georgia (see that state) brought her into the same position as the three states last named; and it was not until Jan. 30, 1871, that all the states were represented in both houses of congress, for the first time since 1860. Reconstruction by congress was then completed. — For the impeachment of President Johnson, see IMPEACHMENTS, VI.; for the 15th amendment, see SUFFRAGE. — III. THE FAILURES OF RECONSTRUCTION. Prophets were not wanting who predicted the speedy collapse of the highly artificial governmental edifices erected by congress in the southern states. Certainly he must have been a very short-sighted person who expected from them an immediate and permanent establishment of the freedmen in all the new privileges granted to them. If the weapon of suffrage, which the white race had secured only after centuries of arduous struggle, could be safely and surely wielded by a race which had hardly ever known any condition other than slavery, we must certainly rank slavery, as an educating process, higher than we have been accustomed to place it. And, on the other hand, if the pyramid must be supported on its apex by national power, it was not to be expected that the country would allow all other business to lapse, and wage an eternal war of irritations on behalf of a helpless race. Plainly, if southern resistance should be open, the south would be reconquered every decade; and if southern resistance was guarded but persistent, negro suffrage was destined, sooner or later, to at least a temporary eclipse. — In almost all the states the downward career of the reconstructed governments was short and swift. Until the negro legislators learned the machinery of politics, they submitted with patience to the guidance of white leaders, generally northern immigrants, or "carpet-baggers," and these endeavored with considerable success to keep up at least a semblance of the decent methods to which they had been accustomed. But the negro showed an astonishing quickness in learning the tactics of politics, in grasping the shell while ignoring the kernel. Points of order, parliamentary rulings, filibustering methods, the means of putting fraud into a fair legislative form, almost immediately became as familiar to the negroes as to any other experts in legislation; and then the state treasuries lay at the mercy of a race whose incorrigible and notorious vice, during slavery, had always been theft. No storming force ever made quicker work of a captured city. Most of the "carpet-bag" leaders yielded to the current, and took a share of the spoils. The impoverished treasuries were instantly swept clean. The issue of bonds was then resorted to, except in states like Mississippi, whose bonds were unsalable through previous repudiation; and in this process the lion's share fell to the more expert white leaders. In one state, South Carolina, the debt rose from about $5,000,000 in 1868 to nearly $30,000,000 in 1872; and about $20,000,000 of this amount were issued by the governor by virtue of a legislative permission to issue $3,000,000. In almost any state, a lobby rich enough to purchase the legislators could secure the passage of an act issuing state bonds in aid of a railroad, supplemented by a subsequent act releasing the state's lien on the road, the whole making up an absolute gift of the money. But the land, which must ultimately be taxed for the payment of such gifts, remained in the hands of the whites. Under universal suffrage, made harsher by a partial white disfranchisement, the whites were helpless, so long as they observed the forms of law; and in the conflict of interests the forms of law went down. — At first the struggle was mainly peaceful. Negro voters were paid to remain at home on election day, or were induced to do so by threats of loss of work; negro leaders were bribed to wink at false counting or registration; and when the whites had thus carried the legislature, measures were enacted to secure white control of the government in future. In this manner the government fell into white hands in Tennessee in 1869, in North Carolina in 1870, and in Texas, Georgia and Virginia from their first reconstruction in 1870–71. All these were states in which the white vote (see CONSERVATIVES) only needed union to become dominant. Alabama and Arkansas were much more difficult states, but here the reconstructed governments went down in 1874, after a struggle of some two years, in the course of which actual violence became a political

factor. Four states were now left, South Carolina, Florida, Mississippi and Louisiana, in which the reconstructed governments held their ground. In apparent despair of other means, the "Mississippi plan" was begun in that state in 1875. It was only an amplification of the violent means which had never been left entirely out of calculation. (See INSURRECTION, II.) Much of its success was no doubt due to a change of the negro vote. H. R. Revels, the colored United States senator of the state, thus wrote to President Grant in 1876: "Since reconstruction, the masses of my people have been enslaved in mind by unprincipled adventurers. My people are naturally republicans, but, as they grow older in freedom, so do they in wisdom. A great portion of them have learned that they were being used as tools, and, as in the late election, they determined, by casting their ballots against these unprincipled adventurers, to overthrow them." On the other hand, the evidence that violence was the finally effective factor is not only overwhelming, but confessed. Bands of horsemen, armed and in uniform, attended and overawed negro meetings; and the roads were picketed to prevent the free transit of negro organizers. Actual violence to the mass of voters was unnecessary, beyond a few midnight whippings. The negro vote was helpless without its leaders and organizers, and the Mississippi plan was to strike only at the tallest. Actual murders do not seem to have been numerous, but they were tremendous in their effects from the position of the victims. There were now left but three states, and in these the Mississippi plan was put into practice in 1876 with a similar success. But in these the "returning boards" (see that title) prolonged the struggle beyond the election, and threw the whole presidential election of that year into confusion. (See ELECTORAL COMMISSION, FLORIDA, LOUISIANA, SOUTH CAROLINA.) As soon as President Hayes was seated, in 1877, the last vestige of the congressional scheme of reconstruction disappeared from the surface.—In each state the negro vote was practically suppressed after the overthrow of the reconstructed government. The violence did not necessarily continue in active operation; the negro vote was in part cast and counted, and negro local officers and even congressmen were occasionally elected. But every one knew that the negro vote would be tolerated just far enough to insure a permanent union of the white vote, and no further. The results are seen in the significant smallness of the vote in most of the reconstructed states. In 1880, for example, the congressional districts were each supposed to contain at least 131,400 inhabitants, which should have furnished over 80,000 voters. Alabama and Wisconsin correspond very closely in population, and each has eight congressmen. In 1880 the votes in these districts were as follows: Alabama, 18,645; 22,207; 16,319; 17,644; 11,219; 10,043; 19,146; 25,573: Wisconsin, 31,167; 30,875; 29,226; 32,737; 32,926; 38,435; 35,855; 33,894. It thus appears, that, on the same census population, Wisconsin furnishes 265,115 voters, an average of 33,139 to a district, while Alabama has but 140,796 voters, an average of 17,599 to a district. It is difficult to find more than one controlling explanation for this essential difference. — It must not be understood that the "subversion of the reconstructed governments" included any essential change in the reconstructed constitutions. These remained formally unaltered, so far as the fundamental conditions of readmission were concerned, though most of the states have revised their constitutions in non-essentials. The supreme court has decided that the state, on accepting readmission, is estopped from denying the validity of the conditions; and the federal judiciary, with the enlarged powers given to it since 1860, would undoubtedly make short work with any attempt to repudiate the conditions of reconstruction. The organic law is unchanged: the revolution has taken place beneath the surface. — *Force Bills.* At the first indication of attack by violence upon the reconstructed governments, congress took steps to defeat the attempt. A bill for the enforcement of the last two amendments, commonly called the force bill, was introduced, passed by strict party votes, and became law May 31, 1870. It made punishable by fine and imprisonment, or both, with exclusive cognizance to the United States courts, the following offenses: hindering any person in the performance of registration or any other qualification for voting; refusing to give full effect to any person's vote; preventing, or confederating with others to prevent, by force, threats or bribery, any person from qualifying or voting; conspiring to go in disguise upon the highway, or upon the premises of another with intent to deprive any citizen of his constitutional rights; personating other voters, voting or registering illegally, or interfering with election officers at congressional elections or the registration therefor; violations of state or federal election laws by state or federal officials; and violations of the civil rights act (see that title) of 1866, which was expressly re-enacted. April 20, 1871, a far stronger force bill was enacted. (See INSURRECTION, II.; KU-KLUX KLAN; HABEAS CORPUS; SUFFRAGE.) It was directed particularly at conspiracies against the civil rights legislation; its second (or conspiracy) section, however, was decided to be unconstitutional by the supreme court, Jan. 22, 1883. Its fourth section, providing that such conspiracies, when connived at by the state authorities, should be "deemed a rebellion against the government of the United States," and be suppressed by the president by the suspension of the writ of *habeas corpus* and the use of the army and navy, was to expire at the end of the next session of congress. In May, 1872, an attempt was made to extend it for another session. It passed the senate, but the house refused to consider it. The refusal seems to have been largely due to a belief in the house that the ku-klux disorders had subsided. It must be noticed that this section of the act of 1871 was really a first step

toward a recognition of a new rebellion, and the result would have been, as before stated, a new reconstruction, if the *casus belli* had not been removed. This standing rule of American constitutional law, the necessary consequence of the reconstruction precedents, makes a singular paradox: we must repudiate state sovereignty; and yet we must hold that a state can practically declare and wage war, be warred against by the nation, and, if conquered, be subjected to the laws of war. — IV. THE SUCCESSES OF RECONSTRUCTION. We have described the southern legislation of 1866–7. The infinitely milder and more equitable legislation which followed the successful seizure of power by the white race in the different states, in 1869–77, is of itself a proof that reconstruction was, in an essential point, a success. It gave the freedmen a status as men which, if not altogether satisfactory, is more than they could have hoped for in a century under the simple restoration policy. If the ballot is a nullity to the negro, his other rights are not; and he owes this to reconstruction. Further, the ballot itself will not always be a nullity. There stands the unchanged and unchangeable organic law of the states, waiting for the time when the negro shall be ready for the right of suffrage; and we may be sure that the recognition of his readiness will come far sooner and more easily by reason of the fact that it has nothing to fight against in the state constitutions. —We have noticed, also, the portentous reappearance of the seceding states, after their reconstruction by the president, as an *imperium in imperio*. It would have been an impossibility for southern representatives under that régime, however honest their intentions, to divest themselves suddenly of the prejudices and traditions of a lifetime's training, and come back in full sympathy with the economic laws which were thenceforth to attach to their own section as well as to the rest of the country. They must, then, have returned as a compact phalanx of irreconcilables, sure of their ground at home, and a permanent source of irritation, sectional strife and positive danger to the rest of the country. All this was ended by reconstruction. This process, to speak simply, and perhaps brutally, gave the southern whites enough to attend to at home, until a new generation should grow up with more sympathy for the new, and less for the old. The energies which might have endangered the national peace were drawn off to a permanent local struggle for good government and security of property. Whatever may be alleged on humanitarian grounds against a policy which for a time converted some of the states into political hells, it must be confessed that the policy was a success, and that it secured the greatest good of the greatest number. — See, in general, McPherson's *Political History of the Rebellion*, and *History of the Reconstruction* (see index for states, speeches, messages and legislation); 2 Williams' *History of the Negro Race; Congressional Globe*, 1861–72; *Congressional Record*, 1872–3; Hurd's *Theory of our National Existence* (index under *Reconstruction*); Appleton's *Annual Cyclopædia*, 1861–77; Fisher's *Trial of the Constitution*, 200; Brownson's *American Republic*, 309; McClellan's *Republicanism in America;* 12 *Stat. at Large*, 255 (Law of 1861); *International Review*, Jan., 1875 (Guarantee clause); 16 *Atlantic Monthly*, 238, 17 : 237, and 18 : 761; (I.), Cox's *Eight Years in Congress*, 370; Gillet's *Democracy in America*, 304; Harris' *Political Conflict in America*, 359; Pollard's *Lost Cause Regained;* Taylor's *Destruction and Reconstruction;* 2 Stephens' *War Between the States*, 612 (Hampton Roads conference), 806 (Sherman-Johnston memorandum); Raymond's *Life and State Papers of Lincoln*, 455, 685; 37 *Atlantic Monthly*, 21; Welles' *Lincoln and Seward;* 6–12 Sumner's *Works;* 12 *Atlantic Monthly*, 507; Callender's *Thaddeus Stevens, Commoner;* 4 Appleton's *Annual Cyclopædia*, 307 (Davis-Wade manifesto); Andrews' *South Since the War* (1866); *Report of the Joint Committee on Reconstruction; Report of the Select Committee on the New Orleans Riot;* Boutwell's *Speeches;* Barnes' *39th and 40th Congresses;* 100 *North American Review*, 540; *The Case of W. H. McArdle;* Pike's *The Prostrate State;* and authorities under articles referred to.

ALEXANDER JOHNSTON.

REFUGE, Right of. (See ASYLUM.)

REFUNDING OF THE PUBLIC DEBT OF THE UNITED STATES. On July 1, 1860, the national debt was $64,769,703. It consisted of a loan of $20,000,000 authorized June 14, 1858, and payable in 1874; a nearly equal sum of treasury notes, issued to meet the conditions resulting from the monetary crisis of 1857, and redeemable at pleasure; and a number of old loans issued between 1842 and 1848, all of which fell due within the next eight years. During the year 1860 a loan for $21,000,000 had been authorized, for the purpose of redeeming the outstanding treasury notes, and, bearing 5 per cent. interest, was sold at about par. The economic condition of the country was excellent. The crops were good, and the exports of domestic produce large. The federal system of taxation was extremely simple, duties on imports and sales of public lands being the two important sources of revenue, while any deficits that might occur were covered by loans. Excise, stamp, income and direct property taxes under the federal government were absolutely unknown. The outbreak of the rebellion changed all this, and the simple system then in vogue was ill-fitted to bear the strain thrown upon it. Economic questions had received but little attention, and the existing tax methods were capable of only a moderate extension, and principally in one line. The policy of the government was timid and tentative, and instead of a clear conception of the crisis, the secretary of the treasury had a vague idea, which was shared by many, that the contest would be brief, and that it would not be necessary to resort to extreme measures to bridge over the severe present needs

of the administration. The fall of Sumter, the suspension of the banks, and the open secession of the southern states, did not exert the influence that they should upon Mr. Chase, and it was by loans and issues of notes, instead of by a resort to taxation, that he sought to meet the enormous and continually increasing demands made upon the treasury. The debt of the nation increased from $90,867,828 on July 1, 1861, to $267,540,085 in December of that year, without any effort being made to furnish a revenue sufficient to meet at once a part of the expenditures. In order to alleviate the burden of the debt already contracted, and to pay certain of the future expenses of the war, a forced loan was taken from the people through treasury notes on which had been conferred a legal tender quality. Having made this beginning, further steps were taken in the same direction. Loans and issues of legal tenders followed one another. Some futile efforts to frame tax systems were made, but resulted only in disappointment, and what they were intended to accomplish were met with new loans. The internal revenue law of 1862 was badly framed and badly administered; the people were unaccustomed to excise duties, the machinery was complicated, and the officers inexperienced. It was modified many times before the annual revenue derived under it reached the $300,000,000 that was justly believed could be drawn from internal sources. From time to time tariff measures were passed, the duties being continually raised, until a vast and intricate customs service was formed in which all sound theory and practice had been sacrificed ostensibly to revenue, but in reality to private interests. The tariff and internal revenue laws grew up separately, and their provisions clashed with one another. Some industries were taxed out of existence, while others were benefited beyond all precedent. With every new issue of legal tenders prices rose, and the vast expenditures of government, uniting with the inflation of values and the uncertain condition of general business, created a spirit of gambling and speculation which spread to every branch of production and exchange, and wrought incalculable mischief and loss. No scheme for raising money was too wild, but the treasury department and congress were blind to the one step that would restore a certain degree of confidence and maintain in a measure the public credit. The fiscal errors enormously increased the expenditures of the government. While loans were being nominally taken at par and over, in reality they were selling at 50 and even at 34, as that marked the depreciation of the paper money. Prices of war material had increased three and four hundred per cent. Mr. Chase refused to believe that his issues were responsible for this, and could only recommend further loans and further issues. His policy was, in a measure, adopted by Mr. Fessenden, but with Mr. McCulloch a new and more just policy was inaugurated. — The growth of the debt during the war need not be detailed here, as it is but a constant succession of loans. In June, 1862, the outstanding principal of the debt was $524,176,412; in 1863, $1,119,772,138; in 1864, $1,815,784,370; and in 1865, $2,680,647,869. On Aug. 31, 1865, the debt had attained its highest point, $2,845,907,626. Of the ordinary sources of income, customs and internal revenue were the most important, and the course of the receipts in these two branches in the years 1861–6 clearly showed how weak and futile were the first endeavors to frame adequate tax systems, and how little taxation contributed toward meeting the current expenditures of government.

YEARS.	Customs.	Internal Revenue.	Loans and Treasury Notes
1861	$ 39,582,125		$ 41,861,709
1862	49,056,397		529,692,460
1863	69,059,642	$ 37,640,787	776,682,361
1864	102,316,152	109,741,134	1,128,873,945
1865	84,928,260	209,464,215	1,472,224,740
1866	179,046,651	309,226,813	712,351,553

— There had been no settled policy on which this vast load of debt had been created, other than the recognized necessity of meeting all requisitions made upon the treasury. In his report for 1863, Mr. Chase said that in the creation of debt he had kept four objects in view: 1, moderate interest; 2, general distribution; 3, future controllability; and 4, incidental utility. The close of the war, however, found the debt in a very unsatisfactory condition. On Aug. 31, 1865, it was made up of the following items:

Funded debt	$1,109,568,191.80
Matured debt	1,503,020.09
Temporary loans	107,148,713.16
Certificates of indebtedness	85,098,000.00
5 per cent. legal tender notes	33,954,230.00
Compound interest legal tender notes	217,024,160.00
Seven-thirty notes	830,000,000.00
United States notes (legal tenders)	433,160,569.00
Fractional currency	26,344,742.51
Suspended requisitions	2,111,000.00
Total	$2,845,907,626.56

Of the above items, the United States notes, the 5 per cent. notes and the compound interest notes, in all, $648,138,959, were a legal tender, and were for the most part in circulation as currency. The temporary loans were payable in thirty days from the time of deposit, after a notice of ten days. The 5 per cent. notes were payable in lawful money, in one and two years from Dec. 1, 1863. The compound interest notes were payable in three years from their respective dates, all becoming due between June, 1867, and October, 1868. The 7-30 notes were payable before July, 1868, in lawful money, or were convertible at maturity into 5-20 bonds. The certificates of indebtedness would mature between 1865 and 1867. So that, besides the United States notes, there were nearly $1,300,000,000 of debts in various forms, all of which (with the exception of the temporary loans) must be converted into bonds or paid in money before October, 1868. — Secretary McCulloch at

once entered upon the difficult task of restoring the disordered finances of the nation to a more normal condition, and of introducing some semblance of system in the management of the debt. The revenues of the government were now sufficient to meet the current expenditure, including the debt charges, so that an opportunity was afforded for dealing with the debt. The secretary announced as his policy, the contraction of the paper issued by the government, which had been in a great measure responsible for the financial disorder and almost ruin. In order to secure this contraction the secretary recommended: 1, that congress declare that the compound interest notes should not be legal tender after their maturity; and 2, that the secretary be authorized to sell 6 per cent. bonds for the purpose of retiring not only compound interest notes, but also the United States notes. As to the rest of the debt, it was shown that more than one million was already overdue; that $187,549,646 must be provided for before 1867, and that $1,021,335,732 fell due in 1867–8, no account being taken of the notes and fractional currency. The main point was to place the whole debt in such a form that only the interest could be demanded until the government was in a condition to meet the principal. It must therefore be funded. He asked authority to sell 6 per cent. bonds to pay the certificates of indebtedness as they matured, to meet any deficiencies that might occur in the current fiscal year (1866), and to take up any portion of the debt maturing prior to 1869 that could be advantageously retired. Of the debt falling due in 1867–8, $830,000,000 consisted of 7-30 notes, which were convertible into bonds at the pleasure of the holders, and the secretary believed that a part of this amount would be at once funded were an opportunity offered. The portions of the debt accruing before 1869 it was the intention of the secretary to fund into 5 per cent. stocks, and a like method could be used in 1871 when other portions fell due. Two results would be accomplished by such a policy: the treasury could be put and kept in such condition as not only to be prepared to pay all claims upon presentation, and also to take up in advance of their maturity, by payment or conversion, such portions of the temporary debt as would obviate the necessity of accumulating large currency balances in the treasury, and at the same time relieve it from the danger of being forced to a further issue of legal tender notes, or to a sale of bonds, at whatever price they might command. — The second section of the loan act of March 3, 1865, authorized the secretary to "dispose of any of the bonds or other obligations issued under this act, either in the United States or elsewhere, in such manner, and at such rates, and under such conditions, as he may think advisable, for coin, or for other lawful money of the United States, or for any treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or may be issued under any act of Congress." In February, 1866, a bill was reported from the committee of ways and means, which proposed to construe the law of 1865 as allowing the secretary to receive any of the issues of the government in exchange for the description of bonds contained in the first section of the act, provided there should result no increase in the amount of the public debt. This would amount to an authority to fund all outstanding obligations of the government into bonds. The debates that occurred on this bill practically covered the whole financial policy of the government, but turned particularly upon the question of retiring in this manner the United States notes, at that time below par, giving to the secretary, it was claimed, full control of the currency of the country, and, by direct inference, of the market values of every description of property. Those who believed in a depreciated paper issue, or who thought that there was a short and easy road to specie payments by which the greenback could be brought up to par, feared the results of conferring such a great power upon Mr. McCulloch, who was known to be no friend to a circulating medium that was shifting in value and constantly below par. While the necessities of the war lasted, it was well enough, they argued, to confer such unlimited powers, but not in a time of peace. It was further urged, that it would be folly to withdraw a non-interest bearing debt, such as the legal tender note was, and substitute for it an obligation that paid 5 or 6 per cent. annually. On the other hand, it was shown that the bill was no real innovation, as the secretary could then do indirectly, under existing loan acts, what it was proposed to authorize directly. He could exchange one kind of paper for another, but only with the consent of the holder. In fact, some $50,000,000 of outstanding obligations had been already funded before any doubt respecting the legality of such a proceeding had been raised. The bill was finally passed April 12, but, to limit the power of the secretary over the currency, contained the provision that "of the United States notes not more than $10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than $4,000,000 in any one month." This measure enabled the secretary to deal with the debt as it matured by selling bonds bearing 6 per cent. interest, the principal of which was redeemable at any time after five and before the expiration of twenty years from the date of issue. Under this act the following issues were made: Consols, 1865, $332,998,950; consols, 1867, $379,618,000; consols, 1868, $42,539,850. In May, 1866, Mr. Sherman introduced a bill into the senate, providing for reducing the interest on the national debt, and for funding the same. It provided for the funding of all of the outstanding debt save the greenbacks into 5 per cent. thirty-year bonds; and in consideration of the lower rate of interest, the bonds were to be exempted from the income tax levied by the United States. The amount of

interest saved by the conversion was to be applied to the payment of the principal of the national debt; and it was estimated that the debt would be extinguished by this process in about thirty-six years. The debt was composed of so many different classes of securities and obligations that no one save a skilled financier could comprehend the details; it would, therefore, be a gain to make the rate of interest and the kind of security uniform. The rate of interest paid, too, was higher than that paid by any other nation; and though, while the war lasted, there was some excuse for such rates, they ought not to be continued in peace, when the credit of the government was beyond question. Moreover, it was a very fitting time to make the change, as a large portion of the debt was then or about to be under the control of the treasury. The main business of the secretary was to provide new loans for such as were maturing. But great objection was made to the clause exempting the bonds from taxation, and following the lead of one Mr. Hayes, of the revenue commission, many believed that the federal securities should be taxed equally with other property by state authority—a foolish proposition, and one that would practically give to the states the right to nullify by taxation the power of the national government to borrow money. Besides reducing the rate of interest by funding the debt, the bill proposed to establish a sinking fund. In 1862 the loan act provided for such a fund, but so long as the expenditures of government exceeded the receipts, it would have been a clumsy and costly instrument to maintain. The bill passed the senate, but could not be considered by the house. The debate showed that while the general opinion was in favor of funding the debt at a lower rate of interest, yet objections were urged against such a measure, not only on economic but also on administrative grounds. A like measure was introduced in the next session of congress, but was not acted upon. — The secretary of the treasury touched upon the subject of refunding when treating of the foreign debt in his annual report of 1866. "The question now to be considered is not, how shall our bonds be prevented from going abroad? for a large amount has already gone, and others will follow as long as our credit is good and we continue to buy more than we can pay for in any other way, but, how shall they be prevented from being thrown upon the home market, to thwart our efforts in restoring the specie standard? The secretary sees no practicable method of doing this at an early day, but by substituting for them bonds which, being payable principal and interest in Europe, will be less likely to be returned when their return is the least to be desired." He therefore advised the issue of a bond payable in Europe, and bearing 5 or 4½ per cent. interest, which was to be substituted for the foreign bonds. In March, 1867, he was directed to issue 3 per cent. loan certificates with which to retire the outstanding compound interest notes, but he received no authority to deal generally with the debt. In his next report (1867) he again approaches the subject, and, in discussing the exemption of national securities from state taxation, recommends that all obligations of the government be funded into bonds bearing 6 per cent. interest, and having twenty years to run; "one-sixth part of the interest at each semi-annual payment to be reserved by the government and paid over to the states, according to their population." A bill embodying the recommendations of the secretary was introduced into congress, but not taken up. A long debate occurred upon the funding of the debt, which was now largely composed of 5-20 bonds. An aggregate of $1,613,442,650, of which about $200,000,000 were in the form of seven-thirties, might be regarded as of 5-20 bonds; and including the debts that would mature in the summer of 1867, upward of $1,700,000,000 were due within a period of five years, and the larger part was redeemable in 1867 and 1868. A law had been already passed to check any further contraction of the currency as proposed by the secretary, but a measure looking to "free banking" had been drawn up, one of the provisions it contained being that when the combined issues of the national banks and government should exceed $700,000,000 the government notes in excess of this sum should be retired and canceled, until the amount of the latter outstanding should be reduced to $250,000,000. As it was, the first law interfered greatly with Mr. McCulloch's plans, for these depended in a great measure upon his proposed contraction of the currency. The time was, however, favorable for the conversion of the debt into 5 per cent. bonds, as at the prices then obtained for 6 per cents, such bonds could be negotiated at par. The republicans were adopting resolutions which demanded a reduction in the rate of interest on the public debt, so that the burdens of taxation might be lessened; while the democrats, looking upon the debt as held chiefly by capitalists and bloated bondholders, wished to tax the bonds and thus diminish the revenue obtained from them, a measure that the loan acts expressly prohibited. The lengthy debate that followed covered a large number of irrelevant topics, and came to nought. Meantime, however, the secretary had been using the power already given him, and in December, 1867, was able to report that since September, 1865, the temporary loans, the 5 per cent. notes and the certificates of indebtedness had all been paid; the compound interest notes had been reduced from $217,024,160 to $71,875,040; the 7-30 notes from $830,000,000 to $337,978,800; the United States notes, including the fractional currency, from $459,505,311.51 to $387,871,477.39; while the funded debt had been increased $686,584,800. The act suspending the further reduction of the currency was passed Feb. 4, 1868. — There would be little interest in tracing the recommendations of the secretary and the abortive action of congress with respect to this question of funding the debt, which were annually gone through with, it would almost appear, for form's sake alone. It

was admitted that the rate of interest which the government paid on the debt was higher than it ought to be, and while one party viewing the bondholders with suspicion wished to reduce their income, and the other for the purpose of removing burdens from the tax payers desired to refund the debt at a lower interest, no agreement could be reached. Some half measures were adopted, like that of July 25, 1868, which provided for a further issue of temporary loan certificates, for the purpose of redeeming and retiring the outstanding compound interest notes; and of July, 1870, which provided for the redemption of these certificates. It was in May, 1869, that the sinking fund was established, and the payment of a part of the debt each year thus insured. In December, 1869, the funded debt stood as follows: "Of the loan of Jan. 1, 1861, the sum of $7,022,000 is outstanding, and payable on Jan. 1, 1871. The loan of 1858, of $20,000,000, is payable in 1873. The bonds known as 10-40's, amounting to $194,567,300, are not payable until 1874. The 6 per cent. bonds, payable in 1881, amount to $283,677,600. The 5-20 bonds, amounting in the aggregate to $1,602,671,100, are either redeemable or will soon become redeemable," and must therefore be provided for. This led up to the refunding act of July 14, 1870. It authorized the secretary to issue not more than $200,000,000 5 per cent. bonds, redeemable after ten years; also not over $300,000,000 4½ per cent. bonds, redeemable after fifteen years; also not over $1,000,000,000 4 per cent. bonds, redeemable after thirty years—all to be exempt from United States or state taxes. As the bonded debt was not to be increased, these different classes of securities were to be floated at par. In January, 1871, an amending act was passed, which increased the amount of 5 per cent. bonds authorized to $500,000,000, but the total amount of bonds to be issued under the act of 1870 was not thus increased. As was customary, the whole financial policy of the government, past and present, was reviewed in the debates on this measure, which extended over six months. As this is the most important act relating to the funded debt that had been passed up to the year 1870, it will be interesting to examine in detail the condition of the bonded debt. The following is a statement of the amount of the coin-interest-bearing debt outstanding March 1, 1871, the nearest date prior to the opening of subscriptions under the refunding act:

TITLE OF LOAN.	Rate Per Cent.	When Redeemable.	When Payable.	Amount.
Loan of 1858	5		January, 1874	$ 20,000,000
Loan of February, 1861	6		December, 1880	18,415,000
Oregon war debt	6		July, 1881	945,000
Loan of July, 1861	6		June, 1881	189,318,100
5-20's of 1862	6	After May, 1867	May, 1882	498,788,300
Loan of 1863	6		June, 1881	75,000,000
10-40's of 1864	5	After March, 1874	March, 1904	194,567,300
5-20's of March, 1864	6	After November, 1869	November, 1884	3,162,600
5-20's of June, 1864	6	After November, 1869	November, 1884	102,098,900
5-20's of 1865	6	After November, 1870	November, 1885	182,112,450
Consols of 1865	6	After July, 1870	July, 1885	264,619,700
Consols of 1867	6	After July, 1872	July, 1887	358,832,550
Consols of 1868	6	After July, 1873	July, 1888	59,663,750
Total				$1,922,343,700

The 10-40's of 1864, which bore 5 per cent. interest, were then selling in the market for about 112 currency (or 98 in gold), so that it was expected that the new 4 per cent. bonds could be sold at par; and this belief was strengthened by the fact that the government was collecting a revenue greatly in excess of its expenditures for ordinary purposes, thus giving a large sum (about $100,000,000 annually) to be applied to the debt. Moreover, there had already occurred a large reduction of the principal of the debt, being more than $303,000,000 in four years, or an average annual payment of $75,000,000, thus demonstrating the ability of the nation to control its indebtedness. — On March 6, 1871, the books were opened for subscriptions to the new loan, both in this country and in Europe; and all the national banks here, and a large number of private bankers in the United States and abroad, were authorized to receive subscriptions. On the first of August the subscriptions amounted to $65,775,550, the larger share being taken by the banks. In July certain bankers in Europe offered to take the balance of the $200,000,000 offered, and it is very likely that the whole loan could with advantage have been negotiated abroad had not the war between France and Prussia broken out. A French loan bearing 5 per cent. interest was being disposed of at about 80, and this interfered with the sale at par of a United States bond bearing the same rate of interest. The paper currency of this country also introduced an uncertainty respecting the dividend that would be received when the interest was paid, as the rate of exchange was liable to fluctuate widely. In spite of these features the whole of the loan was taken up by the last of August. From 1871 to 1877 bonds were disposed of under the act of July 14, 1870, not only for refunding purposes, but also for other charges on the government, like the purchase of coin for a resumption fund, the payment of the cost of constructing the Mississippi river improvements, etc. The amount of 5 per cent. bonds issued each year was: 1871, $59,669,150; 1872, $140,330,850; 1874, $115,800,750; 1875, $96,505,700; 1876, $104,553,050; 1877, $1,134,650. Total, $517,994,150. No 4½ per cent.

bonds were taken before August, 1876, and after this no 5 per cent. bonds could be issued. The secretary was able to negotiate these bonds bearing a lower rate of interest at par, by reason of a favorable change in the money market, and in May, 1877, the condition of the market allowed of the floating at par in coin of a 4 per cent. bond. Within a period of thirty days the subscription for this class of bonds reached more than $75,000,000. The success indicated by this auspicious beginning was, however, checked later on, when it was proposed to repeal the resumption act and to remonetize silver, measures which threw doubt upon the credit of the government, and threatened to put an end to all future refunding operations by disabling the government from borrowing. The result of any such set-back would be to throw away an opportunity to reduce the rate of interest on the $1,452,000,000 of the debt which was redeemable by May, 1881, by one-third—or a saving of $22,006,205 in yearly interest. Fortunately this attack upon the public credit failed in its object, and while the resumption law remained in force, the remonetization of silver was so accomplished as to conceal its real effects, and postpone the disastrous financial crisis that might at once have been precipitated. — In the early part of 1879 a measure passed the house, authorizing the issue of certificates of deposit in aid of the refunding of the national debt. It proposed to authorize the issue, in exchange for lawful money, of certificates of deposit of the denomination of $10, bearing interest at the rate of 3 per cent. per annum, and convertible at any time into 4 per cent. bonds. The main object to be attained by this bill was to place these bonds within easy reach of every citizen who desired to invest his savings in these securities. It had been recommended by the president in his annual message, and also by the secretary of the treasury. It met, however, with great opposition in the house, as its result was represented to be nothing less than to convert the treasury into a savings bank. The bill passed the house, and in the senate the rate of interest was changed to 4 per cent. In order to make this form of loan as popular as possible, and to facilitate and distribute the sale of these certificates, national banks and public officers were designated depositaries. The intention of the law was, however, defeated, as the premium on the 4 per cent. bonds offered a good investment, and the certificates, while purchased in small amounts, were obtained chiefly in large blocks by speculators; the attempt to offer an investment for small savings proved a farce. The main object of these measures, the refunding of the 6 per cent. bonds, was accomplished. By April 5 all of the outstanding 5-20's had been refunded, and as no other 6 per cent. bonds remained, attention was directed to the 10-40's. On April 16, $150,000,000 4 per cents were offered at a premium of ¼ per cent. On the following day subscriptions to the amount of $149,889,650 were received and accepted, and upward of $35,000,000 received and declined. By October, 1879, $40,012,750 of the refunding certificates had been sold, and all but $2,809,400 had been exchanged for 4 per cent. bonds. Between November, 1878, and November, 1879, there had been refunded $370,848,750 6 per cent. and $193,890,250 5 per cent. bonds of the United States, into bonds bearing interest at 4 per cent., making an annual saving of interest of $9,355,877. — It will now be convenient to take a general survey of the refunding operations accomplished since 1870, as their magnitude will become more apparent. In 1870 there were outstanding of debt controllable within a short period by the government, an aggregate of $1,395,345,950, on which 5 and 6 per cent. were being paid, and more than five-sixths of the total was paying 6 per cent. The annual interest charge was $81,639,684. In place of these bonds bearing high rates of interest had been issued, up to 1880, $500,000,000 at 5 per cent., $185,000,000 at 4½ per cent., and $710,345,950 at 4 per cent., on which the annual interest charge was $61,738,838; being a saving in interest of $19,900,846. Within the same period nearly $300,000,000 of the principal of the debt had been discharged. The apparent ease with which these great financial changes were accomplished, is in a great measure to be explained by the general condition of trade and industry as shown in the money market. The bulk of the bonds were floated after 1878, and before 1873. The years 1871–3 were marked by speculative movements which gave an unnatural and in the end an evil stimulus to all forms of enterprise and investments, and the securities offered by the government were no exception to the general rule. Subscriptions were freely made both here and abroad, until the crisis of 1873, which was followed by a long period of retrenchment, the inevitable consequence of over-speculation and inflated values. The table we have last quoted makes no return of sales for 1873, and shows a decided falling off in those for 1874–5. Had the loan been offered two years later than it was, it could not have been negotiated as readily. From 1873 to 1878 commercial depression and stagnation weighed upon the trade and industry of the country, one of the most severe of such periods, if not the most severe, that the nation has ever experienced. For lack of other safe and profitable investments, capital was turned toward the government bonds, and the glut of capital seeking investment in the money centres gave an opportunity to place at par a bond bearing a low rate of interest. There was in these years an immense amount of legitimate trading being done, which, conducted on a sound basis, at least yielded average profit; and, as there was very little spent and wasted in speculation and in uncertain ventures, the country was adding to its available wealth at a very rapid rate. This prepared the way for the great operations of 1878, 1879 and 1880. Although trade had revived, and industry was fully employed, the immense amount of capital seeking for profit allowed the floating of a

4 per cent. bond when the security was so unquestioned. The government had collected from twenty to thirty millions each year in excess of its expenditure, the year 1879 forming an exception; and, as the better condition of trade was felt, the national revenues increased to such an extent that in 1880 the surplus revenue reached the sum of $65,883,653, and gave every sign of going far above that amount in the succeeding year, should the favorable conditions continue to exist. It followed, therefore, that the credit of the government was high, and the fact that the resumption of specie payments had been accomplished in 1879 with almost no friction, and without creating even a ripple in the money markets, only served to increase confidence in the ability of the government to handle its indebtedness. The only disquieting circumstance—the enforced coinage of a silver dollar that was worth much less than its face—was not sufficient to raise any question on the public faith, although notes of warning regarding the ultimate effects of this questionable policy were raised by those who had made a study of economic questions. The fact that the great refunding operations were accomplished, and that, too, without creating any financial disturbance, impressed the people with the enormous wealth-producing power of the nation, and gave promise of as great, if not greater, financial operations in the future, should the government again be compelled to draw upon the resources of the people. Every dollar of debt that the government paid, and every dollar of interest that was as much as paid by being saved through the refunding into low interest bonds, represented ten or a hundred dollars that could be borrowed in the future, when the necessities of the nation should require. — This operation, however, did not complete the work to be done, as $273,631,350 6 per cent. bonds, issued during the years 1861 and 1863, and $508,440,350 5 per cent. bonds, issued in 1870 and 1871, were about to become due. Of these, all but $18,415,000 would mature in May, June and July, 1881. These bonds must be provided for, and under existing laws there remained available for refunding operations, $104,654,050, or less than one-seventh of the total to be refunded. The secretary of the treasury recommended that authority be conferred upon him to issue 4 per cent. bonds and refunding certificates convertible into such bonds as before, and owing to the favorable situation he believed that such a bond could be sold at a premium. Although a refunding measure was introduced in the house, and debated, no vote was reached. In his report for 1880 the secretary again called attention to the necessity of passing some measure, and recommended that this portion of the debt be provided for by treasury notes, running from one to ten years, and issued so that they may be paid as they mature. This would obviate the necessity of paying a premium on the bonds purchased by the government for the sinking fund, as had often happened, and would leave a large portion of the debt so placed that it could be easily controlled by the government. He asked authority to issue $400,000,000 of such notes, which he thought need not carry a higher rate of interest than 3 per cent., and also to issue a like amount of bonds, to bear 3.65 per cent. interest. The government fours were then selling at 113. A bill was brought into the house, which provided for a long-time bond (at first a 50-year bond, afterward modified to 20-40's), to bear 3 per cent. interest. Objection was at once made, and with reason, that such a measure would practically place this refunded portion of the debt beyond the control of the government, and at a time when large reductions in the principal were possible. While the surplus revenue in 1879 was but about seven millions, in 1880 it was nearly sixty-six millions, and it was estimated that in 1881 a surplus of more than fifty millions could be counted upon with certainty, and this amount might be greatly exceeded. That such a proceeding could not be defended, was proved by plain figures. In January, 1881, there remained $671,207,050 redeemable at the pleasure of the government before July, and the surplus revenue to be collected before that date would, by the estimate of the secretary of the treasury, reduce this sum to $640,000,000. The requirements of the sinking fund for the next ten years, or until the $250,000,000 of the 4½ per cent. bonds became due, would amount to $520,000,000, and this took no account of the surplus revenue applied to the debt in that time. So that there could be no justice in converting this $630,000,000 into a long-term debt. Yet, it was on the rate of interest and the term of the bond that the debate was centred. There was such a scarcity of sound investments that the returns were small on such as were freely bought. "Only a few years ago the French rentes yielded over 5 per cent. on the market price, and not very long since United States government bonds could be bought, to return 7 and 8 per cent. Consols are now no longer at par, but they are so little under it that practically they may be said to yield only 3 per cent.; United States fours yield about 3½ per cent.; French rentes, about 4 per cent.; Indian sterling bonds, not quite 4 per cent.; and colonial government securities, generally about the same rate. Even Russian and Hungarian bonds, great as is the risk attached to them, pay an investor only 5½ or 6½ per cent., respectively. And if we pass from the securities of states to those of private companies, we find that those in good credit give usually from 3 to 4 per cent., but seldom more." It was with reason urged that the credit of the government of the United States ought to be as high as that of any other nation, and that a 3 per cent. bond could be floated at par; the only question was, how long a time such a bond ought to run. The English consol, which bore 3 per cent., was practically perpetual, but a perpetual debt was opposed to all the traditions of American policy, and not to be thought of under any circumstances. As finally passed, the bill provided

for the issue of $400,000,000 of bonds, bearing 3 per cent. interest, and payable in twenty years, or redeemable in five years after the date of issue, and also treasury notes to an amount not exceeding $300,000,000, bearing interest at 3 per cent., redeemable at the pleasure of government after one year, and payable in ten years from the date of issue. — But while passing through congress, a provision was introduced into the measure, which was not only decidedly objectionable in itself, but was opposed to the spirit of a funding act, which should be a purely voluntary transaction: the government ought not, in such a case, to attempt to force a sale, either upon the people or upon any particular class of institutions. The securities of the government had been made a basis for the circulation of the national banks, and these useful institutions had experienced a great reduction in their profits, through the previous funding operations of the government. The comptroller of the currency, in his report for 1879, said: "The refunding of the national debt commenced in 1871, at which time the national banks held nearly $400,000,000 of the 5 and 6 per cent. bonds; and from that date to the present time they have held more than one-fifth of the interest-bearing debt of the United States. This class of bonds has since been greatly reduced, and is now less than one-sixth of all the bonds pledged for circulation, while more than one-third of the amount consists of bonds bearing interest at 4 per cent." At the time that this funding bill was pending (1881) the amounts of 6 and 5 per cents had been still more reduced. It was now proposed to make the new bonds the only government securities that could in future be used by the banks as a basis for their circulation, and, as an inducement to the banks to accept this proposition, the taxes on capital, deposits and circulation were to be repealed. But these measures of compensation were not included in the bill which passed the house, and the finance committee of the senate proposed to strike out this coercive section, thus removing the objectionable feature of the bill. It had been shown by the comptroller of the currency that such a section would strike a very serious blow at the national bank system, as the $211,000,000 of bonds then deposited by the banks would mature in that year (1881), and this amount of the new 3 per cents would have to be substituted, or the notes issued on it would have to be retired, and the banks probably be compelled to go into liquidation. But the section was restored, and the bill went to the president. The result of this provision was to create great distrust among the banks, and in the short period of thirteen days they contracted their issues by $18,722,340, and nearly precipitated a panic. In fact, a crisis was averted only by the action of the secretary of the treasury, who paid out an equal amount of legal tenders in the purchase of bonds. This movement was, however, caused in a measure by other provisions of the bill, which were, that "section four, of the act of June 20, 1874, entitled 'an act fixing the amount of United States notes,' be and the same is hereby repealed; and sections 5159 and 5160 of the Revised Statutes of the United States be, and the same are hereby, re-enacted." This would deprive the banks of the right to take up by a deposit of legal tenders their bonds held by the treasurer as a security for their circulation, and would compel them to keep bonds to the amount of one-third of their capital, and this, whether they issued circulating notes or not. This panic, however uncalled for, showed that the banks believed their existence to be endangered, and the president, taking the same position, vetoed the bill, giving as a reason the inexpediency, not to say the injustice, of the coercive section. "Under this section it is obvious that no additional banks will hereafter be organized, * * and no increase of the capital of existing banks can be obtained except by the purchase and deposit of 3 per cent. bonds. No other bonds of the United States can be used for the purpose. * * This is a radical change in the banking law. It takes from the banks the right they have heretofore had under the law to purchase and deposit, as security for their circulation, any of the bonds issued by the United States, and deprives the bill holder of the best security which the banks are able to give, by requiring them to deposit bonds having the least value of any bonds issued by the government. * * In short, I can not but regard the fifth section of the bill as a step in the direction of the destruction of the national banking system." The veto message was submitted on the day before congress adjourned, so that no action could be taken on it. — In this way was a refunding measure defeated. But the debt was maturing, and some provision for meeting it must be made. Congress had adjourned, and the responsibility was thrown upon the secretary of the treasury. On March 1, 1881, or three days before the adjournment of congress, the maturing debt was:

TITLE OF LOAN.	Rate per ct.	Redeemable.	Amount.
Loan of July and Aug., 1861	6	June 30, 1881	$144,339,900
Loan of 1863	6	June 30, 1881	57,216,100
Funded loan of 1881	5	May 1, 1881	469,390,650

The only resources of the government to meet these obligations were the surplus revenue, and about $104,650,000 of 4 per cent. bonds that had been authorized by the acts of 1870 and 1871, but had not been disposed of. To pay off the maturing bonds with the revenue was clearly out of the question; and to have issued the 4 per cents would have placed so much of the debt beyond the control of the government, owing to the length of time they had to run before redemption, a step that it was not expedient to take. The secretary, Mr. Windom, therefore assumed the responsibility and adopted the following plan: "On April 11 there was called for absolute payment on July 1, 1881, the small loan of $688,200, bearing 6 per cent. interest, and known as the Oregon war debt,

and at the same time, for payment on the same date, the 6 per cent. loans, acts of July 17 and Aug. 5, 1861, amounting to $140,544,650, and act of March 3, 1863, amounting to $55,145,750; but to the holders of the bonds of the two latter loans permission was given to have their bonds continued at the pleasure of the government, provided they should so request." This plan proved entirely successful, and a like privilege was extended to the holders of the funded loan of 1881. The bonds were presented freely, because the new continued bonds (known as "Windoms") bore a small premium, and the amounts that were not so presented were easily met by the surplus revenue. The annual saving in interest accomplished by this simple operation was $10,473,952, and on Nov. 1 there remained outstanding of bonds bearing 3½ per cent. interest, payable at the pleasure of the government, $563,880,950. The step taken by the secretary was severely criticised as being an assumption of legislative powers by an executive officer, but he really had no alternative, and, as events proved, his expedient was better than the one proposed by congress, which would have placed it beyond the power of the government to pay a larger portion of the debt by postponing payment of it for a term of years. Although this was not, properly speaking, a refunding measure, it accomplished what such a measure proposed to accomplish, and so satisfactory was the result that Secretary Folger made "no recommendation of legislation for the refunding of the bonds now outstanding bearing interest at 3½ per centum."—A bill to refund $200,000,000 of the continued bonds into 3 per cent. stock was debated in the senate, but failed in the house, and the whole matter would have been allowed to rest had it not been for the necessity of allowing the national banks to renew their charters. The eleventh section of this act (July 12, 1882) authorized the secretary to receive continued bonds, and to issue instead 3 per cent. securities; and provided "that the bonds herein authorized shall not be called in and paid so long as any bonds of the United States heretofore issued bearing a higher rate of interest than 3 per centum, and which shall be redeemable at the pleasure of the United States, shall be outstanding and uncalled. The last of the said bonds originally issued under this act, and their substitutes, shall be first called in, and this order of payment shall be followed, until all shall have been paid." This measure completed the funding operations of the government, and while more than $300,000,000 of the 3½ per cents were exchanged for 3 per cents, the surplus revenues were so great that, by November, 1883, the 3 per cents were being called in for payment. It was, in fact, then a question as to what should be done with the revenues of the government when all the threes were redeemed, as no other bonds became due until 1891, and the attempts to reduce the revenue had proved abortive.—For the purpose of showing more completely the changes that have occurred in the debt, the following table, from official records, is given:

Year Ended—	3 Per Cts.	4 Per Cents.	4 1-2 Per Cts.	5 Per Cents.	6 Per Cents.	7 3-10 Per Cents.	Total Interest-bearing Debt.	Annual Interest Charge.
	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	Dollars.
1860–July 1	.....	.....	.....	43,476,300.00	21,164,538.11	.....	64,640,838.11	3,443,687.29
1861	.....	.....	.....	33,022,200.00	57,358,673.95	.....	90,380,873.95	5,062,690.43
1862	.....	57,926,116.57	.....	30,483,000.00	154,313,225.01	122,582,485.34	365,304,826.92	22,048,509.59
1863	.....	105,629,385.30	.....	30,483,000.00	431,444,813.83	139,974,435.34	707,531,634.47	41,854,148.01
1864	.....	77,547,696.07	.....	300,213,480.00	842,882,652.09	139,286,935.34	1,359,930,763.50	78,853,487.24
1865	.....	90,496,930.74	.....	245,709,420.63	1,213,495,169.90	671,610,397.02	2,221,311,918.29	137,742,617.43
1865–Aug. 31	.....	618,127.98	.....	269,175,727.65	1,281,736,439.33	830,000,000.00	2,381,530,294.96	150,977,697.87
1866–July 1	.....	121,341,879.62	.....	201,982,665.01	1,195,546,041.02	813,460,621.95	2,332,331,207.60	146,068,196.29
1867	.....	17,737,025.68	.....	198,533,435.01	1,543,452,080.02	488,344,846.95	2,248,067,387.66	138,892,451.39
1868	64,000,000	801,361.23	.....	221,586,185.01	1,878,303,984.50	37,397,196.95	2,202,088,727.69	128,459,598.14
1869	66,125,000	.....	.....	221,588,300.00	1,874,347,222.39	.....	2,162,060,522.39	125,523,998.34
1870	59,550,000	.....	.....	221,588,300.00	1,765,317,422.39	.....	2,046,455,722.39	118,784,960.34
1871	45,885,000	678,000.00	.....	274,236,450.00	1,613,897,300.00	.....	1,934,696,750.00	111,949,330.50
1872	24,665,000	678,000.00	.....	414,567,300.00	1,374,883,800.00	.....	1,814,794,100.00	103,988,463.00
1873	14,000,000	678,000.00	.....	414,567,300.00	1,281,238,650.00	.....	1,710,483,950.00	98,049,804.00
1874	14,000,000	678,000.00	.....	510,628,050.00	1,213,624,700.00	.....	1,738,930,750.00	98,796,004.50
1875	14,000,000	678,000.00	.....	607,132,750.00	1,100,865,550.00	.....	1,722,676,300.00	96,855,690.50
1876	14,000,000	.....	.....	711,685,800.00	984,999,650.00	.....	1,710,685,450.00	95,104,269.00
1877	14,000,000	.....	140,000,000	703,266,650.00	854,621,850.00	.....	1,711,888,500.00	93,160,643.50
1878	14,000,000	98,850,000.00	240,000,000	703,266,650.00	738,619,000.00	.....	1,794,735,650.00	94,654,472.50
1879	14,000,000	741,522,000.00	250,000,000	508,440,350.00	283,681,350.00	.....	1,797,643,700.00	83,773,778.50
1880	14,000,000	739,347,800.00	250,000,000	484,864,900.00	235,780,400.00	.....	1,723,993,100.00	79,633,981.00
1881	14,000,000	739,347,800.00	250,000,000	439,841,350.00	196,378,600.00	.....	1,639,567,750.00	75,018,695.50
1882	14,000,000	739,349,350.00	250,000,000	Continued at 3 1-2 per cent., 460,461,050.00		.....	1,463,810,400.00	57,360,110.75

—Authorities. The *Finance Reports* and *Congressional Globe and Record* are the chief authorities, but there is much material scattered among periodicals which might be consulted with advantage, but which can not be mentioned in this place. Worthington C. Ford.

REICHSRATH (council of the empire) is the name of the parliament of Austria. It is divided into two chambers, the members of the lower house being elective. (See Austria-Hungary.)

REICHSTAG. The Reichstag is the elective chamber of the German parliament. Thus was resumed the name of the assembly of the estates of the German empire, which, from 1663, up to 1806, convened regularly at Regensburg, under the presidency of the emperor, or of the arch-

chancellor of the empire, the elector-archbishop of Mayence. That assembly was divided into three chambers: 1, of electors; 2, of princes, divided into the temporal and the ecclesiastical bench (the neutral bench between them was occupied by the Protestant bishops of Lübeck and of Osnabrück); 3, of cities, subdivided into the bench of the Rhine and the Suabian bench. Each of the three chambers deliberated separately; after a separate vote had been taken, the chambers sought to come to an understanding, for the purpose of presenting to the emperor a common decision, called *conclusum imperii*. BLOCK.

REMOVAL OF DEPOSITS. (See DEPOSITS, REMOVAL OF.)

REMOVALS FROM OFFICE. The subject of *Appointments* has been reserved, to be considered here with *Removals*. An appointment, in a political sense, is the designation and authorization, by the proper authority, of some person to be a public officer or agent, with the powers and duties conferred by law. A removal is an act, on the part of some competent authority, by which the holding of a public office or agency is brought to an end. Very generally the power of appointment and that of removal are vested in the same officer or body. Under enlightened governments this power, save in so far as it relates to the subordinates of the judicial and legislative departments, is, with few exceptions, treated as an executive power. Under the very defective confederacy which preceded the American constitution, the appointing power was in congress, there having been no executive branch; and in several of the states a greater or less portion of that power has been retained or usurped by the legislature. Sometimes, however, the power of appointment is divided between two authorities, as in the case of about 3,500 of the higher non-elective officers of the United States, who are nominated by the president and confirmed by the senate. (See CONFIRMATION.) The same mode of appointment generally prevails in the states; but Massachusetts gives the power of confirmation, generally, to a council of eight members elected by the people in districts, and perhaps some other states have followed her example. — The federal constitution, the theory of which is followed by the states, confers the appointing power upon the president in these words: "He shall nominate, and by and with the advice and consent of the senate, shall appoint, ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they may think proper in the president alone, in the courts of law, or in the heads of departments." This power extends to army and navy appointments, as well as to those for the civil service. No power of removal is formally conferred, and the only provisions expressly affecting that power are these: 1. "The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for a conviction of treason, bribery, or other high crimes and misdemeanors." 2. "The judges, both of the supreme and inferior courts, shall hold their offices during good behavior," and their compensation shall not be diminished during continuance in office. 3. "The house of representatives shall elect their speaker and other officers; * * the senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president." Each of these provisions plainly leaves the important authority and duty of removal of federal officials, in case they are not guilty of high crimes or misdemeanors, utterly unprovided for, and therefore to mere implication. — The appointment has been held complete when the commission is filled out and signed by the president, even though not delivered. (Marbury *vs.* Madison, 1 Cranch, 137, and 19 Howard Rep., 4, 74.) But President Jefferson dissented from this view, and treated a delivery of the commission as essential to complete an appointment.— Congress has vested in the courts of law the appointment of nearly or quite all the subordinates of those tribunals. With considerable exceptions (for which see CONFIRMATION and TERM AND TENURE OF OFFICE), it has vested in each of the heads of departments the appointment of its own subordinates. And legislative bodies in the United States, as in all other really free countries, appoint and remove their own subordinates. — Under the federal constitution, it would seem plain, that, with the exception of officers of congress, no appointment of civil officers can be made, except, first, by the president, by and with the advice and consent of the senate; or, second, of inferior officers, 1, by the president alone, 2, by one of the heads of a department, or, 3, by a court of law.— There seems to be no clear definition of an "inferior officer" in the sense of the constitution, and it would be very difficult to frame one of much definiteness. What, then, is the extent of the power of congress to vest appointments? It is by no means easy to determine what persons in the public service are, in any sense, officers within the purview of the constitution. There are at all times thousands in that service whom the law, with little precision, designates as employés. In legal phrase, they are employed, but not appointed, and are dismissed, or discharged, but not removed. Their selection for, and severance from, the public service, is, therefore, technically no exercise of the appointing power. Mere laborers in the navy yards, arsenals, and elsewhere, are clearly only employés. But many persons, in continuous service at custom houses and other offices, as well as the clerks of committees and commissions, and all like officials, whose relations and duties are nearly identical with those of others classed as officers, are designated and treated as if only employés. Such, too, is the case of nearly all of

the tens of thousands of the subordinates of postmasters throughout the Union, they being employed and discharged by the postmasters themselves, without any action by the postmaster general; yet the subordinates of collectors, naval officers, surveyors, etc., with slight exception—though having analogous functions and authority, and being in no respect more official and permanent—are treated as officers. They are appointed and removed by the secretary of the treasury; the direct superiors of the latter "inferior officers" only making recommendations concerning them to that "head of department." On no sound principle can such discrimination be made. The clerk of the postmaster, on the basis of principle, dignity and justice, is as much an officer as the clerk of the collector. The question may well arise as to which of these two classes of public servants are now being selected and discharged in an unconstitutional manner. — Confusion on the subject has existed from the beginning of the government. A law of 1789 (1 Stat. at Large, chap. xx., § 27), authorizes "marshals to appoint one or more deputies," and a court or judge to remove them. It has been decided (United States *vs.* Finkle, 3 Blatchford Rep., 425), that "these deputies are officers." But if they are officers, it is plain that they can not be appointed by a marshal, he not being an official upon whom congress can confer the appointing power. (See United States *vs.* Hertwell, 6 Wallace Rep., 385, for an analogous case.) — The authority of congress, in regard to vesting the appointing power, may obviously be so exercised as to greatly affect not only the executive department itself, but the relations between it and the senate. The appointment of the vast number of subordinates now made by the heads of the departments alone might either be vested in the president alone, or, on the other extreme, be made subject to the confirmation of the senate. So the appointment of all who can be classed as "inferior officers" of the about 3,500 officers now nominated by the president and confirmed by the senate, might be given to the president alone or to heads of departments. And it is by no means clear how far congress may go in regulating the power of removal. Even as early as 1826, a committee of the senate made a report in favor of requiring the president, in making nominations to that body, to fill a vacancy caused by a removal, to state the reasons for which the removal had been made. There is a statute forbidding the head of a department removing certain officers "except for cause stated in writing, which shall be submitted to congress at the session following such removal." (U. S. Rev. Stat., sec. 1705; and see CONFIRMATION, for effect of tenure of office acts.) — The question where the right of removal was vested arose almost upon the government going into effect. Closely connected with that, was the question as to the theory and basis of removals. These questions were discussed in the house of representatives at its first session, of which Madison was a member. A considerable majority—contrary to a view expressed in the "Federalist," and approved by Mr. Webster—finally held that the power of removal was in the president alone, and that he could remove in his discretion. (Annals of Congress, vol. i., pp. 369–384.) The senate approved this view, but only by the casting vote of the vice-president, Mr. Adams. (Ex parte Hennin, 13 Peters Rep., 237, 240.) In conformity to this view, the act establishing the treasury department declares that "the secretary may be removed by the president." Ever since, this vast implied power—the greatest perhaps ever conferred by mere construction—has been accorded to the president, without its ever having been made an issue in the courts. (1 Kent's Commentaries, 311.) The debate in the house was elaborate, and disclosed great diversity of opinion. The rule for which Mr. Madison, who took a leading part, contended, was that the power of removal was an incident to or really a part of the power of appointments, and that it therefore belonged to the president alone. The senate was to have no part in its exercise. He also maintained, with unanswerable cogency, that removals can be made only for cause, and that a failure to remove for good cause and a removal without such cause, would alike be malfeasance on the part of the president, (and consequently on the part of any official having the appointing power), which would justly subject him to impeachment. It was strongly urged by others, that, as the senate had the power of confirmation (see CONFIRMATION), and hence in a sense shared the appointing power, it should also be consulted as to removals. Mr. Benson, of New York, (where the spoils system was first and most fully developed), advanced the doctrine that the president could "remove *at pleasure*"; and consequently that he was under no such legal or moral responsibility as Mr. Madison insisted upon. Others urged the equally radical view, on the other extreme, that appointed officers were removable only by impeachment and conviction, which would, of course, give a tenure of good behavior. The only decision reached was, that the power of removal was in the president alone, until some part of it should (with the power of appointment) be vested by congress elsewhere, as the constitution authorizes. Yet, with strange inconsistency, the first congress, in one case, by law vested the power of appointing certain officers in one subordinate official (not the head of a department), and the power of removing them in another. (1 Stat. at Large, chap. xx., § 27.) — Despite the conflicting action of congress, the rule of the courts is, that the power of removal is an incident of the power of appointment. (Ex parte Hennin, 13 Peters Rep., 261.) It is the general rule, consequently, that when a power of appointment is conferred, the power of removal accompanies it as an incident; the conditions on which the removal may be made depending on the tenure of the office, as defined by law. (See TERM AND TENURE OF OFFICE.) Where there

is a tenure of good behavior, it is plain there must be a good cause arising from the bad conduct of the official. Removal, in such a case, must be preceded by such action as is equivalent to a conviction for misbehavior; of which there must have been a charge, and upon that charge a trial and opportunity of defense. (Page *vs.* Hoedin, 8 B. Munroe, 672.) There are few cases of such tenure, except the judiciary. Under a power to remove "for cause" there is a limitation of the power of a mere discretionary removal, and there must be a legal cause—malfeasance, misfeasance or nonfeasance—constituting a breach of the trust of the office, of which the courts can take notice; and they will restore the officer removed without such cause. (State, etc., *vs.* Common Council, 9 Wisconsin Rep., 254; Ex parte King, 35 Texas Rep., 657; Field *vs.* Com., etc., 32 Penn. Rep., 478, 484; The People *vs.* Munday, 72 New York Rep., 445; The People *vs.* The Mayor, 79 New York Rep., 582.) If there is some evidence of cause for removal, the courts will not review that evidence, though they might in the first instance have reached a different conclusion. (The People *vs.* Campbell, 82 New York Rep., 247.)—Nearly all appointed officials, save those having a fixed term, hold during the discretion of the official having the appointing power, or, in common phrase, "during his pleasure." A similar right of removal during the term exists in the case of appointed officials having a fixed term of years.—Contrary to the general opinion until recently, the power of the president to remove (or dismiss) an officer of the army or navy is the same as his power to remove a civil officer; but congress has so regulated that authority, that, without the concurrence of the senate, the power of summarily discharging army or navy officers "in time of peace" can not be exercised "except in pursuance of the sentence of a court martial, or in commutation thereof." (Blake *vs.* The United States, 13 Ott Rep., 227, 237.) This liability of all officers of the army and navy, confirmed by the senate, to be removed at any time by the mere concurrent act of the president and the party majority of that body, has, unquestionably, a vicious tendency; drawing those officers into politics, and causing them to more and more dread political influence and to court the favor of parties and their leaders. This power of removal is held in partisan circles, and very generally on the part of the politician class, to mean a right to remove in order to promote the interests of the dominant party or faction, and even if not, yet in order to realize the political ambition of the appointing officer. The threat or fear of such use of it is made effective for extorting political assessments, and for compelling the officials of the government to become the henchmen of parties and chieftains. This prostitution of the power of removal, like that of the power of appointment, has been one of the most potent agencies by which the public service has been demoralized and degraded, and the spoils system has been made potential. There can be little doubt that there has been a mischievous and unwarranted suggestion drawn from the phrase "removable at *pleasure*," sometimes used by the courts. It has too often, even by honest citizens, been accepted as meaning an authority under no moral obligations; when, in fact, nothing can be clearer than the duty of using it, conscientiously, for the promotion of the public interests in the broadest sense in which they may be affected. Whatever may be said of a technical, legal *power*, no officer can have a right to remove a worthy public servant, except for adequate public reasons, nor any right to forbear to remove an unworthy one, unless the removal would, for peculiar reasons, be at the moment a public detriment. This was the rule laid down by Madison, and enforced during his generation.—The moral obligations attending the exercise of the appointing power are clear enough to any candid mind, however party zeal and vicious usages may have obscured them in the minds of the mere politician. The same rules of duty which forbid the use of the people's money for private and party purposes, also forbid the exercise of any branch of the appointing power for the same purpose. The fact that the public conscience is outraged at every falsification of the public accounts and every peculation of the public moneys, yet takes but languid notice of the appointment of the friends of thieves to be constables and marshals, of ignorant politicians to be justices, or of second or third class lawyers to be judges, though abuses and disqualifications on the part of these latter officials may be ten times the most disastrous, only illustrates the lack of political education and the need of reflection upon all that pertains to one of the most vital and potential powers of government. We allow, all over the land, officers to appoint, almost without criticism, an incompetent relative, or an ignorant electioneering partisan, to official places, by reason of which the public business greatly suffers and official life is made disreputable; though we should be justly astir for a conviction, if a single dollar had been taken by a letter carrier, or a pair of gloves—on which we, perhaps, had paid no duties—had been abstracted by a baggage inspector. It will be a great advance of public education and of the public welfare in many ways, when we shall have an intelligent public opinion which will be indignant and outspoken upon every prostitution of the high trust of the appointing power for party or selfish ends. And it may not be without use to invite special attention to the study and reflection required for comprehending how profoundly, and in what manifold ways, in federal, state and municipal affairs, the honest use of that power, for the selection of the wisest, purest and most efficient, could be made potential for the purification of politics and elevation of official life. Such teaching should find a place in our schools and colleges. It is now the accepted opinion of a great proportion of our people, if not that this power may justifiably be

used to advance the personal friends of the officer, yet that it may be used to strengthen his party and his faction. Upon that theory it is now generally exercised. (See SPOILS SYSTEM, PATRONAGE, PROMOTION.)—The abuses in connection with the power of removal are by no means all on the side of its selfish or partisan exercise. The same malign influences which cause worthy officials to be sent away, are as powerfully exerted to keep the unworthy in their places. Those who have been able to make the public service a hospital for their dependents, combine to resent all attempts to remove them. It may cost a postmaster or a head of a department his place to send away the incompetent electioneering agent of a great party chieftain, or even "the young lady" recommended "by a congressman." Offices are frequently burdened with supernumeraries, whom those having the power have not the courage to remove. President Grant, in one of his messages, referred to the fact that it was far easier to remove the unworthy who came in through competition, and were therefore without influence to keep them, than it was to remove the inefficient favorites of great politicians.—Under despotic forms of government—or where corruption, as in Turkey, is habitually resorted to as an agency of administration—there is of course no more pretense of justice, or regard for moral obligation, in exercising the power of removal, than of that of appointment. It is, without scruple, used to reward favorites, to gain money, to suppress independence, to strengthen dynasties and hierarchies. Cromwell used it, almost as freely as did James and Charles, to uphold political and religious partisans. Even as late as George III. it was used for nearly or quite all those purposes, and in the army and navy as well as in the civil service. When liberty and justice were enough advanced to enable party majorities to rule, the dominant party began by prostituting that power for selfish ends in much the same spirit that the corrupt tyrants of earlier days had done.—Soon after the formation of the American constitution, there arose a public opinion in Great Britain too strong for the king to confront, which condemned removals without cause, and such removals ceased. Parties, there, have long since reached the sound conclusion that even their own strength is not increased by mere partisan appointments or proscriptive removals. (See CIVIL SERVICE REFORM, PROMOTIONS.)—From the beginning of our national administration until Jackson came to the presidency, it was the accepted theory and the constant practice that removals were not to be made without good cause; and that, unless in the cases of the legal advisers of the president and perhaps a few others, political opinion did not constitute such a cause. Under Jefferson and the second Adams especially, there was great pressure for removals for political reasons. But they, and each of the first six presidents, standing upon principle and a sense of public duty, nobly resisted that partisan demand; altogether making only seventy-three removals in the forty years covered by their terms. Of these, Washington made nine, and all for cause; John Adams, nine, and none on mere political grounds; Jefferson, thirty-nine, of which he said none were for party reasons; Madison, five; Monroe, nine; and John Q. Adams only two, and both for cause. It is certain that not one of these presidents made a proscription or partisan removal according to the later practice. With Jackson's accession to the presidency a new spirit triumphed. Offices were treated rather as party spoils than as public trusts. Removals were made for the treble purpose of punishing political opponents, of rewarding subservient supporters, and "of strengthening the party." In the year from March 4, 1829, to March 4, 1830, President Jackson appears to have made 734 removals. Throughout his two terms his use of the appointing power was in the same intolerant and despotic spirit. In all the lower grades of the public service, the president's example was soon followed. The theory that patronage is essential to the vitality and usefulness of parties, and that "to the victor belong the spoils," was generally enforced. The higher sentiment of the nation was outraged, and all official life was humiliated and debased. We have no space for enlarging upon the disastrous effects of the spoils system then first established in the national administration. (See SPOILS SYSTEM, PATRONAGE.)—How thoroughly the theory enforced at Washington was also enforced in the local offices is well illustrated a few years later at the New York custom house. One collector, there, in the four years from 1858 to 1862, removed 389 of his 690 subordinates; another, of the opposite party, in the three and a half years next following, removed 525 out of 702 of those serving under him. Nearly all these removals were for partisan reasons. The duty of removing for cause was, by reason of vicious political influence, but rarely performed. And this reckless, demoralizing proscription, fatal alike to efficiency in the customs service, to purity in politics, and to all manly self-respect in the public service, continued there, and generally prevailed in the whole civil administration, until the demand for a reform policy began to be effective soon after 1871. In the five years, or 1,565 secular days, preceding the year 1871, there were 1,678 removals, and nearly all for mere partisan reasons, in the New York custom house—or, more than at the rate of one every secular day of the five years!—From the introduction of the reform methods, in July, 1878, (under which competitive examinations for admission to the New York custom house have been since enforced), until the 8th of September of that year, no removal was there made. From the last-named date to Feb. 20, 1881, (nearly two and a half years), only forty-four removals were made in the office, and all for cause, and hence none for political reasons. From the last-named date to this time (November, 1882), the removals have been upon the same basis and in almost the same ratio, as in

the two and a half years preceding 1881. — The effects of the new system upon removals, as enforced in the New York postoffice during the same periods, have been almost identical with those at the custom house. And at the several other offices where competitive examinations, with various defects and limitations, have been enforced, there has been a corresponding reduction in the number of proscriptive removals. Like results attended the enforcement of such examination at Washington under President Grant.— Proscriptive and partisan removals (or, in other words, removals without cause), are almost invariably made in order to furnish a vacancy for some influential or strongly backed office seeker. And if it were necessary that every such office seeker should win the first place in a competitive examination before he could be appointed, there would be few unjust removals, and the question as to a reasonably permanent tenure of office would present little difficulty, if it was not practically settled. The class of men who are being pushed, or who beg and intrigue for office, are rarely those who can win a place in an honest rivalry or competition of merit. The reasons why members of congress refused to vote money to enable President Grant to continue competitive examinations at Washington, and why congress has given no aid in support of the competitive or *merit* system at the New York offices, are largely to be found in the simple facts that the new system was fatal to all arbitrary and proscriptive removals, and hence destructive of the vast congressional patronage, by the aid of which so many members secure their own elections, augment their influence and importance, and get places for their henchmen and favorites. Members of congress, whose duty it is to make laws in aid of keeping the most useful public servants in their places, have exerted a very great part of that pernicious influence which has so generally made our public servants the dependents and servile agents of scheming officials and unscrupulous chieftains. — During the last few years there has been a rapid development of a sentiment which condemns all removals without cause. The people are beginning to take notice of the abuse which is becoming more and more an issue in the elections. If the more sagacious party leaders already see the need of arresting this form of proscription and despotism, it is yet true that very lately, and even within a few months, the most arbitrary and indefensible removals have been made. Upon each of the late changes in the party majorities in the houses of congress, mere ministerial subordinates have been changed in order to gain partisan patronage. The time of the national senate, during the past and present year, has been largely given to mere factional contentions, growing out of the attempted removals of postmasters and collectors whose political opinions all true statesmen must hold to be unimportant, if not utterly immaterial. At the last session the house was forced to a vote in order to retain a skilled and invaluable clerk against a pressure of many members who sought to put an inexperienced partisan of their own faction into his place. The speaker of the present house of representatives, merely for political reasons, has arbitrarily removed one or more of its most efficient stenographic reporters, in violation of the spirit if not the letter of its own rules and usages, which allow removals only for cause, and has appointed a successor, unequal in capacity, by reason of which the business of the house appears to have been embarrassed. (See speech of Mr. Springer, "Congressional Record," July 27, 1882.) And while we are writing, the facts are laid before the public of a removal of a female postmaster, very recently made in Virginia, only for the reason that a senator treats the sympathy of her brother with the political faction which opposes him as a sufficient cause for demanding such removal! In state and municipal administration, removals are constantly being made for no better cause; by reason of which, men of high self-respect and capacity scorn the public service; those in it are humiliated; administration is made inefficient and needlessly expensive; and the intensity, intrigue and corruption of party politics, and the strife for places, are greatly increased. It is not possible to exaggerate the discouraging, humiliating effects upon the great body of the civil servants, produced by the constant sense that no merits of their own, but an influence and interests foreign to their sphere of duties, are most potential for keeping them in their places; or to overstate the demoralizing influence upon all official and political life of so vast a power as that of appointment and removal habitually used in defiance of the highest obligations of morality, patriotism, and the official oath.

DORMAN B. EATON.

RENT. This is the term recognized in political economy, to denote the *net product of the land, i. e.*, that portion of the total product, which, after deducting what covers the expense of production, remains, and constitutes a surplus. This surplus naturally reverts to the owners of the soil; they gather it themselves when they work their own lands; they receive it from the hands of farmers or metayers when they leave to others the care of making them productive; in all cases, the rent forms part of the property. We must not, however, confound it with the price paid by one who hires a farm, (called sometimes farm rent), although it is one of the elements of the latter. Every case of farm rent, every leasing price, whether payable in money or in kind, includes something additional, viz., the remuneration due the land owners for expenditures made by them at various times in the past, to facilitate labor or increase its results. The buildings for farm service or for residence, the fences, ditches and plantations which the farm embraces, have often cost considerable sums, and it is just that those who enjoy the advantages connected with their existence, should pay all or a part of the in-

terest on the capital that had to be devoted to them. On the other hand, the conditions of the lease of lands have been discussed by the contracting parties, and may have been so determined as to favor either. Nevertheless, wherever the price for the use of the farm is payable in money, there is a constant tendency for it to include the entire rent. Rent is a net product; it is only realized when active industry has been fully remunerated, and it is not less difficult for farmers to reserve any of it for themselves, than for proprietors to induce farmers to sacrifice to them a part of the profits due to their improvements. But, whatever may be the nature of the circumstances which determine the apportionment of the rent of land between the owner and farmer, they can neither permanently effect its real amount nor alter its original character. — Among the great facts to which the attention of economists has been drawn, few have given rise to so many controversies as the rent of lands. What it is, its origin, its proportions, its effects, its legitimacy even, everything connected with its existence, has been the object of long and patient investigations, and still harmony has not yet been established between the differing opinions. This is the more to be regretted, because, in this very question of rent are involved many other problems of deep social import, and the effects of its solution naturally extend far beyond the limits which scientific investigation has attained. — We will here commence by pointing out the order in which the opinions on the matter of rent originated; we will note their characteristic differences; then we will take up the question in its whole extent, and, in our course, we shall find occasion to show how far each of the theories before us seems to depart from or to approach the truth, so far as the best established facts permit us to discern it. — It was the physiocratic school who first enunciated an opinion on the nature of rent. They characterized it as the net product of the land, and in this they were not in error; but soon, attributing to it an extreme and exclusive importance, they made it the only source of public and private wealth. We know how erroneous a doctrine must be, which is based on the idea that no other labor than that on land can obtain more than the equivalent of the values it consumes, a doctrine denying productive power to employments without which most things produced from the land would themselves remain unsuited to use, and not admitting that men could realize any other riches than that which the natural fertility of the soil put at their disposal. However, in spite of this fundamental error which vitiated all their conclusions, we can not deny the physiocrates the merit of having apprehended well the character of rent and having given a pretty accurate definition of it. Among their observations on the natural increase of rent, there are also some which are both just and important. The net product, rent, is the excess which is left from the crops after the expenses of cultivation are reimbursed; it is the portion of the fruits of the earth from which the non-agricultural classes subsist; and, doubtless, in the normal and regular order of things, the greater or less amount of this excess has a strong influence on the degree of power and prosperity in reserve for nations. — With and by the illustrious Adam Smith, began what may rightfully be called true economic science. The opinion of Smith on the subject of rent is much like that of the physiocrates. It is substantially as follows: In labor on land, nature acts conjointly with man, and rent is the product of its co-operative power. It is this co-operative power of the earth, the enjoyment of which landholders grant in consideration of a price for the lease based upon a proportional share of the sum at which it figures in the results of production. — The opinion of Adam Smith has obtained the assent of most economists. J. B. Say, Storch, Rossi and Rau adopted it, or varied little from it. Dr. Anderson, however, had previously presented a harmonious series of ideas on the subject, which were at the same time more complex and better developed.* But his system did not attract attention until after having been reproduced again in the writings of Malthus and Ricardo, and it is under the name of the latter that he has taken a place in economic science. — The starting point of Ricardo is in reality the same as that of Adam Smith. What the latter calls the co-operative power of land, Ricardo calls natural fertility, or original powers; but what he has added to the fundamental notion is, an exposition of the rules which, in his opinion, govern the formation and progressive increase of rent. According to Ricardo, rent is not solely the result of a natural fertility which permits the land to return, to those who cultivate it, harvests superior to their needs; it arises from the unequal distribution of this fertility. So long as the population, having plenty of room, can work only the best lands at their disposal, there is no rent: but just as soon as, on account of their increase in numbers, the same population are compelled, in order to procure means of subsistence, to attack lands of inferior quality, rent arises and becomes the share of the proprietors of the portions of the soil that were first cultivated. And the following is his explanation. Being less fertile than the others, the lands on which the labor is expended can not return, for a like expenditure in cultivation, as great a product. The crops they yield require additional expense and labor, and as it has become impossible for society to do without its complement of supplies, it is compelled to pay for provisions whatever price is necessary to insure production on land that has just been cleared. In this inevitable movement, it is the net cost of the produce on the worst land to which recourse must be had, which fixes the general price, and consequently determines the

* A main point in Anderson's theory was, that increased demand for food leads to increase of price, and this permits additional cost to be bestowed in bringing inferior land into cultivation. (See Macleod's Econ. Phil., vol. ii., p. 29.)—E. J. L.

profits of the proprietors of the land first cultivated, the realization of which secures them a rent. They sell at a higher price what they obtain without increased cost or advances, and find themselves masters of a greater surplus than they had before prices had risen. A like effect is again produced whenever the necessity of increasing the arable domain is felt. Worse lands are continually being brought under cultivation; the price of produce rises because of the increased outlay they require; and, at each advance in prices which takes place, rent is seen to arise where it did not previously exist, and to increase where it had already arisen. Such are the ideas on which the theory is based which is called by Ricardo's name. This theory affirms, or at least appears to affirm, that rent has no other source than the difference in the degree of fertility between different portions of the soil: it attributes its origin and development to no other principle than the continual rise in the market price of food, and it makes the difference between a general price current, regulated by the expenses connected with production in localities where these expenses are greatest, and the particular net cost in the other portions of the soil, the measure of the rent that each of the latter affords or is adapted to afford. — Ricardo's theory was of course widely taken into consideration by the economic world. It gave, or seemed to give, the explanation of a certain number of facts, which, at the time when it originated, were receiving much attention from the public. Moreover, many writers accepted it fully; and it was not until our day that it found decided opponents. Attacked first in England by Prof. Jones, of Hailebury, it was afterward assailed by adversaries whose denials extended even to the principle to which Smith had given his adhesion. — A very distinguished American economist, Mr. Carey, has denied that the natural fertility of the soil is among the causes productive of rent. In his view, rent has no other source than the expenses successively incurred in the interest of production. And among these expenses he includes, besides those of which the lands under cultivation have been the direct object, the construction of roads, canals, and any means of communication designed to facilitate transportation and to render the markets accessible to products which, if they could not have reached them, would not have been demanded of the soil. Mr. Carey, moreover, has endeavored to demonstrate that Ricardo was entirely wrong in regard to the order in which cultivation has taken place, and that it has not begun with the most fertile lands, but with those most easily cleared, or the nearest to centres of consumption. Taking Mr. Carey's opinions in their plain signification, they consist in denying to the land itself any participation in the formation of rent; in attempting to prove that all this rent represents only the remuneration for advances made to render the soil amenable to culture; in a word, that rent is and can be only a simple creation of human industry. — Such is also the point of view from which rent was regarded by a man whose premature loss science can not too deeply deplore. M. Bastiat, dreading the consequences of any doctrine which seemed to authorize the admission that wealth could exist which was not exclusively the product of services or of human efforts, started with the same idea as Mr. Carey. According to him, rent is and can be only the interest on the capital invested in clearing the soil and preparing it for production. Only M. Bastiat recognizes that rent may occur without the proprietor having to make any sacrifice to reap the benefit of an unexpected increase: and this case he explains by remarking that there is nothing peculiar in landed property; that what creates the value of the services rendered by every employment of human industry, whatever agent it may use, is not alone the efforts made by the producer, but also the efforts spared to the consumer; and that the latter, whenever his wants increase, pays more for the service rendered him in saving him the more costly efforts he would have to make to provide for himself without such aid. It is much to be regretted that M. Bastiat did not have time to make a precise and well-arranged statement of his ideas before his death. It was in connection with the treatment of real estate that he announced them, in the clever book he published under the title of "Economic Harmonies." The special chapter that he proposed to devote to rent was scarcely outlined, and what has been preserved of it consists only of incomplete fragments, in which the author's ideas are not clearly discernible. — Such are the principal opinions to which the existence of rent has given rise. Their antagonism is very marked. While some attribute the formation of rent to the co-operative action of nature in agricultural labor, others, denying all influence to this action, consider rent only as the remuneration for the expenses and efforts by which mankind have succeeded in transforming the earth into an instrument of production. We will review the whole subject, and attempt to ascertain the truth amid the obscurities and complications which have hitherto hindered its successful investigation. — *Origin of Rent.* There are, in the first place, two things which it seems to us impossible to contest. One is, that the earth is endowed with fertility; the other, that it is not equally so in all parts. It is a fact no less evident, that this fertility does not even need the co-operation of man in order to manifest itself. In the most uncultivated condition the land never fails to be covered with vegetable growths, some of which can supply food and support animals whose flesh may be eaten; and it is the land which, by insuring to the human race at the beginning harvests already produced, has permitted it to escape the destructive effects of famine. Of course, men had to be at the trouble of gathering the fruit, pulling up the roots, and catching the game and the fish on which they subsisted; but if such efforts had

alone the power of conferring value on the products which the earth of itself put within their reach, it is none the less true that where these products were more abundant or more easily obtainable, less effort was needed to appropriate them, to adapt them to use; in a word, to convert them into exchangeable wealth. Well, it is to this natural fertility of the earth, which has from the beginning put its inhabitants in the way of obtaining means of subsistence which were not wholly the fruit of their labor even, that rent owes its origin. Rent is the surplus realized over the expense of production, and wherever it was possible to those who, in any way whatever, labored to gather the fruits of the earth, to amass more of them than their personal necessities required, there was a surplus to their advantage, which was rent, and rent very evidently due to the fertility of the portion of the soil on which their industry had been employed. — The most savage tribes have nothing to learn in this regard. They contest with each other the occupation of places where the waters most abound in fish, or where the land furnishes the most game or fruit; and this is because they well know that as long as they keep exclusive possession of it, they will derive from a given amount of effort, time and fatigue, a quantity of the means of subsistence superior to what they would obtain on less favored portions of the soil; in a word, an actual excess over the expenses of production, which would be everywhere else less amply repaid. — We will say more. From the first, the earth must, in certain places, have conferred a rent on those who as yet knew only how to gather its spontaneous productions, as otherwise civilization could not have arisen and commenced to advance. While most of the savage tribes were exhausting themselves in efforts to find enough to prevent them from dying of starvation, others, more favored, obtained, without any more skill or effort, resources more than sufficient to supply their necessities; and the latter were not long in bettering their condition. Free to provide in advance for future consumption, it became possible for them to devote leisure to occupations other than the mere search for food. They could make weapons, the implements needed in fishing and hunting, and the means of deriving more profit from their labor; and in the end, they could amass the provisions or capital whose possession would enable them to undertake the breaking up and cultivating the land. We may safely assert, that, if Providence had not so disposed things that the earth offered in some places, to its earliest inhabitants, products which it did not take all their time and care to obtain, the savage manner of life would never have come to an end: men would to-day be still wandering naked and hungry, a prey to invincible poverty, distinguished in no respect from the animals called into existence at the same time with themselves. — The invention of the art of agriculture did not alter the nature of the primordial fact. There had been, during previous periods, lands which had yielded to those who sought their products, more than they needed for subsistence: there were, under the new order of things, lands which yielded to those who cultivated them, more than was necessary to compensate them for their trouble and expense. Wherever, after deducting the amount of the advances they required, lands left a surplus, this surplus constituted a rent. Wherever, for example, two workmen succeeded in realizing, beyond the returns due to capital immobilized with a view to production, products in a quantity sufficient to provide for the consumption of three, the rent was equivalent to the part of the resources necessary for the subsistence of a man and to pay for his services; and this rent was the result of the fertility of the soil; for, at points less favored, the same amount of work would not have obtained a like surplus; and at certain points it would not, had it been employed, have even obtained enough to indemnify those who had made the expenditure. — The reader will see, that, like Adam Smith, we attribute the origin of rent to the existence in the soil itself of forces or properties naturally productive. Thanks to the assistance these forces give men whenever they require it, their efforts obtain, besides the remuneration which is their due, an excess which may be so disposed of as to favor other kinds of consumption than that of agricultural laborers. Never has this aid been lacking to those who have sought it. It was this which, even before agriculture was commonly resorted to, supplied unfortunate savage tribes, in possession of good fishing and hunting districts, with means of subsistence sufficiently abundant for them not to be compelled to sacrifice all the time at their disposal in search for food: this it was, too, which, in ages more advanced, by permitting proprietors of cultivated land to harvest more products than they expended in production, gave them the power to remunerate labors other than those expended on the soil, and to call into existence manufacturing and commercial classes and give them a position of continually increasing importance in the ranks of the population. — Before examining the systems which are not in harmony with this opinion, or which differ from it, there is one assertion in reference to which we must enter into some explanation; for if it were well founded, rent could be regarded as having no other original cause than the power of the earth co-operating with the labor devoted to obtaining its products. This assertion is, that there is no rent in countries where land is so abundant that every one is free to appropriate to himself such a portion as he likes without compensation, or for a trifle. Rossi and some other economists have freely admitted the fact, and M. Bastiat has found in it a point of support for his system. Let us see where the truth lies. It is certain, that, where land is abundant, its products have little sale value, because they have few consumers and lack a market; but does it follow, that, on the few portions where cultivation exists, those who em-

ploy it do not find in the original properties of the soil an aid eminently profitable, and do not obtain crops out of proportion to their efforts for subsistence? Suppose a country where all the people cultivated land, and where they could not sell provisions to neighbors because the latter were as well provided for as themselves: the beneficent effects resulting from the co-operative action of the soil would still be felt. In such a country, no one would try to realize a surplus which could find no purchasers: every one would only demand of the soil the means of subsistence required for his own family: but, as little labor would be necessary to obtain this, the husbandman would enjoy long periods of leisure; and leisure is always, to those who know how to employ it, a source of wealth. The time not required in cultivating land, they would employ in making articles adapted to satisfy other demands than those of hunger. They would make clothing, furniture and dwellings; and these are products whose acquisition would be due to the co-operation of the land with their efforts. A relief from incessant labor, and leisure that can be employed in reproductive occupations, are what the earth gives those who cultivate it, whenever they do not know what to do with the surplus it yields. This is, in reality, rent, under a form sufficiently characterized.—But, let us observe, things have never occurred altogether in this manner. Wherever cultivation of the soil has become established, it has never alone attracted all persons, and it has always found consumers who did not share in its labors. So far back as we can trace in history, we find no social aggregation without magistrates, priests, soldiers and artisans, all supported from the portion of the crops which the agricultural population could spare; and this portion was no other than the excess produced by the land. It has often been affirmed that rent long was, and still is, unknown in some parts of North America. "But lately," says M. Rossi, in speaking of the ideas of the physiocrates on the net product of the land, "there was no rent or scarcely any rent in America, and yet there was a great abundance of all the necessaries of life, and the course of society was toward great prosperity and rapid development." It is true that the conditions under which the colonization of North America has been effected, differ in all respects from those which governed the formation of social bodies in the old world; but the opinion of M. Rossi is, nevertheless, incorrect. One thing which does not exist in America, or exists there only in a very few localities, is the practice of hiring farms, and the reason for it is simply this: As land there costs very little, those who wish to till it, buy the ground on which they settle; and the acquisition counts but little in the list of expenses incurred in their industry; but there is in America a town population, who buy, either for consumption or export, the surplus which the local circumstances bring into market, and the agriculturists retain, by their right as proprietors, an actual rent. It is also true that nowhere in America does the surplus bear a definite relation to the expense of production; nowhere in that country does the agricultural class, after having recovered its advances, offer the other classes as much of the means of subsistence and remunerate as well their services; and it is just this which causes such an abundance and so many elements of life and prosperity in the Union. Some writers have thought that the surplus which American cultivators have to dispose of should not be considered as the result of the natural fertility of the soil, but simply a return for the capital invested in their operations. One need but examine the matter closely to see that it is quite otherwise. It is not because the general rate of profit is very high in America, that the land there brings in a good return to those who take advantage of its fertility: it is, on the contrary, because the land cultivated, which is still wholly choice land, returns much, that the rate of profits is high. Capital goes where it brings most. In America, as everywhere else, it is not invested in manufactures or commerce, except when it will yield as much as if employed in agriculture; and it is the amount of the net income from the soil which largely repays cultivation, that secures to all investments of savings, and to every employment of human activity, the ample remuneration they receive. Assuredly, if the vast territory of America were only composed of lands of a low degree of fertility, the expense necessarily incurred to obtain subsistence from them, would be more considerable, agricultural capital would produce less, and neither the general rate of profits nor that of wages would be maintained at the height they have now attained and are continuing to keep.—Europe does not lack countries where land is abundant, and has only a low sale value. It is incontestable that rent exists in these places; and as the facts which give it a distinguishing characteristic are of a nature to throw much light on the question, we will say a few words in regard to them. In Hungary, Russia, and many parts of the original Poland and the principalities of the Danube, the rural population, held in servitude, or but recently having ceased to be so held, are, in general, too poor and too ignorant to purchase the land and subject themselves to the risks and perils consequent upon settlement. What is the result? It is that the proprietors, like American agriculturists, cultivate and harvest on their own account. Ordinarily, they leave the laborers, as their wages, the use of a piece of land, which the latter cultivate for the support of their families, and for which they are bound to give two or three days' labor per week to the rest of the estate. This arrangement clearly shows wherein consists the rent of the proprietor. It is the result of the employment, on his land, of the time which the laborers can spare from that which gives them their own subsistence. And let it be observed, that this time can be attributed by the laborers to nothing else than the natural fertility of the soil whose cultivation furnishes them their whole living. When-

ever the laborers devote to other fields than those which they are permitted to enjoy, two days' work per week, the surplus over the general expenses of production, the rent is but little inferior to two-thirds of the total product. — Now, there are, in these same countries, some places where reside either colonists of foreign origin, or peasants in full possession of the lands they cultivate, who often have more land than they can till. This is the case in America. Does any one think that rent does not exist in such places, as well as in the rest of the country? If so, he is greatly mistaken. The part which reverts to the proprietors, in cases where the laborers give their fields two days' labor every week, the cultivators retain for themselves when they are absolute masters of the soil, and if they do not harvest it, it is because they find they can more profitably employ the time which they refrain from devoting to agriculture. — In whatever way we look at the question, on whatever side we take hold of it, we must always end by recognizing that the earth gives rise to rent, and that, even where the conditions of society are such as to prevent all being derived from land which it might produce, there is a compensation for this in the leisure it affords that can be employed in other avocations. — Let us come to the theory adopted by both Carey and Bastiat. They deny that the earth can add anything of its own to the results of labor. In their view, land is only an instrument, an agent, of production, which man employs, and not a single element can be found in rent which is not wholly the product of the expense incurred to render the land fertile. M. Bastiat thought, that to admit the co-operative action of the soil in the benefits connected with production, would be to recognize that wealth might exist which was not due to labor, and that the earth had the power to create such wealth. Let us look at this point. No one, surely, of any repute among economists, has maintained that anything which nature has prepared for the use of human beings, has value before having been the object of some kind of labor;* but, positing this principle, is it the less true that the earth, if it does not furnish things which already have value, does afford those adapted to receive it, and that, whenever it furnishes these things in such abundance or so easily obtainable that the labor employed in communicating value† to them costs less than it produces, there results an excess over the expense incurred, which is not found when the efforts of man are otherwise exerted? Here is the fundamental point of the discussion, the point of fact. To affirm that this surplus would not be realized without taking the trouble to obtain it, is to say little; for that is not contested. What should be proved is, that it would be possible without the co-operation of the earth, and that there are industries not agricultural or extractive which have also the power to produce rent.‡ Now, this proof is wanting, and surely never will be given. As to the objection that it is demand, which, by assuring a value to the agricultural surplus, has alone the power to create it and to convert it into wealth, and that demand constitutes an action purely human, it has its response§ in what has just been said in reference to the assertion, that there is no rent in regions where the land, while waiting for a more complete private appropriation, has as yet little or no exchange value. — It is in vain for one to seek to delude himself. The land alone returns more than is needed to pay wages, interest and profit on the capital required to cultivate it; and as there is no other way in which labor can be applied to obtain a like surplus, we must recognize in the existence of rent the result of a co-operative action exercised by the earth itself. It would be wrong that the fear of having to admit that there is a gift from God, now the exclusive share of a certain number of his creatures, should influence our opinions; for this gift is an evident fact; and besides, without it, it would have been utterly impossible for humanity to fulfill its destiny in this world; and, if this gift has not continued the common domain, it is because it has pleased its author that it should produce its beneficent effect only on condition of becoming an object of private appropriation. All this it would be very easy to demonstrate, were this the place to do so. — It remains for us to make a few observations on the particular points which characterize the theory called Ricardo's. This theory fully admits the existence of productive properties in the soil, which belong to it; but it accords to it the power of creating rent only in virtue of the fact that these qualities are not equally distributed through it. This is taking one of the circumstances which concur in producing the differences in the price of rents for the cause which gives rise to them. The origin of rent, as we have said, is the power of the land to return to those who cultivate it more products than they need for their subsistence and the recovery of the amount of their advances; and wherever the lands are adapted to do that, any one who desires can obtain from them this excess, that is to say, a rent. Nor is there any need, as Ricardo supposes, of a rise in prices in order for rent to begin; rent appears the moment when the

* Surely M. Passy can not think that Genovesi, Beccaria, Verri, the physiocrates, Hume, Condillac, Bastiat, Whateley, and all the other economists who have considered the cause of value to lie in human desire, thought there could be no demand for anything except that on which labor had been expended! How would he account for the value of undeveloped mines, quarries, etc., and what is more, for the *value of labor itself?*—E. J. L.

† Here M. Passy falls into the error (pointed out by Storch in his Polit. Econ.) of confounding the production of articles which have value with the production of their value.—E. J. L.

‡ The income from talents and moral qualities, being due to the "natural fertility" or "productive power" of the mind, bears so many points of resemblance to what M. Passy treats of under the title "Rent of the Soil," that some economists put it in the same category. Storch, in his *Cours d'Economie Politique*, devotes a chapter (chap. v., book iii.) to the "Rent of Talents and Moral Qualities."

§ The reader will see how far this was from being a response.—E. J. L.

gathered crops leave a part disposable, and it is realized when those who harvest, finding consumers for that part, devote more time to their work than they would have to sacrifice if they limited their efforts to gathering only for themselves. Finally, it is a very simple matter to state how far Ricardo's theory conforms to the reality. One has only to examine what would happen in a country where the lands were all of the same quality, all adapted to remunerate labor liberally, and all so situated as to enjoy the same advantages for the sale of their products. Well, in this case, see what would happen! As everywhere else, the population would obey the laws which urged them to multiply, and as everywhere else, they would rise to the level of the subsistence that agricultural labor could procure for them. There would be an increasing demand, and the cultivators, certain of a market for that portion of the harvest which they would not themselves need, would devote enough time to their labors to gather it, enough time to obtain a rent. The more the town population or industrial classes increase in number, the more would be demanded of the soil by cultivation, the wider would be the extent cultivated, and the more would rent increase. In such a country leasing of farms would appear; there would be found at the same time proprietors possessing more lands than they could themselves cultivate, or desirous of ridding themselves of the whole or some part of their burden of personal labor, and workmen disposed to take their place or to offer prices for a lease, proportioned to the amount of net income which they judged the soil capable of furnishing. The principal error of Ricardo's theory consisted in ascribing a decisive influence to the rise in the exchange value of the means of subsistence, which he thought inevitable. — *Causes which influence the Value of Rent.* It is an incontestable fact that the price of rent has risen in proportion as civilization and the comforts of life have increased in human society. It is essential to state clearly the causes under the influence of which this has been effected. — There are three causes of which account has been taken. One is the incorporation into the soil of the capital necessary to render it more and more productive; the second is the gradual extension of cultivation, over lands either less fertile or more difficult to bring under cultivation than those which had already been applied to for crops; the third is the continual improvements in the application of agricultural labor and skill. We will point out their effects, and, as far as possible, estimate the extent of each. — As we have said, rent is the portion of the fruits of the earth obtained over the expenses of production or quantities necessary to satisfy the demands of those who work the land; and, in the savage state, the most fertile lands leave some surplus at the disposal of their masters. But as soon as a population, instead of confining itself to gathering the spontaneous productions of the soil, undertook to direct its active forces, to the primitive profit were added other portions of the product, these latter being due to the immobilization of capital or advances made in the interest of production. Before sowing seed, it was necessary to break and clear the land, and the work, almost always long and toilsome, cost much. This done, they had to level and prepare a soil full of hollows and humps, in consequence of the extraction of the roots; and then, to execute numerous works, some of which were designed to facilitate labor, others to insure the preservation of the crops; and, by degrees, a considerable amount of capital was incorporated into the fields brought under cultivation. What is to be remarked, is, that this capital, for the most part, returned not only the amount of the interest and profits acquired by its employment, but, thanks to the impulse it gave to the co-operative power of the earth, it made to spring up, besides, a new surplus, to increase that which existed previous to its consumption. Consequently, in the present condition of rents, the latter combine three elements having a distinct origin. It would be idle, moreover, to attempt to state exactly the proportionate part of any one of these elements, or even to decide what is only a suitable return for outlays embodied in material improvements: all that can be affirmed is, that what holds the least place is the primitive element and it is very easy for any one to assure himself of this if he will merely notice wherein consists that which uncultivated lands yield to the wild tribes who live on their natural products. The two others, on the contrary, are by far the more powerful. Clearing of land, in our day, is very costly, and certainly must have been far more so originally, because of the coarseness and imperfection of the processes and the instruments in use. On the other hand, there are farms and metairies [*i. e.*, small farms in France let on halves to the cultivator.— *Trans.*] where the value expended in constructions and buildings for use, fences, ditches, and permanent works, is equivalent to from a third to a half of that of the land cultivated. This explains why there are economists who, impressed by the great and constant sacrifices made with a view to production, will not see in rent anything but the amount of the indemnity to which these sacrifices entitle those who make them. — The necessity for a people who are increasing in numbers, to extend cultivation over lands lying fallow, has been ranked among the causes which exert a decisive influence on the price of rent. The reader has seen, in what we have said of Ricardo's theory, what consequences that writer attributes to it. In his opinion, prices rise gradually as labor has to take up with lands less adapted to recompense its efforts: it is the expense incurred where it is least remunerated, which fixes the exchange value of the means of subsistence, and hence the rise and progressive increase of rent. — People certainly consult, in the choice of lands to bring under cultivation, the degree of productiveness which these lands present at the time; and, in the

natural order of the development of labor, they only attack the poorer lands when the others have ceased to provide sufficiently for the exigencies of consumption. It is an evil that all lands are not at the same time better and of like quality. Humanity would be better off for a different distribution of the natural fertility of the soil from which it is fed: but has this evil all the effects attributed to it? Does the upward movement which it tends to give the prices of products really take place as people suppose? Are there not causes of decline at work, which on their side are sufficient to maintain such relations between the expense and the results of production, as to prevent suffering in the community? This is a question of the utmost importance, and demands a serious examination. — We have not thus far taken sufficient account of the influence on rent and prices, of the progressive development of knowledge of agricultural affairs. Of all causes this acts most energetically and constantly, and its effects are the most decisive. Sometimes it reduces the expenses of production by a given quantity of provisions. Sometimes it increases the quantity harvested at the same outlay; and, in both cases, it raises the rent by increasing the surplus obtained after deducting expenses; and, at the same time, it arrests the rise in price while multiplying the amount of provisions destined to meet the demands of consumption. — One single thing might take away, from progress in the art of agriculture, the power of raising the rent. This would be if the sale value of the products diminished in proportion as labor, having become more enlightened and more powerful, succeeded in deriving more produce from the lands. But, as we know, the means of subsistence have the privilege of never waiting long for a demand. As soon as they become more abundant, the population is not long in multiplying, and soon wants rise to the level of the supply. And is there not also a saving realized in the expense of cultivation, an improvement in the application of the efforts of labor, which does not increase the part of the product which remains *net* after expenses are deducted, and which consequently does not add to the rent of the proprietors? — In what measure has the diminution in the expense of production due to the improved application of labor, served to raise rent, and to preserve the higher prices which the extension of cultivation to new lands tended to produce? It would be impossible to state positively; but there is no doubt that this double effect has been fully produced. — See, in the first place, what an economy in manual labor the gradual improvement of the instruments of production has brought about. Not only good modern plowshares perform in one day twice as much work at least as the best plows of the ancients, but they break lands formerly impenetrable to the share, and they plow the others more deeply. To reaping-hooks of brass or beaten iron have succeeded scythes highly tempered, under the blade of which crops fall rapidly and without loss, which, before their invention, required a much larger number of hands. All the tools and machines which were known in the middle ages have been improved, and, thanks to new inventions, there is no country even but little advanced in agriculture, which does not contain a good number of others of quite superior efficiency. — This is, however, but the smallest part of the improvements realized. For the productions originally demanded of the earth, similar ones, which are both more hardy and of better yield, have been gradually substituted. By the side of the vegetables then cultivated, or in their place, have come new species from the most distant parts of the globe, which have been admitted in the rotations of crops, because of the increase of product they give on a like surface. This is not all: science has not ceased to reveal new means of fertilization. Materials whose power was unknown have added to the effect of fertilizers; substances that had been left unused have been mixed with arable beds, and have communicated to them the productive qualities which were lacking; and cultivation has been more widely developed and made increasingly productive. In consequence, lands that were despised at the close of the last century, for want of knowledge how to utilize them, have, with small outlay, taken rank among the most fertile, and some, like those characterized in England as *poor lands*, and in France as *lean* and *dry*, are to-day considered the most easily worked, and are farmed out at the highest price. And as to the other lands, we might show some in France, which, sixty years ago, yielded scarcely ten or eleven hectolitres to a hectare (*i. e.*, less than twelve bushels to an acre), which now yield eighteen to twenty hectolitres. This is an addition of about 140 francs (about $27); and it is important to observe that this addition has only involved an increase of less than 70 francs in expense. Also, farm rents which did not reach 35 francs have risen to 70 or 80 francs, while yielding to those who paid them larger and surer profits. Certainly this is a case where the increased power of art has done more, of itself alone, to raise rent, than all other causes combined.— Such facts (and it would not be difficult to cite many others) attest sufficiently the effects of the successive conquests of human intelligence, and how, by gradually reducing both the toil and the outlay appropriated to production, they must have increased the net product of the land, and consequently the rent. That they have sufficed at the same time, to prevent the price of provisions from rising, and to restrain the effect of the inconveniences connected with the extension of cultivation to lands of inferior quality, is so much the more certain because there has been effected in Europe another improvement, which, by itself alone, would have permitted the population to double, without recourse being had to new portions of the soil, and without any increasing demand for grain. This improvement is in the grinding of grain: the quantity of grain, which during the sixteenth

THE UNIVERSITY OF CALIFORNIA

century, only yielded 100 lbs. of flour at the mill, now yields more than 190, owing to the successive improvements in the processes employed. — It should also be remarked, that, during the middle ages, the improvements in agriculture were both slow and little marked: the agricultural classes were ignorant, and their occupations were regarded with contempt. In our day, on the contrary, they are more enlightened; and on the other side, the natural sciences have put within their reach a multitude of inventions which it has become possible for them to utilize. Moreover, for the last fifty years especially, two well-attested facts have been noticeable: one is the stability or the decline in the price of cereals in most of the advanced countries; the other is a rise in rent and the leasing price of farms with a rapidity unknown at previous periods. — There is, however, one fact of considerable consequence, which seems irreconcilable with the statement we have just given, and which, on that account, calls for an explanation. This fact is the decline in the price of wheat in the least populous countries of Europe. Thus, wheat is worth only 10 to 11 francs a hectolitre in Hungary, and only 9 to 15 in Russia and Poland, according to the provinces. On the contrary, it has been worth, on an average, for the last ten years, 16 francs 40 centimes in Prussia, 16 fr. 60 c. in Spain, 18 fr. 74 c. in France, and a little more than 22 francs in England. Surely, these figures differ enough to attest that abundance of land permits wheat to be produced on conditions which cease to be as advantageous in proportion as the land becomes limited. Doubtless it is indeed so. A thinly scattered population are free to sow only the better portions of the soil they occupy, and to leave each of the parts which have just furnished a harvest, to rest; and it is certain, that, owing to this mode of changing the localities cultivated, wheat is obtained at less expense than if they were obliged, in order to supply the more urgent necessities, to confine their labors more persistently and continuously to the same arable fields. But it is essential to remark that western Europe has passed through ages during which this mode of culture sufficed for the exigencies of consumption, and yet everything combines to strengthen the belief that it was not then provided with food in the same abundance nor at as low a price as it now is. The following reasons support this assertion. Doubtless it would be impossible to prove exactly what was the price of wheat in France five or six centuries ago. The measures of capacity, notwithstanding the identity of name, differed enormously in their contents, not only in different provinces, but even in different parishes in the same province. In the second place, the average prices, when obtained, confounded, under the designation of wheat, cereals of all sorts: finally, the purchasing power of money was greatly in excess of what it is in our day, when the coin and paper in circulation are abundant; but it is sufficient to read, in the authentic acts which have escaped destruction, the figures relative to the price of days' work, as well as of provisions, as they were at the same times and in the same places, to recognize that the exchange value of wheat was at least equal to what it is at present. Thus, in Normandy, agricultural wages at the end of the twelfth century, were equivalent to less than six litres (about 5¼ qts.) of wheat. From that time, we see them rise by degrees to seven; and only within thirty years have they exceeded eight. We are forced to conclude, from these facts, that the real price of wheat, *i. e.*, its exchange value, has not increased in that part of France. — Now, this is what facts attest since it has been possible to ascertain them. Fifty years ago the current rates of cereals in France began to be quoted with all the accuracy desirable. During this long space of time the population has not ceased to increase in number and in comfort, and nevertheless the price of wheat is far from having risen. Thus, starting at 1800, the five decennial averages succeeded each other in the following order: 19 fr. 87 c., 24 fr. 79 c., 18 fr. 36c., 19 fr. 4 c., 18 fr. 74 c. The particularly high average of the years 1810–20 is attributable to the wars of the empire, the invasion of 1814 and of 1815, and the scarcity of 1816 and 1817: but after 1820, prices fell below the figures previous to 1810 and 1800; and it is a matter well worth attention that never has rent, in the advanced portions of France, increased so much as since 1820, when the sale price of grain diminished or remained stationary. — In England also, prices, within thirty years, have not ceased to decline. Inconsiderate legislation, monetary circumstances, and the effects of war, had combined to render them exorbitant; and, during the ten years from 1810 to 1820, the average per hectolitre rose to a little more than 38 francs; but from that time they declined, first to 30 francs for the decennial average, then to 25, and finally, before the reform in the corn laws, to a little less than 22; that is to say, below their figure between 1790 and 1800. — Why is it that the price of wheat has not risen in the most populous part of Europe to-day in proportion as more land has had to be brought under cultivation, and that we find it as low in that the least populous? It is because, in past centuries, art was still in its infancy: for lack of intelligence and knowledge, as well as for lack of properly conditioned working material, the laborers could gather their harvests only by the strength of their arms, and the expenses of labor, compared with its results, were much greater than they are to-day. If, in the United States of North America, or in the regions beyond the Oder, the abundance of land has, on the contrary, its effect, it is because the people derive an advantage from it by means of implements, methods and processes, of which communities in former times learned the use only when they had already begun to press upon one another in the territory at their disposal. American agriculturists, aided by implements which were lacking to the people in the middle

ages, can turn to profit their natural advantages of space. Those of the north of Europe are still too ignorant or too poor to be able to make as general use of these improved implements; but they nevertheless do use them; and to be convinced of it, one has but to observe that there exist in Poland, Hungary, and even Russia, a goodly number of large seigniorial estates, under the management of men educated in the best agricultural schools of Germany, who carry into the details of the work the most recent acquisitions of their science and arts. — Finally, it is wrong to adopt the practice of considering the price of wheat as giving the measure of the difference in the expense of agricultural production in the various countries. What we should examine is, the general price of provisions, and not that of particular articles which do not figure equally everywhere in consumption. Wheat is cheap in the half-untilled countries of Europe; and yet it is much too dear for the poor people who harvest it. They subsist almost wholly on rye; and, while in France rye does not occupy more than a third as much arable surface as wheat, and in England not more than a fourth, in Russia, Poland and Hungary, it takes from seven- to nine-tenths as much. What is the result? In these countries, wheat, for which a small number of particularly fertile lands are reserved, is not worth, relatively to rye, as much as in more advanced countries, and the price of the common means of subsistence there is really higher than the price of wheat, considered by itself, would indicate. On the other hand, it should be observed, that, by the side of the products the extension of whose cultivation tends to increase the price, man continually manures the soil, which, at less outlay, insures him the complement of his subsistence. In France, at the time when the average harvest was 80,100,000 hectolitres of wheat, 12,260,000 hectolitres of meslin (a mixture of wheat and rye), or 30,700,000 hectolitres of rye, there were also gathered 89,580,000 hectolitres of potatoes, more than 21,000,000 hectolitres of maize, buckwheat and millet, nearly 10,000,000 hectolitres of small grain and dry vegetables, and, besides, an immense quantity of garden products. Evidently, if the price of wheat had tended to rise, there would have been found, in the increasing abundance of other means of subsistence, a supplement which would have prevented living becoming more dear. — These considerations and these facts authorize us to affirm that there is in the natural progress of the applications of labor a power equal or superior to that of the causes which tend to augment the charges of production. It is this power which, notwithstanding the necessity of extending the clearing to lands less adapted to produce, has prevented the price of products from rising, and which, by continually increasing the proportion in which the surplus is realized, has contributed most to the rise in rent. — It is well to pay serious attention to this point. If such had not been the present course of things, everything would be inexplicable in the least contestable results of the progressive movement of the arts and of civilization. It is a fact beyond doubt, that the more enlightened any population is, the more they increase in number and comfort, and the more the means of subsistence at their disposal become abundant and improve in quality. No fact is better attested. The day laborers of England, France, Holland and Switzerland, are not only better lodged and clothed than they were in the fifteenth and sixteenth centuries, or than those of Russia, Hungary and Poland as yet are, they are also much better fed. Their bread is now composed in part of wheat, and not alone of rye. They eat meat and vegetables; they use less coarse and more varied food. Now, how could it be thus, if it were true that the necessity of increasing the area of cultivated land had resulted in rendering production more and more difficult and expensive? Under the fatal control of the law to which Ricardo's school accord an invincible predominance, we should have seen the remuneration of the efforts of labor gradually diminish; every addition to the quantity harvested would have been obtained only by means of sacrifices comparatively greater; the agricultural class would have increased its ranks as it became necessary to require more of the land; and the time would have come when the other classes, restrained by the obligation to surrender too large a portion of the fruit of their industry, in return for their usual subsistence, would have been arrested in their development. Well, quite the contrary of all that has happened. Starting with the centuries of ignorance and poverty, those centuries when land was so plenty that only the best was cultivated, it has been the manufacturing and commercial classes which have multiplied the most in proportion, and which have at the same time amassed the most capital and wealth. Surely, nothing like it would have been possible if the continual progress in agricultural knowledge had not put the laborers in the rural districts in the way of deriving more ample resources from the soil, and of supplying the rest of the community with food without having to demand prices continually higher. — One other erroneous supposition is, that the market price of provisions must necessarily tend to rise, in order that the area of cultivation be enlarged. The entire history of agriculture attests, on the contrary, that everything in that regard has been only the fruit of happy discoveries. Thus, it was the invention of a plow with a broad share which determined the breaking up of many aluminous and compact lands previously refractory to the efforts of labor. The employment of lime and marl in places where they were unknown, has permitted the land to be sown to wheat; and it was the discovery of the fertilizing properties of animal charcoal, pulverized bones, and a good number of other substances belonging to the various kingdoms of nature, which revealed the possibility of obtaining rich crops from ground reputed too poor to repay the efforts of continued culture. Similarly, it was the introduction of sainfoin on chalky lands

that rendered them productive; and it was an idea which occurred to a sutler in the Spanish army, during the long siege of Antwerp, of attempting to adapt the barren sand of the country to the cultivation of a few fresh vegetables, by burying in it the old, cast-off clothing of the soldiers, which revealed the secret of converting this sand into a soil which now ripens the best crops of Belgium. We have one more fine example of the manner in which discoveries and inventions operate. It is drainage. Is it the high price of food which led to its application? Assuredly not; for it came to take its place among the agricultural agencies and expenditures in England, at the very time when proprietors and farmers thought they had before them only a prospect of a decline. Thus have things happened, and thus will they continue to happen. Man has been cast upon this world, endowed with a faculty for improving his condition here. He has arrived armed, so as to be able gradually to extend the success of his struggles against nature; and the earth, very far from having been given to him as ground on which he would have to expend toil with constantly increasing ingratitude, has been given to him as an agent of production, for the direct assistance of which, when it should come to grow less, it would be easy for him to supply its place advantageously by the acquisition of intelligence destined to add more and more to the results of the application of his labor. — *Some Opinions originating in Accredited Theories on the Subject of Rent.* The existence of the rent of the soil, and the rise it has gradually taken, have given birth to some assertions, of which we must here say a few words. Adam Smith, after having shown that rent was a natural result of the co-operative action of the earth in agricultural labor, refrained from pushing farther the analysis of facts, and the examination of their consequences. Taking the principle as he presented it, its result, nevertheless, seemed to be, that the entire rent proceeded wholly from the presence in the soil of productive qualities, which would at all times have operated equally, and created from the beginning a wealth which some had taken possession of, without leaving anything to the others. This opinion was not long, in fact, in acquiring some consistency, and several writers, through embarrassments and ambiguities of language, which betrayed the indecision of their mind, did not fail to conclude that the existence of rent emanated from an exclusive fact of nature, and constituted a sort of monopoly, having no other claim to duration than its utility. The system of Dr. Anderson, taken up, commented upon, and formulated mathematically by Ricardo, came to add new motives to those which had given currency to these assertions. In this system, rent, besides originating in an evil, had the disadvantage of increasing only in consequence of a real public misfortune. It was the inevitable rise in the price of provisions which almost alone decided the progressive increase. The more the necessity of extending cultivation over lands as yet untilled contributed to change the pre-existing proportion between the expenditure and the results of production, the larger the incomes of the proprietors became; and it was, in fact, by the impoverishment of consumers that they had the privilege of increasing their wealth. Most of the English economists received these ideas admiringly, and promulgated them. To some, rent was a monopoly, which forced those who did not possess land to pay those who possessed it more for provisions than their cost; to others, it was, to use the expression of Scrope, a restriction on the usufruct of the gifts which the Creator has bestowed on men for the satisfaction of their wants. From this position to that implied in the celebrated saying, *Property is robbery*, is but a step; and this step was speedily taken. Now, it is for us to bring within the limits of truth, conclusions that are either extremely exaggerated or palpably false. If we had to treat here of the question of the right of property, it would be easy for us to demonstrate that this right is based no less upon justice than upon social utility, and to prove afterward, that without its application to land, all the human race, condemned to a pitiless servitude to hunger, would never, in any part of the globe, have succeeded in escaping from the miseries of a savage life; but, to keep to what especially concerns rent, there are several points which it will be sufficient to mention. The first is, that those who first began to cultivate, did not in reality receive for themselves any other rent than the raw product which it was possible to obtain from the little portion of untilled soil they had cleared, that is to say, a product so small that its withdrawal from the common domain could injure no one; the second is, that by obtaining their subsistence by cultivation, they restored to their fellow human beings infinitely more than they took from them. A family of savages require not less than four square kilometres to succeed in obtaining their support; and those who first devoted themselves to agriculture, being incapable of extending their labor over the one-hundredth part of such a space, added in reality to the resources of the community, by leaving it the product of the rest. The third is, that at the time when agriculture began, there were so many vacant lands that it was optional for each to appropriate to his own use such a part as he chose, and that, if there were families who refrained from doing so, it was because they preferred either to live by hunting, fishing and gathering fruits, or to devote themselves to some manufacturing business. Such were the circumstances which controlled the agricultural *régime*. Certainly, nothing in what took place was prejudicial to the rights of any one whatever; everything, on the contrary, in the ancient memorials of human races, attests, that, far from considering as despoilers those who first taught them agriculture, they regarded them as benefactors. — What has caused an illusion in a matter of this kind, is want of knowledge wherein rent consisted, at the time when agriculture began.

Looking at the income which land secures for those who possess it, wherever civilization is advanced, people assume that it has always given such returns, and forget the labor and sacrifice it has cost a long succession of generations to make its income what it is. Certainly, if it were possible to decompose rent, and to separate its constituent elements in a rich and flourishing country, one would be surprised at the little the portion derived from the soil would count for in the whole; it would be scarcely perceptible beside what the capital expended in the interest of production, and the savings of labor due to the progress of agricultural science, have added to it. On another side, the errors propagated by the school of Ricardo have not ceased to exercise an unfortunate influence on many minds. Without doubt, the necessity of having recourse to lands less fertile than those which had been first brought under cultivation, would have enhanced the price of food, if the better application of human activity had not come in to restrain or overcome its effects; but, as we have shown, such was the course of things; and, if that necessity acted as an obstacle to the best which might have been realized, never was it a cause of diminishing the wealth already acquired. — Everything, after all, in the part of the question which occupies us, may be reduced to a knowledge whether the existence and development of rent imposes on the consumers of the fruits of the earth sacrifices which might be spared them. Now, this would be true only in case the rate of rent exercised some influence on prices; and this case, as we know, can not occur. Admit, for example, in its whole extent, the theory which shows rent under the most unfavorable light, viz., the theory of Ricardo. Whither will you be led? To recognize that rent, arising from the necessity of extending cultivation to ground of less fertility, is only an inevitable result of the enhanced price of products whose attainment becomes more and more difficult. In this theory, it is not because rent arises and increases that prices rise; it is, on the contrary, because prices rise, that rent is created and increases. Society is obliged, under penalty of dearth, to pay a price for the necessities of life which secures the producers remuneration for the charge imposed upon them by the cultivation of the worst lands whose culture is indispensable; and hence arise benefits to the possessors of the other portions of the soil, which secure to them a rent so much the larger as their expenses of production are relatively less. Admit the doctrine contained in this article, which is in our opinion much more simple and true, and you will arrive at conclusions still more decisive. It is the peculiar fitness of the earth for production, which, by permitting it to return to those who cultivate it more products than they need in order to subsist and receive a return for their advances, which brings about rent. The more perfect labor becomes, the more is the amount of the expenses incurred in it, in proportion to the quantities harvested, reduced, and the more the excess which is converted into rent increases. If it is true that the necessity of enlarging the arable domain tends to increase the price of production, this tendency encounters, in the advantages connected with the successive improvements due to human ingenuity and skill, a counterbalancing power more than sufficient to restrain it, and this is why the consumption of provisions becomes at the same time extended and improved in all countries when the people become more advanced and enlightened. Thus, rent is nothing else than the product of a gift of nature which men are permitted to turn to more and more profit, and whose increase is only an effect of the general development of prosperity. And this is so true, that if it had pleased Providence to increase the fertility of the soil a few degrees more, the price of provisions would have been less, and of rent, more. In the beginning it must have required less labor to obtain subsistence, and, after defraying expenses, there would have remained a surplus, a net product, much greater than that which is now realized under the name of rent. — The reader will now see how little foundation there is for the charges brought and lamentations made against the existence of rent. Under whatever aspect the question is viewed, whatever theory we adopt, rent appears only as the result of circumstances which it is not in the power of man to change, and not as a portion deducted, to the exclusive advantage of some, from the resources acquired by others. Monopoly is then a very singularly chosen word when applied to the existence of rent. To be sure, the earth is limited in extent, and men can neither increase its surface nor extend to all its parts labor equally productive; but does it follow from this that there is anything in common between the appropriation of land and the concurrence of circumstances which constitutes a monopoly? All have not a lot of land, it is true; but have all a share in the possession of things which, like the earth, owe their sale value and the possibility of producing a revenue, to the development of the productive capacity of human society? Land, unless iniquitous and hurtful laws immobilize it in the hands of privileged classes, is transmitted and exchanged like houses, manufactories, contracts for stated payments, or stock in any industrial enterprise. Whoever has savings at his disposal, is free to acquire a greater or less portion of it, and those who possess it are so far from deriving exclusive advantages from it, that some among them may always be found who are ready to give up what they have, for capital from which they hope for a better revenue. The possession of land or of any other sort of wealth, is so simply a matter of taste or convenience, that there are times when, even with a like product, it is not the kind of investment most sought after. To go to the essence of things, there is nothing in the assertions we have just examined, which might not apply to the inequality of fortunes even; for property in land is only one of the forms under which exists this inequality, which, born

with society itself, will assuredly last as long as society. H. PASSY.

— Besides the questions treated of in the above article, there is one which has been mentioned in the articles COST OF PRODUCTION and DEMAND AND SUPPLY: it is, whether rent constitutes a part of the cost of production. We think we can not do better than to quote the opinion so clearly stated by Mill. (Principles of Polit. Econ., book iii., chap. v.): "Rent, therefore, forms no part of the cost of production which determines the value of agricultural produce. Circumstances no doubt may be conceived in which it might do so, and very largely, too. We can imagine a country so fully peopled, and with all its cultivable soil so completely occupied, that to produce any additional quantity would require more labor than the produce would feed: and if we suppose this to be the condition of the whole world, or of a country debarred from foreign supply, then, if population continued increasing, both the land and its produce would really rise to a monopoly or scarcity price. But this state of things never can have really existed anywhere, unless possibly in some small island cut off from the rest of the world; nor is there any danger whatever that it should exist. It certainly exists in no known region at present. Monopoly, we have seen, can take effect on value only through limitation of supply. In all countries of any extent, there is more cultivable land than is yet cultivated; and, while there is any such surplus, it is the same thing, so far as that quality of land is concerned, as if there were an infinite quantity. What is practically limited in supply is only the better qualities; and even for those, so much rent can not be demanded as would bring in the competition of the lands not yet in cultivation; the rent of a piece of land must be somewhat less than the whole excess of its productiveness over that of the best land which it is not yet profitable to cultivate; that is, must be about equal to the excess above the worst land which it is profitable to cultivate. The land or the capital most unfavorably circumstanced among those actually employed, pays no rent; and that land or capital determines the cost of production which regulates the value of the whole produce. Thus, rent is, as we have already seen, no cause of value, but the price of the privilege which the inequality of the returns to different portions of agricultural produce confers on all except the least favored portion. Rent, in short, merely equalizes the profits of different farming capitals, by enabling the landlord to appropriate all extra gains occasioned by superiority of natural advantages. If all landlords were unanimously to forego their rent, they would but transfer it to the farmers, without benefiting the consumer; for the existing price of corn would still be an indispensable condition of the production of part of the existing supply, and if a part obtained that price the whole would obtain it. Rent, therefore, unless artificially increased by restrictive laws, is no burden on the consumer: it does not raise the price of corn, and is no otherwise a detriment to the public, than inasmuch as if the state had retained it, or imposed an equivalent in the shape of a land tax, it would then have been a fund applicable to general instead of private advantage." E. J. L.

REPRESENTATION. In the political sense of the term, representation is the deputing of the political rights of the many into the hands of a few, who, in the name of the commonwealth, enact and oftentimes execute the laws which are to govern the community. It has also in practice grown to be a recognition of localities independent of population, which are supposed to be a necessary part in law making, so as to make the governing body a reduced picture of all the varied interests of society, geographical and personal, the political rights of which have been recognized. — The act of voting is not a necessary element of representation. It is a mere proof that the representative is the deputed authority for those who elect him. Judges who are not elected, administrators who are not elected, are in many respects as truly representative in the power they wield as the members of the legislative body who are directly deputed by the people. Even in monarchies the king may represent, and in most instances does represent, as to his right to reign, the actual will of the people, although the existing generation may have had no instrumentality to express its will on his right to rule. — The developed modern state everywhere, where civilized conditions exist, acts in a representative capacity. Only in the case of governments which are still in an undeveloped condition is the will of the monarch the ostensible rule of action on his part. In the constitutional state the will of the monarch, as expressed in the laws and in administrative decrees, acts in the name of the people, and he bases his justification of conduct on the assumption that it is expressive of that will, and that his kingly office is representative of the whole people. In that sense the history of representation is part and parcel of the history and development of the idea of the state as contradistinguished from personal government. Even Louis XIV., when he said *l'état c'est moi*, recognized the fact, that the state and the person of the king were two different things, but expressed his conviction that he represented both in one. — In a narrower sense, and the sense in which the term is used in this article, representation is confined to the consideration of that form of the developed modern state which gives to electors in the community the right directly to depute persons, in whom they have confidence and trust, to represent them in a legislative body, and to give, in advance, their sanction to the laws they may enact. In this sense representation is quite a modern idea. The ancients knew it not. Although Aristotle, in his "Politics," speaks of a certain census, who shall elect a council intrusted with deliberative power,

who shall be bound to exercise this power agreeably to established laws, he speaks of a hypothetical state, and not of any which down to his period of time he had any knowledge of. Freeman says, in speaking of the Amphictyonic council, the Achaian league, and the Lycian league, in which the cities had a certain proportion of votes in accordance with their size, "that the ancient world trampled on the very verge of representative government without actually crossing the boundary, and that in ancient Greece the assembly which acted upon proposed laws and gave them their sanction was composed of the freemen themselves meeting in their personal capacity, and representation was in the adoption and passage of laws unknown." The votes that were taken in Rome were, as a general rule, votes for executive officers. The tribunes and ædiles of the Roman republic were not law makers, but they had the power to call assemblies of the people, who assumed to vote exceptional laws known as plebiscite. The ædiles were judges, and even *comitia curiata* were assemblies of people, not representatives, for the election of magistrates, and laws were enacted by the senate and by the centuries who were patricians or noblemen, men bound to military service, and had nothing of the representative character in the narrower acceptation of the term. — Montesquieu was right when he found the germ of modern representative systems in the forests of Germany. The Teutons, who became the conquerors of Rome, were the originators of the thought "no taxation without representation"; they had their *volkmote*, where the wisest among the tribes, by a process of natural selection, instead of by ballot, sat to determine on the more important measures which were to govern the tribe. They had constant popular assemblies, where the popular will was expressed, and the spirit of personal freedom was so strong among them that they elected their eldermen, heretogs and kings. — The *witenagemote* of early English history was not a strictly representative body in the modern sense. Langmead, in his "History of the English Constitution," says that it was an aristocratic body. Its members were the king, the ealdormen, or governors of shires, the king's thegns, the bishops, abbots, and generally the *principes sapientes* of the kingdom. *Sapientes witan*, wise men, was the common title of those who attended it. Its size showed that it was not a popular assembly, as the largest amount of signatures which have been observed was not above 106. The powers of the *witenagemote* were as supreme and even of wider scope than those of parliament. It had the power of deposing the king for misgovernment, and English history gives several instances of the exercise of that power. It had the power of electing the king. It took a direct share in every act of government. With the Norman conquest came a period of obscuration of the power of this early representative body, if so it may be called, and thenceforth, down to 1265, no body that might be termed representative was in existence in England. During the contest between John and the barons a parliament was convoked, wherein sat four knights from each shire, to be returned by the sheriff. There is no evidence that these knights were elected, but as there was already machinery for election in existence in the various shires, of knights to nominate recognitors in civil suits and a grand jury for the presentment of criminals, we may reasonably conclude, says Langmead, that the accustomed machinery was now made use of for the first time for the novel purpose of county representation in the general assembly. The next instance, is in 1254, when two knights of the shire were to be called to the king's council at Westminster. These were directed to be chosen by the county. — The next great step in advance in representative institutions was made by Simon de Montfort, earl of Leicester, and although he probably was not the founder of representative government in England, he certainly was, says the same authority, "the founder of the house of commons," because it was the first parliament which was convoked in England in which sat the burgher class, which, together with the freeholders of the counties, constituted the newly developed third estates of the realm. The writs were issued Dec. 14, 1264, whereby the sheriffs were directed to return two knights from each shire, two citizens from each city, and two burgesses from each borough. From that period until 1295, was what may be termed a transitionary period, parliament being summoned with and without burgesses; but in that year, the 23d of Edward I., the king summoned a parliament to meet at Westminster in November following, so constituted as to represent the whole nation. The writs which summoned this parliament were directed, as in 1264, to the sheriff, ordering an election and return of two knights from each county, two citizens from each city, and two burgesses from each borough. The inferior clergy were also required to attend, so as to make this assembly, whereby the king's necessities for money were to be relieved, the most general one that had yet been convoked. — The division of parliament into two houses was effected early in the fourteenth century. The commons was composed of two elements, the commons of the shires and the burgesses. The knights voted with the barons. Representatives of the boroughs formed a distinct assembly, deliberating and voting apart. These were strictly called the commons. The knights joined with the commons, and this fusion, says the authority last quoted, was the result of the existence in the English constitution of a condition which distinguished it from every kindred constitution in Europe, the absence of an exclusive noble caste. — In the continental states the nobles formed a distinct class, distinguished, by privileges inherent in their blood, from ordinary freemen, and transmitting their privileges, and in some countries their titles also, to all their descendants in perpetuity. In England, on the contrary, the privileges of nobility were confined to one only of the family,

the actual possessor of the peerage. Sons of peers from the time of the Norman conquest were commoners, and on a perfect equality, as regards legal and political privileges, with the humblest citizen. Even the heir to the peerage, though he might bear a title by courtesy, was still, so long as his father was alive, a commoner like his younger brothers. No restraint was laid upon free intermarriage in all ranks, and the highest offices of state were always legally open to all freemen. "This made the knight the connecting link between the baron and the shopkeeper." The oldest son even of the earl of Bedford, one of the proudest titles of nobility in England, offered himself, in the reign of Henry VIII., for a seat in the house of commons. The house of commons in that way became the representative not only of a single order in the state, says Langmead, but, with the exception of the peerage titles, represented the whole nation, and, as a natural consequence, has drawn to itself the predominant authority in the state. — During the reign of Edward III. the commons established these three great rights: first, that all taxation without the consent of parliament was illegal; second, the necessity for the concurrence of both houses in legislation; and third, the right of the commons to inquire into and amend abuses of the administration. — The Tudor sovereigns, arbitrary rulers that they were, did not feel strong enough to dispense with the representative body, but they sought to obtain control over it by creating a large number of insignificant boroughs for the purpose of increasing the influence of the crown in the house of commons. The same authority says, that between the reigns of Henry VII. and Charles II. no less than 180 members were added to the house of commons by royal charter alone. The last instance of this abuse of prerogative was the creation of the borough of Newark by Charles II. Thenceforth the house of commons took the issue of writs into its own hands, and no new borough was created in England and Wales until the reform act of 1832. — At the date of the union with Scotland the number of members was 518, this act of union having added 45 Scottish representatives, and the act of union with Ireland added 100 Irish members. Since that time Scotland has added to its contingent fifteen members, and Ireland five. The house of commons has now about 656 members. — To England the world owes the development of representative institutions, as it did, at an earlier period than any other modern government, confer upon its representative body the sovereign power of the state. The development of the principle of representation proceeded with less continuity and upon different lines in other countries. — A representative system is the only one by which large communities can enjoy the advantages of self-government. The ancient system of direct participation in law-making was possible only in a very circumscribed domain. The moment the domain became larger than that of a single city, representation necessarily had to take the place of direct participation, and the alternative was representation or despotism. Every fructifying institution of a social character takes unto itself different forms, in conformity with the habits and nature of the people. Even the Christian religion produced very different results in Spain from that which it produced in England, and so it is with representative government. The habits and genius of the people in continental Europe produced from representation a very different result from that which was achieved in England. The cities of the middle ages were governed by a form of representation materially different from the modern manifestation of the same political development. The nobles of the city generally composed its senate, in imitation of the Roman system, and councils were chosen in the main by the guilds, of which in Florence there were twenty-one; but at a later period only twelve of these possessed governmental powers. What corresponds to the mayor of the city was in Florence the *gonfalonier*. So jealous was Florence of its magistrates that it selected them by lot, and gave them power but for two months. The citizens met in the great square and voted directly upon measures. The selfishness of the nobility and the turbulence of the guilds' train bands, the jealousies of the guilds of each other, the corrupting influence of the wealth of the great merchants, all conspired to undermine this form of government. The great wars between the powerful monarchies, which trained their soldiers to feats of arms, of which the militia of free cities were utterly incapable, gradually made it impossible for the independent mediæval cities to put a force into the field to contend against the warriors of the great monarchs. Charles V. and Philip II., and, before them, the rulers of the Roman empire and the popes, gradually destroyed the freedom of such Lombardian cities as still had the vestiges of self-government left. — The constitutions of these municipal states are, however, interesting studies to the investigator of representative government, as they present a form of representation which has a merit ignored in the modern representative system, and which, in one way or another, should be sought to be re-established, and that is, the representation of the community in conformity with its actual natural affinities when acting independently of governmental interference. Society classifies itself even under its most democratic form, and these classes have to the community and commonwealth different values. A complete representation would take some note of such natural classifications of society, and seek to incorporate them as natural constituencies for representation. In the Florentine republic, and, indeed, in all the cities in the Lombardian and Hanseatic league, the representation of the trade guilds, in proportion to their numerical strength and their importance to the commonwealth, was conforming the theory of representation to the natural classification of the community, and therefore, in that particular, representa-

tion was more thorough in those cities than it is in the modern state. Creating artificial entities by drawing geographical lines around them, and giving to a majority in such entities the sole right of representation, is utterly to disregard these natural affinities of a community, and to base representation upon geographical lines instead of the interests of the community, and makes a representative body so constituted far from being what Mirabeau says it should be, a reduced photograph of the whole community. — In Switzerland and in France representation took unto itself again a different form. From the time of the overthrow of the Roman empire the mountain cantons of Switzerland maintained forms of self-government, and without the intervention of chiefs, these mountaineers assembled in the open air, voted their own laws, and elected their own magistrates to execute them. The larger towns of Switzerland, being favored more especially by Count Rudolph of Hapsburg, were made municipalities early in the thirteenth century. On his death, the apprehension that his successors might attempt to impair the liberty of the cantons and the self-government of the towns, caused an alliance to be entered into by them for the freedom of Switzerland. The Swiss confederation was formed in 1351, and from that time the Swiss uninterruptedly maintained a republic, with a considerably developed system of representation. In the rural and mountain cantons there was but little representation. The town meeting was assembled whenever occasion required. Every inhabitant above sixteen years of age was permitted to vote, and they acted directly upon the laws which were to govern them. The federal constitution of the Swiss government down to 1848 was that of a confederation but loosely banded together. The Sonderbund revolution, which sought to dismember the Swiss confederation in the interest of the Jesuits, was the means to strengthen it, and it caused the adoption of a new constitution wherein the supreme legislative power was intrusted to a federal assembly consisting of two deliberative bodies, the national council and the council of state, the one representing the entire Swiss nation, and the other the sovereign bodies of the Swiss cantons. No federal law could be made without the concurrence of both of these chambers. These bodies nominate the federal authorities; they declare peace and war; they regulate the postoffice and the coinage. The executive power was confided to a federal council of several members elected by the assembly, its president being the president of the confederation. Every man aged twenty not expressly deprived of the rights of a voter by the laws of his own canton, was entitled to vote, and was himself eligible to the national council. (May's "Democracy in Europe," vol ii., p. 410.) The Swiss do not fully confide matters of legislation to their representatives, but, by the instrumentality of the *referendum*, reserve a veto power in the following form. Whenever 30,000 qualified voters demand it, any law passed by the Swiss congress must be submitted for ratification or rejection to the people, and many instances have occurred in the recent history of that republic where the people rejected laws which the legislature had adopted. In the several cantons the *referendum* has also been made part of the organic law, so that upon all the more important measures affecting the cantons the people have repeatedly vetoed the measures enacted by the representative bodies of the cantons. This system of *referendum* has its inconveniences, but so long as representation is limited to majorities only, and those of arbitrary geographical divisions, which makes of modern representative bodies an artificial and unnatural representative body, the *referendum* is perhaps the only corrective of so faulty a method of representation. — In France the estates of the realm of the middle ages were councils of barons and prelates. In 1302 Philip the Fair summoned the third estate, who were delegates from the towns, to meet the nobles and prelates of Notre Dame. This was the first convention of the states general. They were afterward assembled irregularly in times of national difficulty and danger, or when the necessities of the kings drove them to demand extraordinary subsidies. (May, vol. i., p. 95.) Again, in 1484 the states general were convoked so as to insure a national representation, and embraced delegates from the country as well as from the towns. These deliberations were conducted, not by orders, but in six bureaus, which comprised the representatives of all the orders according to their territorial divisions. (May, vol. i., p. 96.) The municipalities of France could not long survive the centralizing spirit of the French monarchy. So little of the spirit of self-government existed in France that when, in 1692, Louis XIV. abolished all municipal elections and sold the right of governing towns to the rich citizens, there was scarcely a murmur heard. The states general, although from time to time convoked, never had and never asserted any rights as against the crown. They laid their complaints at the foot of the throne, which were treated as the throne saw fit, to be spurned, or to be enacted into law. The states general had no rights which they could maintain against the crown. The French parliaments were not representative bodies. They were nominated by the crown, and were really high courts of justice. For several hundred years representative government was unknown in France; when, by the reforms under Turgot, at the time of Louis XVI., the provincial assemblies were once more revived, and local self-government was again endowed with life and vigor. At the suggestion of the parliament of Paris the states general were again convoked, which was the beginning of the French revolution, and led to the national assembly; the national assembly led to the convention, which was elected by universal suffrage; the convention led to a directory; and the directory again to an empire. — The theory of representation became, however, formally established from the period of the French revolution in

the constitutions of France, and, under one form of government or another, representative bodies were thenceforth permanent institutions of the nation. Under the first empire the citizens of each arrondissement designated a tenth of them as electors. These were the communal notabilities. From this list the public functionaries of the arrondissement were chosen. These, in turn, selected a tenth of their number for the purpose of furnishing the functionaries of the departments. These new tenths selected on their part again a tenth, which formed a list of the national notabilities, from which the public functionaries for the nation were taken. The presidents of all electoral colleges, all grand officers, commanders, and officers of the legion of honor, and all heads of departments, the emperor selected without reference to an election. — Under the restoration a chamber of deputies of 430 members was constituted, of which 258 were elected by the colleges of arrondissement, and 172 by the colleges of departments. A census of a very high order limited the voting power to a small proportion of the French people. This was all swept away by the July (1830) government. The electoral system under the republic of 1848 suppressed all property qualification, and every Frenchman twenty-one years of age, subject only to the condition of a residence of six months, was invested with the right of voting. The vote was taken by ballot. Subsequently, modifications were made in this universal suffrage by raising the time of residence to three years, and imposing again a property qualification. It was the combination between President Napoleon and the class of citizens who were disfranchised by the act of the republic, which made Napoleon at first dictator and then placed him upon the throne of France as Napoleon III. — In The Netherlands, ever since 1815, the laws have been enacted by representative bodies, who are elected by the inhabitants above twenty-three years of age, and who pay some small direct tax. — In Germany, Austria, Italy, Spain and Portugal the representative bodies were mainly representative of special interests, such as nobles, clergy, towns, etc., and were not true representatives until a very recent period, when, by the amended constitutions of those countries, some approximation was made to representation upon the English and American model. — Representative institutions are everywhere gaining ground. England has been the pattern, and America the most prominent example, of the successful operation of representative government. The organization of the people for purposes of representation, adopted by these two nations, forms the model on which reforms in representation in other countries are gradually introduced. Government by representatives is much more than a makeshift, adopted, in consequence of the extent of modern communities, to secure power to the people and yet not take their direct votes on the laws which are to govern them, inasmuch as this method is obviously impracticable where the community is larger than that of a single town.— It has been observed by Lieber, that representation for the state at large constitutes one of the essential differences between the deputative mediæval estates and the modern representation by legislatures. The representative is not substituted for something which would be better were it practicable, but has its own substantive value. It is a bar against absolutism of the executive on the one hand, and of the domination of the demos on the other. It is the only contrivance by which it is possible to introduce at the same time an essentially popular government and the supremacy of the law, or the union of liberty and order. It is an invaluable high school to teach the handling of the instruments of free institutions. It is the one most efficacious preventive of the growth of centralization and bureaucratic government, without which no clear division of the functions of government can exist. Many examples may be cited from Grecian history to show how little the sense of responsibility was connected with the direct voting, and how easily the general populace could be misled by the demagogues, and at the assembly at the *agora* be cheated or cajoled out of their votes in favor of measures which they regretted almost as soon as enacted. The representative system checks and prevents such hasty action, and is, therefore, an institution which in itself secures good government. The representation makes the fact of government being a trust a vital and realizable truth. It is, however, of vital importance that a representative organization of the community be properly made, and that the representative body should be truly the best exponent of the popular will, because otherwise the majority of the people would not possess the reins of government, and the administration would fall into the hands of cabals, juntas or political organizations, which misrepresent it. — The American model of representation is twofold. I. *National.* The president of the United States under the American system is elected by a supposed electoral college, constituted in a manner to be designated by the legislatures of the various states. It meets in the several states, and is composed of the same number that the state has representatives in congress, who determine in these several states upon their choice for president of the United States. These electoral colleges have in time become mere registering machines of party will, and are not deliberative bodies in any sense. Immediately after the electoral colleges are constituted at the general election with reference to which they are to perform their function, the election is practically determined in advance of their meeting. There is but a single instance in the history of the United States of an elector refusing to cast his vote in conformity with the party dictate which elected him. — The senators of the United States are elected by the legislatures of the states. Members of congress of the United States are elected by the voters in contiguous representative districts artificially created, one from each district, each district containing, as nearly as possible,

about 131,000 inhabitants. The apportionment of these districts is left to the legislature of the state, to be fixed after each decennial census. The state representative bodies are generally a senate and an assembly or house of representatives. The senate, the smaller body, is elected by larger districts, also geographically contiguous, and the house of representatives by smaller districts. In different states different provisions exist, making the term of service of senators a longer period than that of the members of the lower house. With the exception of Illinois, which has adopted the plan of the three-cornered constituencies, electing three members from each district—as a rule, but one member is elected from each district—the majority or plurality, as the case may be, of the district elects a member. Local representative bodies, like town or city councils, are elected by smaller districts, composed of contiguous territory equal in population, one from each district; and the majority or plurality, as the case may be, in the district elects such representative. Where executive officers are to be elected, whether municipal or state, they are elected by the whole city or by the whole state, and the majority of the voters, or a plurality, if there be more than two candidates, secures the election of its candidate. The French system of double election has never taken root either in England or America, and seems to be but ill adapted to the genius of our people. The only instance attempted is the one of the electoral college, which has proved abortive, and has become a mere simulacrum. — The qualifications for a voter in the United States are, as a general rule, that he must be twenty-one years of age; if not born in this country he must have resided therein five years, within the state one year, and within the district about thirty days. Such as have come to this country during minority are admitted to the suffrage in a shorter period. The few qualifications that survive from colonial times, either of education or of property, have been and are being to a considerable extent gradually swept away. This, in theory, places the elective franchise in the United States, for all officers whose actions affect the commonwealth either as lawmakers or executors of the law, into the hands of all the male population above twenty-one years of age. Universal manhood suffrage has been the rule in this country.—Even the selection of judges (who, in the history of the United States, were, down to 1846, as a general rule, appointed by the governor of the state, in order to secure more intelligent officers and more direct responsibility in such selection) has, by the growth of the democratic spirit, been taken out of the hands of the governor, and their elevation to the bench, except United States judges, given to the people, and their terms of service shortened from life tenure to a few years. Elective officers have been unduly multiplied, to such a degree that it becomes almost impossible for the voter busily occupied with the demands upon him of his business, to determine intelligently upon the merits of the numerous candidates presented for different offices by political organizations. This highly artificial system of arbitrary districts for purposes of political activity which wholly disregard the natural affiliations of the people arising from their vocations, their political convictions or their status in society, has resulted in giving to the political organization an abnormally strong power in determining the personnel of the government of the United States. — In a very intelligent arraignment of existing political conditions in the United States, written by Mr. Charles C. P. Clark, in a work entitled "The Commonwealth Reconstructed," the author says that the plan of direct popular election in large constituencies results in three frauds: first, that the elector knows whom he is voting for; second, that he comprehends what he is voting about; and third, that his vote will have its proper weight without preliminary consultation and arrangement with other voters; each of which assumptions, he says, in the vast majority of cases is absolutely false. The present actual fact is, that at the dictate of leaders whom we have not chosen, we vote for candidates whom we do not know, to discharge duties that we do not understand. And as the law pays no heed to natural political organization, and gives it no direct encouragement nor recognition, the consequence has been that the political organization has taken possession of the machinery of legislation and is substantially the only thing that is represented. Unless he is the member of a caucus, has a seat in the convention, or takes an active part in the nominating committee, the individual voter is a cipher in politics, and the only function he has to perform is to register his aye or nay as to the individuals who have been put forward by the political organizations. — When this system was originally constituted, in a community of farmers, both the caucus and the conventions were voluntary forms of gathering the public will to make an intelligent choice of candidates. They were unrecognized, informal meetings of citizens to discuss public affairs and to select their neighbors for public office. In the early history of the United States public office was a burden which men accepted in consequence of the honor and dignity of the station, for which honor and dignity they were willing to sacrifice the more material advantages of private life. The division of employments, the growth of wealth, the great tide of emigration and consequent existence of a proletariat class, and the diversified interests and intensity of occupation which have been evoked by the modern industrial system, have made of the homogeneous community of a century ago one of the most diversified peoples in industrial employment and occupation, as well as disparity of means, that exist on the face of the earth. By the testimony of every close observer, it is a community of which the more intelligent elements are more intently occupied and have less hours of leisure than that which exists anywhere on the face of the earth. The consequence is, that the men who are most deeply interested in

the welfare of society no longer have time to meet and discuss the political situation with their neighbors, and to talk over and determine which of their neighbors they desire to select for public office. The division of employments has created a politician class to attend to that business for them, as it has a class of lawyers and divines to expound the law and look after the spiritual welfare of the community. The caucus and the convention, therefore, have, from being the mere aids to political organization, grown in time to be the organization itself.— The law which secures the political rights of the citizens is still the same that it was in the early history of the United States; indeed it has become more liberal in admitting a larger circle of human beings within the domain of political enfranchisement than in the early history of the United States. The power, however, has become so centralized in political organizations that a development has taken place in that function similar to that which has taken place in the railway interests by amalgamations and consolidations, so that, notwithstanding the rapid increase of population in the United States, fewer and fewer men, in both political organizations, determine who shall be elected by the people, precisely as, in railway transportation, fewer and fewer men determine, notwithstanding increased mileage, what rates shall prevail. The amount of time which must be given, and the money it requires successfully to establish a political machine, are both so great that, in the absence of a large leisure class in the United States which is emancipated from the necessity of daily toil by the inheritance of ancestral wealth, it has become practically impossible for the industrial and commercial classes in the community to give that time or money. In municipalities and in states the owners of property therein feel that there is a constant increase of the ratio of taxation without an equivalent in better service performed by the government for the individual in return for such taxation. The increase of municipal taxes has been within a generation upward of 200 per cent., and yet the tax payer prefers to submit to the exactions of the tax gatherer rather than to impose upon himself the greater immediate tax, which would be involved in the devotion of the necessary time and money to emancipate himself from the control of the political organization which he knows to be tyrannous and feels to be mischievous. Political patronage is the reward in the business of creating a political machine, and the politician finds in the control of the public office a return for the labor and money investment which he is compelled to make in establishing and perfecting his machine. As this system of political organization has grown, within the past thirty years, to gigantic proportions, it becomes a serious question whether the representative institutions of this country do not contain in themselves a fatal defect by reason of their not being adapted to the present organization of society in the United States. Independent political action is still possible where conditions prevail such as they did prevail in the early history of the United States, in such centres of population as may be termed strictly agricultural communities. In great cities, however, where the division of employment has been carried to its extreme development, representative institutions have become mere shams. The governments of those cities are in the hands of officers selected from the various political organizations which for the time being obtain control. The political organizations form a very small minority of the whole people, but the members thereof have devoted themselves to the building up of a political organization as a matter of business, as others of their fellow-citizens devote themselves to the business of banking, to manufacturing boots or shoes or hats. This situation becomes aggravated with increased population, and its mischief increased by the large criminal and pauper classes which exist in every densely populated centre. They are the camp followers of political organizations, precisely as they would have been the camp followers of a mediæval army for purposes of plunder only, and assume the name of the political organization, not because of any belief in principles, but because of their conviction that that particular organization will take care of them in the distribution of office. — As the United States look forward with much confidence to the early attaining of a population of a hundred million of souls, it will readily be seen that some change must be made adapting representative government to the needs of a community wherein the division of employment will be still further developed with every increase of population, and wherein life is not likely, within any short period of time, to be less onerous and exacting in its demands upon the whole attention of the person who devotes himself to a particular vocation. It must be quite clear, therefore, that evils which have already made themselves apparent, arising from the inadaptiveness of the existing political organizations to the natural development of the community, must become intensified and intolerable if the cause which has produced them not only continues but is increased in activity, so that there must come a greater and wider divergence between the people who supply the taxes and those who have control of the governmental machinery to expend the taxes. These evils have been recognized by every thoughtful writer upon the more recent manifestations of American institutions. They have by some been regarded as an evil attending the influx of emigration; by such it is claimed that the community has taken in more of the foreign element than it can comfortably absorb, and that, therefore, there is a large voting constituency in every community in the United States not thoroughly trained on the American model as to the rights and duties of citizenship, and who are, therefore, a hindrance to good government. Others have supposed the evil to result from excluding one-half of the population — women—from the exercise of political suffrage, and have supposed that the cure of malrepresent-

ation will lie in the direction of the adoption of woman suffrage. Others have recommended a return to smaller constituencies resembling somewhat the old Saxon hundred, as units of political power, so as to give an instrumentality for interchange of opinion in artificial entities sufficiently small to allow of meeting and deliberation. Others, at the head of whom stands Mr. Clark, have proposed the remedy of primary representative electoral colleges for the purpose of selecting electors simply, who, in their turn, shall elect other electors, so as to produce a condition of graded representation, or, in other words, double or treble elections. Again, others have sought refuge from the existing evils by recommending limitation of the suffrage upon a property basis. Another class of thinkers have advocated the rigorous adoption of a high qualification for voters, of intelligence and even of actual learning. Another class of reformers have sought a refuge from existing evils by advocating the extension of the term of residence in the community as a condition of citizenship, so as to exclude the emigrant from all participation in the political affairs of the nation until he shall have been substantially a lifetime on American soil. This idea captured, a generation ago, a sufficient number of adherents to create a formidable party, which obtained a phenomenal success in several states. Another class of reformers have recommended the legalizing and methodizing by law of primary meetings, so as to give a legal status and recognition to the caucus and primary nominations, and thus to make frauds practiced in these bodies amenable to legal redress and subject to legal punishment. Others, and notably Robert von Mohl, have recommended the re-establishment, in modern form, of the representation of the guild, by giving to each organization of the community, be it a trade, profession or voluntary association of political opinion, and also to all large classes, such as agriculturists, manufacturers, merchants and the professions, special delegates to represent their special interests, and general delegates to be elected at large or appointed by the crown, such special delegates to be chosen by them, in certain proportions corresponding to the importance of such interests to the commonwealth. Lastly, there is a class of publicists and political economists who have suggested minority or totality representation as the means best adapted to redress the evils of the existing political conditions in relation to representative government. Thus they would, indirectly but naturally, introduce into the modern state something analogous to the guild or trade representation which existed in the mediæval communities, by recognizing as units of representation voluntary constituencies framed to represent electoral quotas. These units are to be substituted for existing arbitrary geographical divisions, and, by enfranchising the minority and giving each man his due proportion of political power in representation, reconstitute political organizations, acting as a solvent of existing machines, so that there shall no longer be majorities and minorities, but an entire reformation of political entities for purposes of representation. — We shall now pass in review these several methods of reform of an undoubted existing evil, to see which will answer best the purpose to meet the exigencies of a modern democratic community. — The objection to the foreign vote is one that increases in intensity as we descend in the scale of the dignity of the legislative or representative body, from the national to the municipal organization. The federal legislature has no distinctive foreign element in it, and the opinions of congress have been so little tinged with the emigration influences, that, with the exception of a few demagogues who desire to curry favor with the Fenian element, by inveighing against the English government, there is no danger, which requires the enforcement of reformatory measures, of bad national legislation arising from the ignorance or prejudices of the naturalized voter. In state governments the foreign element makes itself more strongly felt. On questions affecting temperance legislation and excise laws, in matters relating to taxation and in labor legislation, the German and the Irish voters have exercised influences which may be deemed by some pernicious. On the relation of labor to capital, the employment of convicts in competition with the trades, in the regulation of the hours of labor, and in the authority given to municipalities to contract for labor, ideas have been transplanted from the trades-unionism of other countries upon our statute books directly traceable to foreign ideas. In municipal administration the evil of the foreign vote has been more strongly felt. It so happens that the foreign elements of large cities also comprise a very large proportion of the poorest inhabitants of the cities, and there is, therefore, not an unnatural association of ideas in coupling the foreign element with the lowest class of voters. As a city administration deals almost wholly with property interests, the application of universal suffrage to administrations of that character has resulted in throwing the power to levy taxes into the hands of the men who are the largest consumers of taxes and the smallest direct contributors to the city treasury. Consequently, the objection to what is called the foreign vote has been strongest felt and most strongly expressed in municipalities wherein it is coupled with the vote of the poor, who have so managed that in less than a generation the city debts of the United States have been trebled and their taxes doubled. — The advocacy of female suffrage as a remedy for the evils of representation, arises from an entire misconception of the nature and character of the suffrage and of representation. It is treated by these advocates as an inborn right instead of a trust. They regard the refusal to allow an individual to vote, as a deprivation of something which is in the nature of his property, and the denial of representation, therefore, as an injustice. All institutions of government are practical establishments for the purpose of securing the well-being of society. To secure the well-being of society, it is necessary that

the most intelligent and best instructed members of it should, in so far as regulation is necessary, regulate those affairs. If universal, including female, suffrage secures that end, then it is wholesome. If it fails to secure that end, it is mischievous. The difficulty with universal suffrage and majority representation is, that it enables the least instructed, who are the most numerous, to swamp and silence the better instructed, who are in every community the fewest. Doubling the number of voters by adding voters of precisely the same class, individual for individual, can not, by any possibility, remove that difficulty, but inevitably will have the tendency to strengthen it. Assuming, what is open to debate, that women are intellectually as strong as men, and assuming also, contrary to the fact, that they have as large an experience as men have in affairs with which legislation has to deal, the adding of all the women of the United States to the poll lists, is simply adding to the enormous numerical preponderance of the lower-class vote, intellectually considered, over the better-class vote, intellectually considered. The laborer's wife, sharing the laborer's household and the laborer's interests, will inevitably share his prejudices and his influences. She is also sure to be driven to the polls, or will voluntarily go there, under the pressure of some supposed personal benefit to be derived from the exercise of the vote, particularly in cities where large expenditures directly interest so large a proportion of the working classes. As a matter of fact for many years to come, were female suffrage introduced, the most refined women would, for stronger reasons than those which influence the men of the household and cause them to abstain from going to the polls, also induce the women to refrain from going to the polls, and compulsion would not be exercised upon them to overcome their disinclination. Therefore, as to this class of voters, the proportion of the lower-class votes would be even larger than it is among the men; and in a community which simply counts votes without weighing them, all the evils that arise from an absence of discrimination as to who casts the votes, will be very naturally intensified by the adoption of the suggestions of the female suffragists. — The reform which seeks to make the nominating convention and the caucus amenable to the restraining influence of the criminal law, is one which is wholesome and necessary, so far as it goes. It is only not sufficiently far reaching successfully to cope with the deeper-seated ills of the body politic. It is not only the exclusive devotion to the business of politics which gives to the politician his great advantage over the average citizen, but also that he is willing to resort to trick, device and fraud for the purpose of perpetuating his power. Primary meetings, therefore, where each citizen is supposed to enact the initiative steps for the calling of a convention, and the appointing of representatives to a convention which shall express the party will, both as to platforms and as to individuals for office, have become mere hotbeds of fraud and intimidation. It is a melancholy truth, which is attested by the history of party organizations in every densely crowded centre of the United States, that the primaries are called simply to register foregone conclusions, and to delegate as the so-called representatives of certain districts, men who have been previously agreed upon by a junta of politicians. These politicians call the primaries and appoint inspectors of elections, and the few people who are not deterred from attendance by the disreputable character of the place where the primary is held, or by the character of those who are expected to do the work of the primary, may vote as they see fit; the counting is done by inspectors previously appointed, who will inevitably return the names that were given them to be returned, whether such names receive a majority or minority of the votes. To protect, therefore, these actions of citizens, or the supposed actions of citizens, exercising their capacity as freemen, to set in motion the necessary machinery to secure the selection of candidates, is a duty which is imposed upon the law, and which has been hitherto neglected by the ignoring of these meetings as necessary elements of constitutional government. If it is necessary to protect a citizen from having his name forged to a piece of paper jeoparding a hundred dollars of his property, it is as clearly the duty of the law maker to prevent falsification or forgery of his will in the expression of political opinion or preference when he has been invited to attend a meeting, and his opinion or preference is likely to produce tangible practical results. Already in the state of New York a law, with limited application, has been made to protect primaries in certain localities, in the same manner as the voter's preferences are protected at the polls, and this principle is likely to prevail until there is spread upon the statute books of all the states of the Union, and of the nation, laws protecting the citizen's exercise of rights in that regard. — The ideas of Robert von Mohl, on re-establishing, in modern democratic society, the forms of representation which prevailed in the middle ages, in which interests and not persons were represented, are worthy of more regard and attention than has been given to them. The English parliament has grown up in so incongruous a fashion, that, down to a very recent period, when the rotten boroughs were disfranchised and some towns given a fair representation, Chief Justice Story's description was literally and exactly true. He says: "It might be urged that it is far from being secure, upon reason of experience, that uniformity in the composition of a representative body is either desirable or expedient, founded in sounder policy, or more promotive of the general good, than a mixed system embracing and representing and combining distinct interests, classes and opinions. In England the house of commons is a representative body founded upon no uniform principle either of numbers or classes or places. The representation is made up of persons chosen by electors having very different and sometimes very discordant qualifications. In some cases property is ex-

clusively represented; in others, particular trades and pursuits; in others, inhabitancy and corporate privileges; in others, the reverse." (The universities have representatives.) "In some cases the representatives are chosen by very numerous voters; in others, by very few. In some cases a single patron possesses the single power of choosing representatives, as in nomination boroughs; in others, very populous cities have no right to choose, and have no representatives at all. In some cases a select body forming but a very small part of the inhabitants has the exclusive right of choice; in others, non-residents can control the whole election. In some places half a million of inhabitants possess the right to choose no more representatives than are assigned to the most insignificant borough with scarcely an inhabitant to point out its local limits. Yet this inequality has never, of itself, been deemed an exclusive evil in Great Britain. And in every system of reform which has found public favor in that country, many of these diversities have been embodied from choice, as important checks upon undue legislation, as facilitating the representation of different interests and different opinions, and as thus securing, by a well-balanced and intelligent representation of all the various classes of society, a permanent protection of the public liberties of the people, and a firm security of the private rights of persons and of property." (Story on the Constitution, sec. 585.) Now, what is done in this prescriptive and crude fashion by the gradual growth of the English constitution, and which is embodied in the house of commons, which not merely represents geographical districts, but represents all the various interests of society in Great Britain, Robert von Mohl proposes to do in a community in a systematic and logical form. Taking the classifications of society as they exist, as landowners, as agriculturists, as merchants, shippers and manufacturers, he would give to each class, representation in proportion, first, to their numerical strength, and secondly, to their importance to the state. To the religious organizations, to the political organizations, he would assign representation. To the association or organization of the manufacturer, as well as to the trades union of his employés, representation would be given according to his plan in certain qualitative proportions. He would have these organizations, like the guilds of the middle ages, depute their delegates to a central body. Speaking, as he does, in a community in which the crown was to his mind an integral part of the state, he would give to the crown the appointment of general delegates in a certain proportion to represent the commonwealth. Eliminating this royal intervention from his plan, as not a necessary part of it, general delegates might be elected by general ticket on the part of the whole community to sit with these delegates of the special trades combinations and industries of the community. Indeed, he himself is in doubt whether general delegates are at all necessary, because, he says, all these special delegates have an interest in the general public weal, but are to be considered as more truly representative, than geographical divisions constitute them, of the actual living interests of the whole community. He draws attention to the fact that whenever a trade or special organization places at its head its representative man by an election for president or director, it is generally the strongest man among them; and that in no community in which geographical subdivisions and majority votes are taken, is such a result brought about. He, therefore, would have these special interests recognized by law. When these deputed spokesmen are gathered together into a general assembly, in due proportions, they would together represent all the interests as they exist outside of the representative chamber, and thereby be, in point of fact, a reduced photograph of the whole community. The professions would be represented by their ablest men; the trades by their ablest men; and upon every question affecting any special interests, the highest technical skill would, within the representative body, be instantly available for information as to how proposed legislation will affect such interests. — Those who have recommended reverting to the smaller constituencies, like the old Saxon hundred, so as to give opportunity for deliberation, and to place this deliberative community of a hundred under the protection of the law, so that its will as expressed in conventions or meetings shall not be fraudulently falsified, are working in the same direction with those who seek to legalize the nominating conventions. The adherents of this plan are yet too feeble in numbers, and their scheme is too remote from the practical habits of the people, to be thought of as a scheme likely to prove acceptable, and hence it can be dismissed for the present from this discussion. — The double-election scheme has very much to commend it. Of this view Mr. Clark, whose work has already been cited, is the ablest exponent. He says, that the difficulty is, first, the actual and necessary ignorance of the great majority of voters, both as to whom they are voting for and what they are voting about; second, their utter inability to unite of and among themselves upon representative candidates for office; and third, political organizations, which started to help the people in this embarrassment, have, by the logic of the situation, become their corrupt and corrupting masters. To remedy this, he proposes that in every town ward or other civil division that exceeds two thousand in population, the registered votes be divided by lot into five, nine, or any other number, of equal sections or squads; that they shall be drawn as jurors are drawn, and that each of these lists or squads shall constitute a primary electoral constituency; that the respective squads shall vote for a representation of electors for their own constituency; that these representative electors shall appoint the ward officers; that these electoral colleges of the ward shall again designate one or more electors to represent them and the people for whom they act in a higher

rank of colleges for the appointment of mayors, county officers, members of the state legislature and the house of representatives. He thus calls out the voter; he compels the performance of the duty of voting on pain of disfranchisement, and compels the performance of services as elector by heavy penalties. The experience of France is strongly in favor of double voting. Mr. Taine, in his book "On the Suffrage," has expressed his preference for this form of election over that of any other, and supports it with cogent philosophical and logical reasoning. The failure of the electoral college is in itself no cogent reason against double elections, because it can easily be shown that it was so defectively organized as to take from it at the outset all character as a deliberative body. — Those who favor a property qualification are mainly reformers of municipal organizations. The few qualifications in the way of ownership of property which existed under the constitutions of the various states of the Union as conditions for the vote for state officers, have gradually been swept away, and the question seems to be on subjects relating to state and national administration no longer open to debate. With reference to municipal administration, however, a different question is presented. Upon that point even Mr. Mill, than whom no stronger advocate for the extension of the suffrage and for the liberty of the people existed, says, on page 176 of his "Considerations on Representative Government," that, "it is important that the assembly which votes the taxes, either general or local, should be elected exclusively by those who pay something toward the tax imposed. Those who pay no taxes, disposing by their votes of other people's money, have every motive to be lavish and none to economize. As far as money matters are concerned, any power of voting possessed by them is a violation of the fundamental principle of free government, a severance of the power of control from the interest in its beneficial exercise. It amounts to allowing them to put their hands into other people's pockets for any purpose which they think fit to call a public one, which in great towns of the United States is known to have produced a scale of local taxation onerous beyond example, and wholly borne by the wealthier classes. That representation should be coextensive with taxation, not stopping short of it, but also not going beyond it, is in accordance with the theory of British institutions." It is generally forgotten that municipal administration is but to a very limited degree a governmental, and to a very large extent the mere cooperative management of property; that the suffrage is a sword as well as a shield, and that the power which enables the holder of the suffrage to protect himself from the aggressions of others is likewise a power by which he may aggress upon the rights of others, the two being inseparable; that, therefore, giving, under the forms of universal suffrage, the vast mass of people in a densely populated city the power to place mortgages upon the properties of its wealthier class, the proceeds of which are to be expended for the personal enjoyment of the masses who have not saved property, is, under the guise of law, to organize communism and confiscation. So jealous, however, are the American people of the right of universal suffrage in all matters relating to government, that they will not make the distinction which in the nature of things is proper to be made, by withdrawing in part, at least, municipal administration from the widest application of universal suffrage, lest, by such a precedent, danger may creep in, and the people gradually become accustomed to the withdrawal of political power, in matters in which all have a like interest, to wit, their state and national administrations. — Those who found their hope of reform upon the limitation of the suffrage arising from the applicatiou of a standard of qualifications of an intellectual or an educational character, are fighting against the tendencies of the times, and are but little likely to prevail. They also can base their well-grounded objections to counting instead of weighing votes upon the authority of Mr. Mill, who, in the work already cited, says: "In all human affairs every person directly interested, and not under positive tutelage, has an admitted claim to a voice, and, when his exercise of it is not inconsistent with the safety of the whole, can not justly be excluded from it. But (though every one ought to have a voice) that every one should have an equal voice is a totally different proposition. When two persons who have a joint interest in any business differ in opinion, does justice require that both opinions shall be held of exactly equal value? The opinion, the judgment of the higher moral or intellectual being is worth more than that of the inferior, and if the institutions of the country virtually assert that they are of the same value, they assert the thing which is not." He therefore says, that "two or more votes might be allowed to every person who exercises any superior function. The liberal professions imply a still higher degree of instruction, and whenever a sufficient examination or any serious conditions of education are required before entering upon a profession, its members could be admitted at once to a plurality of votes. The same rule might be applied to graduates of universities. All these suggestions," he says, "are open to discussion as to details, but," he concludes, "it is to me evident that in this direction lies the true ideal of representative government, and that to work toward it by the best practical contrivances which can be found, is the path of real political improvement." The extent to which he would carry this plurality of votes he does not commit himself to, but insists that it should not be carried to any point which would enable a few to outnumber the great mass of the community, but that it shall be carried far enough to prevent the more intelligent from being overslaughed at the polls by the less instructed. — We now come to treat of the most radical, while at the same time

the most natural, reform of the evils of representative government—that which is known as totality or minority representation. When a single person is to appoint an agent, there is no difficulty except as to a wise selection. When two people are to appoint an agent, there may be divergence of opinion as to the agent to be appointed, and except by agreement there is no possibility to make an appointment. When three people are to appoint an agent, if there is but one agent to be appointed, then must necessarily be given to the majority of the three the right to appoint. It is true that the minority might as well have no voice at all after the agent is appointed against his wishes, because his views are not likely to prevail with the agent. If a hundred men are to appoint a single agent, again must be given to the majority of fifty-one or more the right to appoint that agent, as the only practical solution for the difficulty of the situation. But if the hundred men have five agents to appoint, to give to fifty-one the power to appoint all five, and to leave the forty-nine wholly and completely unrepresented in the agency, is an injustice which is gratuitous, and not in the least justified by the necessity of the situation. It is just as easy to take the vote of the constituency of a hundred upon a plan which shall secure to each quota, of twenty men each, the right to a representative, as to take the vote upon the existing plan of majorities and minorities. The result, however, in one case is to make the representation of five, when elected by squads of twenty each, an actual reduced photograph of the wishes and will of the hundred as far as practically ascertainable, and in the other case the representation will merely represent the wishes and will of the majority, and probably, from the excitement of the election in which the minority were beaten, oppose the views of such minority with vehemence and bitterness. Therefore the minority are not only not represented, but are frequently maliciously pursued by the representatives of their constituency for their effort to defeat the representatives; and as their constant agitation to become the majority endangers the representatives' seats, they will attempt in every way to thwart the minority of their own constituency. A perpetual antagonism is, therefore, created in constituencies, and between constituencies and their representatives, which ought not in the nature of things to exist, and for which there is no necessity. Dividing the number of voters by the number of representatives to be elected, and giving to the quotient an absolute right to return one member, is, it is true, a great revolution in modern political practice, but is, nevertheless, absolutely the only means by which some of the most flagrant evils incident to representative institutions can be cured. — Whoever may be entitled to the merit of first devising this great improvement in the machinery of representative institutions, whether it be Earl Gray, Mr. Craig of England, or Mr. Fisher of Pennsylvania, its ablest and foremost exponent, who has devoted a lifetime to its explanation and exposition, is Mr. Thomas Hare, of England. The draft of a new law of parliamentary representation contained in his work, "On Representation," is commented on by John Stuart Mill as having "the unparalleled merit of carrying out a great principle of government in a manner approaching to ideal perfection as regards the special object in view, while it attains incidentally several other ends of scarcely inferior importance." His plan is, through the instrumentality of the voter's own choice as expressed upon an election ticket, to secure the transfer of his votes, whenever the voter's first choice has already been elected, or in the event of the voter's first choice not securing enough votes for an election; so that no votes are wasted. In a constituency which is to return say, eight members of congress, the voters declare, in the order in which they prefer to be represented, their preference for eight or as many more persons as they see fit to put upon their tickets. When the election officers come to count the votes, they will find a certain number of persons as first choices, whose election is secured by obtaining the requisite quota—the quota to be ascertained by dividing the number of seats to be filled, plus one, by the number of votes cast at the election. The object of making the divisor larger by one than the actual number of seats to be filled, is to diminish the chances of an equal number of votes or ties, and to increase the chances of filling seats without resorting to approximate or transferred quotas. The votes are thereupon transferred to the other choices in the manner designated by Mr. Hare. To this plan it is not necessary further to advert in this article.— A still greater simplification to secure minority representation is to allow voters to vote but for single names in large districts, and to give to the representative in the representative body one vote for every hundred or thousand or ten thousand votes cast for him. To prevent the representative body from being too large an organization, a minimum must be established, that no one shall be considered elected who has not received 5,000 votes. To prevent too small a body, a maximum must be fixed beyond which a representative's additional votes shall not give him additional votes in the house. If 5,000 votes is the minimum, the representative might be regarded as having one vote for the first 5,000, and an additional vote for every 5,000 that have been cast in addition for him. This would enable communities to select popular men in whom they have confidence, and give to them a plurality of votes, and yet prevent the minority from being excluded from the representative chamber. Many other plans have been suggested by other writers. The list plan of Geneva, elaborated mainly by Ernst Naville; the minority representation plan of Mr Andrae; the plans of Messrs. Droop, Bailey and Dobbs, and the cumulative plan, all seek to attain the same object in different ways, and each has its special merit and defects; but the great object to be attained by minority representation is the breaking

up of the existing political machinery, the tyranny and the power of which exists simply because machinery of some kind is a necessity to organize a majority in the district, by making bargains and dickers and arrangements to capture votes here and votes there, so as to secure representation. To be in the minority is to be disfranchised. With minority representation all this elaborate machinery becomes needless. Citizens will be represented in proportion to their numerical strength, through the instrumentality of the very slightest organization, and they are encouraged to organize, as the task set before them is not an almost hopeless one, as it is made under existing conditions to the non-political class, whereby it is compelled to put forth a powerful effort, which may result in no success at all, which is extremely costly in time and money, and which is wholly lost unless a majority of all the votes is secured. Giving political power in proportion to the effort put forth, is one of the first beneficial results arising from minority representation. — The second advantageous result arising from this system of election, is the facility it will afford to the intellectual part of the community to secure a representation in town councils, legislative chambers and the halls of congress, which is now absolutely denied to them. Every form of public opinion, as it grows in strength, would have its strength actually measured and its growth watched by the increase of representatives, and the representatives would, under those circumstances, always be the strongest and ablest men holding such opinions. Had such a system, by any fortunate accident, existed prior to the civil war, the south would have discovered the growth of the anti-slavery sentiment in the north before it was overwhelmed by it, and even a hopeless minority in the south who were opposed to slavery, and the minority in the south who were in favor of the Union at all hazards, would have had their representatives in Congress, and the controversy on slavery would have been less sectional than, under a false system of taking votes, it was made to appear to be. Free traders would have their representatives in congress; the anti-monopolist's voice would be heard long before it became that of a majority, and parties would again become standard bearers of principle, instead of, as now, mere followers of political principles, in the expectation of catching votes —a demoralized condition, created by the false importance in a majority system of the floating vote, which induces parties quite as often to deny their own cherished political principles from the fear of losing votes by the advocacy of what for the time the leaders suppose to be obnoxious to the popular will, just as they frequently insincerely adopt political principles in the expectation of catching small sections of voters. "Nothing but habit and old associations," says Mr. Mill, "can reconcile any reasonable being to the needless injustice of this mere majority representation. In a really equal democracy every order in the section would be represented, not disproportionately but proportionately. A majority of the electors would always have a majority of the representatives, but a minority of the electors would always have a minority of the representatives. Unless this be so, there is no equal government, but a government of inequality and privilege. One part of the people rule over the rest. There is a part whose fair and equal share of influence in representation is withheld from them, contrary to all just government, but above all, contrary to the principle of democracy, which professes equality as its very root and foundation." Incidentally be it mentioned that this plan would secure to a capable man a career in political life as secure as in any profession, as he would not be dependent on the accidental majority of his district, but could always rely upon obtaining a quota vote. — The cowardice of modern political parties is best indicated by the fact that no party in the United States dares, in modern days, ever present its strongest man for the presidency, because, having been long in the public eye, he is sure to have offended a great number of voters whose adhesion is necessary to make a majority. Availability, therefore, takes the place of true ability. The adoption of minority representation also solves, in advance, all the objections to the extension of the suffrage, and would secure to the tax payer by combination, what it is impossible for him to secure now in relation to municipal administration—a strong contingent of representatives of the tax payer in the city councils, to act as a check and brake on extravagant expenditures. If the scheme of minority representation is extended, by making large districts and numerous representatives from such districts, it would also give within party lines such independent action as to create a balance-of-power party within the party, and would thus forever destroy the supremacy of halls and juntas, who hold their power simply because the alternative presented to the voter is to accept their candidate or the candidate of a hall or organization equally bad but belonging to the opposing political organization. — To the objection that may be urged, that minority representation would secure to the sinister elements of a community a representation if they saw fit to combine, the answer is, that it is better that the representative of the sinister elements should be known as such, than that a private arrangement be made with the sinister elements of a community by which they secure surreptitiously and secretly several representatives on condition of their support, and thus obtain by bargain a very much larger share than they could obtain by right. — The one formidable objection to the whole scheme of minority representation, and which is really the price that the community must pay for the total representation of the community, is, that it has a tendency to prevent the spirit of compromise and mutual forbearance, which party has a tendency to create. The community would possibly split up into too many segments. Opportunity of representation being afforded to small

quotas, the Catholic, the Jew, the infidel, might secure separate representation, and thus intensify religious feeling. Workingmen and capitalists might secure separate representation; and thus the same reason which would make minority representation act as a solvent of political parties, might result in its acting as a solvent on constituencies which ought to be held together in the bands of party, thereby cultivating mutual good will, which probably would not exist were their parts to be exclusively committed to their own class for political action. The only answer to this position is the universal experience of mankind, that the instant men are clothed with the responsibility of government, acerbity is lessened, and the intolerance which characterizes them as sectaries or partisans without political power is diminished. To give to minorities, therefore, who now have no chance of representation, an opportunity to have their voices heard, coupled with the responsibility that their recommendations must be put in practicable shape for legislation, and that the responsibility of such legislation rests upon their shoulders if adopted by the majority, has in itself a very sobering influence on all violent and extreme opinions, and subjects them to the severest tests to which opinions can be subjected, that of discussion with well-trained adverse opinions, and that of practicability to frame statutes to enforce such opinions. — Admitting Catholics and Jews to parliament was opposed, on the ground that, in the one case, a superior allegiance was considered due from the Catholic to the pope, and in the other case, that the Jew regarded every country in which he lived as but a mere resting place, that his true home was in Palestine, and that these convictions made both sects unpatriotic. Their admission, however, has proved how utterly groundless was this objection; that there are no more patriotic members of parliament than the Catholics and the Jews, is now past controversy. Indeed, in all matters of legislation the religious conviction scarcely ever comes to the surface, except where it is necessary for the purpose of preventing some act of intolerance to formulate itself into law. — In boards of direction of corporations the adoption of a minority scheme of representation would be the most absolute security to insure continuity of direction and purpose in a less objectionable form than the adoption of a classification scheme, by which only a few of the directors go out each year, and would also prevent the possibility of a capture of a corporation through the instrumentality of proxies representing fictitious holdings, borrowings of stock, etc., by which great corporations have been depleted and the interests of the stockholders wholly disregarded. Even if the majority of the board of direction would truly represent the majority of the stockholding interest, a watchful and alert minority would prevent the diverting of the property and management of the road to sinister purposes, and be a check more efficacious than are courts or laws to prevent corporate mismanagement. — Finally, we must recognize, with reference to governmental machinery, that it, like all machinery devised by men, must be progressively improved to adapt it to the varying needs of society. The devices to prevent tyranny and oppression which answered the purposes of the people against the kingly power of a John, a Charles or a George are as little adapted to modern society as is the crude machinery of those periods to the necessities of man in civilized life at the present day. For the satisfaction of all physical wants immense progress has been made in every direction. The art of government, however, has not been so progressive. The safe maker has kept pace with, and is a little in advance of, the skill of the burglar. The art of government has not kept pace with the skill and ingenuity of those who require its restraining influences. The oppression which in former periods exhibited itself on the banks of the Rhine, by a robber baron sweeping down upon a rich neighboring community and depleting it of its movable property, or by his kin in spirit, locking up in his dungeon keep some rich Jew, and drawing his teeth until he disgorged his wealth, now manifests itself in corporate management in stock waterings, and in confiscation under the guise of taxation, in river and harbor bills, in protective tariffs, and thousands of other forms which are tyranny and exaction disguised under specious names to hide their nature, and clothed with the machinery of government itself to make the imposture complete. To destroy these malignant abuses of governmental machinery, effort must be made to give the government back to the people, freed from the organization which assumes to act for the people, but which misrepresents and abuses them. There is, therefore, no art or science to which the human intellect can devote itself of a more practical and immediately beneficial nature than reforms in representation, which lie at the bottom and root of modern government, so as to make representative bodies the true exponents of popular interests instead of fraudulent representatives of the popular will. "Representation should effect for the nation," says Mirabeau, "what a chart does for the physical configuration of the soil—producing not only a reduced picture of the whole of the people, but also representing their classes, their aspirations, wishes and opinions." The body of representatives should produce on the mind of the student of a nation's social constituencies an effect similar to that produced on its territory, in representing its mountains and dales, its rivers and lakes, forests and plains, cities and towns. The finer should not be crushed out by the more massive substances, and the latter not be excluded. The proportions are organic, the scale is national.

SIMON STERNE.

REPRESENTATIVE DEMOCRACY. (See DEMOCRACY, REPRESENTATIVE.)

REPUBLIC. This form of government is no more independent than the monarchical of the historical, geographical, ethnographical, and, above all, moral conditions, which seem to predestine a people to one or the other, by not leaving it the liberty of choice between them except within rather restricted limits. From this point of view, all abstract comparison of the intrinsic merits of monarchies and republics might seem superfluous, and there would be occasion to ask one's self whether the platonic love of a monarchy in countries with republican manners and customs, or of the republican enthusiasm which possesses some young minds or some generous imaginations in countries called by their inmost nature and their past to hereditary monarchy, are not chimeras which should be dispelled, and dangers which we should endeavor to avert. — Without contesting whatever truth there may be in such a conclusion, we think that the forms of government may and should be compared with each other and considered in themselves, and that it is the task of the publicist, all due reservation being made in consideration of what is possible in time and place, to investigate their value, and to point out that which constitutes their merits and their defects. Thus the publicist, the least likely to be misled by deceptive appearances, and the most determined to settle, in the choice of his political opinions, upon what he judges to be actually practicable, will not scorn the enthusiasm which a republic awakens in noble minds, and he will examine whether it does not partake of an ideal beauty for which he should have some regard both as one of the elements of the judgment which he passes on the republic, and of the influence which it exercises. He will thus discover that elevated thought, lofty and powerful sentiments, are connected with the idea of a republic. In monarchies the devotion of man to man occupies a large place, and far be it from us to deny what it presents of the touching, and sometimes of the heroic, or to question what it has in it compatible with a love of the public welfare; but it is less pure and less sublime than that devotion which is directed to something superior to man himself, that is, to the fatherland, to the law, to the state. All selfish prejudice, all personal calculation, every fancy foreign to the general interest, seems to disappear in this generous sacrifice of each to all, and of the littleness of the individual to the greatness of justice. To the idea of devotedness, to that of an entirely stoical disinterestedness, is added another idea not less severe, and more attractive because it is more natural, that of equality united to liberty. Equality is to such an extent the passion of republican minds that the most aristocratic republics are no exception to it; only the practice and the worship of equality are concentrated within a limited circle, instead of extending to all the citizens. It is to equality that all, in a republican aristocracy, sacrifice themselves; it is to it that they do not hesitate to sacrifice the most illustrious heads; it is equality which impels, in spite of himself, in a manner, a Brutus to arm himself against a Cæsar. This shows us the nature and the end of the republic; it is a government founded upon general interest and equality, the motive power of which are disinterestedness, devotedness, and, let us add, popularity, with the honors which it confers. If all think they find their advantage in this form of government, it is on the supreme condition of defending, at the cost of the greatest struggles, a good, precious from the double point of view of individual dignity and of utility. This is why the most generous dreamers as well as the most rigorous logicians come, by some sort of instinct, to the idea of a republic. This is why it has produced so many virtues, of the sublimest kind, offered by history to the admiration of future generations. — But what constitutes the greatness of this form of government is also the source of its difficulties and dangers, which no clearsighted republican can deny. Equality, which is the soul of republics, encounters two formidable enemies: ambition, which conspires against it, and envy, which exaggerates it. The former can not be resigned to accept the yoke of a law, the same for all; the latter rebels against the superiority of fortune and of merit; it tries to level the one, and devotes itself to railing at the other. Taxation directed against the rich, schemes of agrarian law, privileges in favor of the poor, suspicions of the well-to-do and enlightened part of the population —all these spring up in republics. "For," says the old publicist, Jean Bodin, with a severity which is not exaggerated if applied to the past, "the real natural disposition of a people is to have full liberty without any restraint or curb whatever, to have all equal in goods, in honors, in punishments, in rewards, without any regard to rank, or knowledge, or virtue." Who does not know that, up to the present time, great citizens in republics have always had to defend themselves (and sometimes without success) against calumny? If favor has its vicissitudes in a monarchy, how few reputations in republics withstand the exercise of power for however short a time. To what contumely in the most irreproachable of republics, the United States, so often cited as a model, were their Washingtons, Hamiltons and Madisons not exposed? What accusations against their generals in the ancient republics of Greece! What terrible changes of popularity and what bloody sacrifices to that capricious power, in the short and stormy attempt at a republic made by France in 1793! The moderate republic of 1848 did not sully herself with blood; she spilt it only in the arena of civil war, when that of the best citizens flowed voluntarily in the service of public order. But did any one's popularity last longer than three months? Was this the fault solely of the men who governed? Be that as it may, there is not a historian, not an enlightened publicist, who has not declared that jealousy, suspicion, and the spirit of change, are the especial dangers of republics, as favoritism and intrigue are those of monarchies. But the first-named vices are those

of the majority; the second belong to only a small number. Thence comes the expression which is never applied to a monarchy, that a people is not *ripe* for a republic. In fact, equality requires customs and manners, a character and an education suited to it. The same may be said of liberty which every republic proclaims as being of its very essence, and without which there would be no equality but the sad and shameful equality of servitude. No doubt a form of government which constantly involves individual responsibility, and often subjects it to severe tests, presents especial difficulties. To govern one's self and to take part in public affairs, an amount of intelligence and a mixture of firmness and moderation are needed which are not everywhere distributed in sufficient quantity to establish a regular and stable state of affairs. Number being, in the name of equality, one of the essential elements of republican institutions, if the corrupt, the incapable, those who are easily seduced and led away, get the ascendency, all is lost. There must then be either anarchy or a master; there is no middle path. These are so fully understood to be the dangers of a republic that there is no republican constitution which does not undertake, to a greater or less degree, to foresee and in some measure guard against them. But republican constitutions do not always do this sufficiently, or else they are themselves but powerless dikes, swept away by the impetuous current of human passions. — It is of the essence of a democratic republic to fill by election a portion of the offices which monarchy fills by hereditary transmission. It is reason alone which is regarded as governing in a republic. Now, reason excludes chance and those artificial privileges instituted in the interest of conservation. Monarchies, even constitutional monarchies, are full of fictions and conventions. A republic judges them unworthy of men arrived at political maturity, and useless to preserve society from revolution. Consequently it eliminates them, being replete with confidence in the upright will and enlightened capacity of the people. If this confidence is justified, the republican form is maintained and prospers. If not, the republican form is impaired and destroyed, either by slow dissolution or by a violent downfall. — Says Montesquieu, "Government is like all other things in the world: to preserve it, it must be loved. No one has ever heard it said that kings do not love monarchy, or that despots hate despotism." A republic can be no exception; to establish it in a country, it does not suffice that a minority desire it, or even wish to impose it; *there must be a nation of republicans as willing to receive it as capable of upholding it.* — It has been sometimes said that the difficulty consists in reconciling a monarchy with liberty and a republic with order. There would be at least as much truth in the reverse proposition. A non-absolute monarchy, giving satisfaction by lifelong and hereditary power to the want of conservation, is less fearful of liberty, if liberty enters into and keeps its pledge to respect the royal establishment. That establishment has no interest to threaten liberty; it has, on the contrary, every interest to take care of it. This care is the price of the force of public opinion which sustains it. In republics, liberty, recognized as sovereign in principle, runs serious risks. The power, under the form which best represents order in the eyes of the nation, is temporary. Hence the necessity of arming it in an exceptional way, or of arming one's self against its possible encroachments, or by precautions which are embarrassing to all. The majority oppresses the minority, or else the minority governs through terror. If we can not see in this a fatal and inevitable law, it has at least been, up to the present time, the history of the greater number of republics. Another cause threatens liberty: its own excesses. Too frequently have we seen republics knowing no alternative but excessive or suspended liberty. Happy were they when this suspension of liberty did not end in its suppression, and when temporary dictatorships were not changed into a lasting tyranny! — The error of the greater part of the republican schools has until now consisted in believing that a republic had not to solve the problem of equilibrium; that it is a government of absolute simplicity, and has no need of being tempered. This thought has led some to the idea of a direct government of the people, excluding even a representative government; an idea which caused the author of *L'Esprit des lois* to say: "There was one great defect in most of the ancient republics: that in them the people believed they had the right to make *active* resolutions requiring some sort of execution, a thing of which the people is utterly incapable. The people should not enter into the government except to choose their representatives, which is quite within their power. For, if there are but few people who know the precise degree of men's capacity, each one is nevertheless capable of knowing in general if the one whom he chooses is more enlightened than most others." The same opinion as to absolute simplicity has led other politicians to the idea of a civic assembly. Experience, as well as reason, teaches that republics can not, save at the risk of death, abandon themselves to the descending plane or declivity of a civic principle or element. There is no society which does not contain natural aristocracies of experience, learning, age, etc., within it. And, on the other hand, there is no society, however strongly organized its privileges may be, in which the masses are not important, and do not count for something in the state. Notwithstanding their inclination to exaggerate simplicity and to crush out whatever obstructed the full expansion of their principle, the constitutions of antiquity felt this. Aristocratic as was the Roman republic, it modified the power of the senate by means of the tribunes and popular suffrage. Democratic as was Athens, it had the Areopagus. It is true that the wise precautions taken by Solon did not prevent the country of Aristides and Socrates from succumbing to the propensities which hurried it on. The more and

more exclusive predominance of the popular element produced disorders there, the undying remembrance of which is preserved by history, as a lesson to democracies, present or future, which choose not to recognize any restraint.—The United States itself has endeavored to combine the different powers in such a manner as to secure respect for the law against the changeable will of the multitude. The president possesses extensive powers, and, in spite of pure ultra-republican theory, there is a moderating senate side by side with the popular assembly, or house of representatives. Any *constitution*, monarchical, republican, aristocratic or democratic, *which does not distrust its own principle*, at the same time that it does all it can to establish it on a solid basis, *is a bad constitution*. — The excessively unitarian and centralizing propensities which govern in some countries, make this observation especially opportune. A republic which should have only a very centralized power, with no independent powers to act as a counterpoise, would run the risk of becoming more oppressive than a monarchy. If to this cause of oppression should be added the necessity of being on the defensive in order to resist either hostile parties within, or menaces from without, it is clear that liberty would be exposed to painful disappointment. Every liberal republic involves a certain amount of administration. What were the republics of Greece and the Italian republics of the middle ages? Brilliant municipalities. American federalism is not necessarily the form of a free republic, but a certain amount of decentralization seems to us to be an indispensable condition for such a republic. A free republic can be understood only where much is left to individuals and to associations. Otherwise, what result would have been obtained by so many revolutions? A change of name! But of what consequence is it to the world whether an omnipotent government call itself a monarchy or a republic?

HENRI BAUDRILLART.

REPUBLICAN PARTY (IN U. S. HISTORY), the name, 1, of the original democratic party (see DEMOCRATIC PARTY, I.), and, 2, of the most powerful opponent of the democratic party, 1854–82. In the latter case, it seems to have been assumed, in great measure, for the purpose of making use of the still lingering reverence for the name in the northern states; and yet it seems far more appropriate to its modern than to its original claimant. The original republicans looked upon the Union as a democracy, whose constituent units were not persons, but states; and, hence, the name democratic party, which they finally accepted almost to the exclusion of the name republican, was their proper title. The modern republicans looked upon the Union as a republic of itself, apart from all the states, and able to assert the integrity of its territory against any of the states; and though, like every other American minority, they were ready upon occasion to assert the sovereignty of the states (see STATE SOVEREIGNTY, PERSONAL LIBERTY LAWS), their essential characteristic was that belief in the political existence of the nation which has controlled their whole party history, and given them their claim to the name republican. (See NATION.) From 1854 until 1861 the party was engaged in opposing the extension of slavery to the territories. Since 1861 it has controlled the national government, and has been successful in maintaining the power of the nation to suppress resistance to the laws, even when marshaled under state authority; to establish and control a system of national banks; to compel individuals to contribute money and military service to national defense in time of war, the former by the issue of legal-tender paper money, the latter by drafts; to abolish slavery; to reconstruct the governments of seceding states; to maintain and defend the security of the emancipated race against state laws; to regulate those state elections which directly influence the national government; and to suppress polygamy in the territories. No other political party has, therefore, exerted so enormous an influence upon the essential nature of the government in so short a time. — I.: 1854–61. But one party, the democratic, emerged unbroken, and even increased, from the storm which was settled by the compromise of 1850. For the next five years there were only feeble and discordant efforts to oppose it, by the free-soilers on the slavery question, by the whigs on economic issues, and by the know-nothings on the question of suffrage. The dominant party itself struck the sudden and sharp blow which, in 1854, crystallized the jarring elements of opposition into a single party. The passage of the Kansas-Nebraska bill (see that title), not imperatively demanded by the southern democracy, a quixotic adherence to party dogma by the northern democracy, only served to rouse a general alarm throughout the north. The summer and autumn of 1854 became an era of coalitions in most of the northern states; and the result of the congressional elections of that year was that the "anti-Nebraska men," as the coalitionists were called, obtained a plurality in the house over the democrats and the distinct know-nothings, and elected the speaker. A few members, elected as anti-Nebraska men, turned out to be consistent know-nothings; the remainder, however, still controlled the house. — The elements which went to make up the new party were very various and numerous. 1. Its immediate ancestor was the free-soil party, which joined it bodily. Of its first leaders, Hale, Julian, Chase, C. F. Adams, Sumner, Wilmot, F. P. Blair, and Preston King of New York, were of this class. Many of these, like Chase, were naturally democrats, but had been forced into opposition to their party by its unnecessary deference to the feelings of its southern wing. 2. But these alone could not have formed the basis of a new party. This was supplied by former whigs, either originally anti-slavery, or forced into that attitude by the compromise of 1850. Of this class, Lincoln, Seward, Greeley, Fessenden, Thaddeus Stevens, Sherman,

Dayton, Corwin of Ohio, and Collamer of Vermont, were fair examples. This element, being much the more numerous and influential, controlled the policy of the new party on other points than slavery, and made it a broad-construction party, inclined toward a protective tariff, internal improvements, and government control over banking. 3. Much less numerous was the class, which, originally whig or democratic, had at first entered the know-nothing organization, but drifted into the new party as the struggle against slavery grew hotter. Of this class, Wilson, Banks, Burlingame, Colfax, and Henry Winter Davis, were examples, though some of them had been free-soilers as well as know-nothings. 4. In, but not of, the new party, were the original abolitionists, led by Giddings and Lovejoy in congress, and Garrison and Wendell Phillips out of congress. These were the guerrillas of the party, for whose utterances it did not hold itself responsible, and who were yet always leading it into a stronger opposition to slavery. 5. A fifth class, not so numerous as the second, but fully as important from a party point of view, came directly from the democratic party, Hamlin, Cameron of Pennsylvania, Trumbull of Illinois, Doolittle of Wisconsin, Montgomery Blair, Wm. C. Bryant of New York, and Gideon Wells of Connecticut, being examples. These, and the rank and file represented by them, brought into the new party that feeling of dependence upon the people, and of consideration for the feelings, and even the prejudices, of the people, which the whig party had always lacked. They made the new party a popular party, as the original democrats had made the original republicans a popular party. 6. Last, and generally temporary in their connection, were the "war democrats," who united with the republicans during the war of the rebellion, such as Andrew Johnson, B. F. Butler, Stanton, Holt of Kentucky, McClernand and Logan of Illinois, and Dix, Dickinson, Lyman Tremain, Cochrane and Sickles of New York. Many of these dropped out again after the end of the rebellion; though some, as Butler, Stanton and Logan, were more permanent in their connection. — The unification of all these elements was evidently a difficult and delicate operation, and was only made possible by the transcendent interest in the restriction of slavery; but the fortunate adoption of the name republican, endeared by tradition to former democrats, and not at all objectionable to former whigs, aided materially in the work. Wilson states that this name was settled upon by a meeting of some thirty members of the house, on the day after the passage of the Kansas-Nebraska bill, that is, May 23, 1854; and that the leader of the meeting, Israel Washburn, of Maine, began using the term immediately as a party name. Another contemporaneous movement was in Ripon, Wisconsin, where the name was suggested at a coalition meeting, March 20, 1854, and formally adopted at the state convention in July. The first official adoption of the name is believed to have been at the convention at Jackson, Michigan, July 6, 1854. During this and the next month it was also adopted by state conventions in Maine, Ohio, Indiana, Illinois and Iowa, and may be considered as fairly established, though it was not recognized in congress until the beginning of the next year. — In its first year of existence the new party obtained popular majorities in fifteen of the thirty-one states, and elected eleven United States senators and a plurality of the house of representatives. But these successes were mainly in the west; the eastern states, and particularly New England, resisted the entrance of the new party with tenacity, and kept up the whig and know-nothing organizations through the presidential election of 1856. In December, 1855, the state committees of Ohio, Massachusetts, Pennsylvania, Vermont, Wisconsin and Michigan issued a call for a convention at Pittsburg, Feb. 22, 1856, to complete a national organization. This step was sufficient to show that the new party contained an element which distinguished it from the whig party. This convention selected a national committee, and called a national convention at Philadelphia, June 17. When this convention met, it was found to be a free-state body, with the exception of delegations from Delaware, Maryland and Kentucky. The platform adopted declared the party opposed to the repeal of the Missouri compromise, to the extension of slavery to free territory, and to the refusal to admit Kansas as a free state; it declared that the power of congress over the national territory was sovereign, and should be exerted "to prohibit in the territories those twin relics of barbarism, polygamy and slavery"; it denounced the Ostend manifesto (see that title); and declared in favor of a Pacific railroad, and of "appropriations by congress for the improvement of rivers and harbors of a national character." Nothing was said of the tariff. On the first ballot for a candidate for president, Fremont had 359 votes, McLean 196, Sumner 2, and Seward 1; and on the second ballot Fremont was nominated unanimously. On the informal ballot for a candidate for vice-president, Dayton received 259 votes, Lincoln 110, Banks 46, Wilmot 43, Sumner 35, and 53 were scattering; and on the formal ballot Dayton was unanimously nominated. Fremont's nomination was intended to gratify the free-soil and democratic elements of the party, to provide a popular rallying cry, "free soil, free speech, free men, and Fremont," to present a candidate free from antagonisms on the slavery question, and thus to win votes on all sides. Dayton's nomination was the whig share of the result. Fremont was defeated (see ELECTORAL VOTES, XVIII.), but his defeat was a narrow one, and the votes of Illinois and Pennsylvania would have made him president. It is noteworthy that in 1860 provision was made for both these states, for the former by Lincoln's nomination, and for the latter by a protective tariff clause in the platform.—The election of 1856 ended the party's first flood tide. The congressional elections of that year were so far unfavorable that there were but 92 republicans out of

237 members in the congress of 1857–9. In the development of a separate organization the coalition had sloughed off all its doubtful members, and had become fairly compacted and complete. Before the next congressional elections the disruption of the know-nothing organization in the northern states, the decision in the Dred Scott case (see that title), and the Lecompton bill (see KANSAS), gave it recruits enough to more than balance its losses. When the congress of 1859 met, the "black republican party" had become, to southern politicians, a portentous cloud covering all the northern sky. In the senate it now had twenty-five members to thirty-eight democrats; and not only were the re-elections of the few northern democratic senators very doubtful, but new republican states were almost ready to demand admission. In the house all the northern members were republicans, except two from California, five from Illinois, three from Indiana, one from Michigan, four from New York, six from Ohio, three from Pennsylvania, and one each from Oregon and Wisconsin, and eight anti-Lecompton democrats, who were certain to vote against the southern claims to the territories. Party contest in congress at once assumed a virulence which it had not before been subject to. In both houses the republicans were charged with complicity in the Harper's Ferry rising, and in the publication of Helper's "Impending Crisis," a recently published abolitionist book. In the house, candidates for speaker were nominated by the republicans (113 in number), the democrats (93), the anti-Lecompton democrats (8), and the "Americans," or know-nothings (23). For eight weeks no candidate could command a majority. The opposition to the republicans could not be completely united in voting for any candidate, or in voting that any member who had indorsed Helper's book, as most of the republican members had done, was "not fit to be speaker of this house." Finally, the original republican candidate, Sherman, having been withdrawn; and Pennington of New Jersey, having been substituted, he was elected, Feb. 1, 1860, by the aid of a few "American" votes. But, despite the speaker's election, the republicans had no control of legislation, with the exception of the passage of a homestead bill, which was vetoed by the president. — When the national convention met at Chicago, May 16, 1860, the hopes of the party were high, its organization complete, and its character for the future determined. Its elements had been so welded together that the division lines had almost disappeared; but so far as it remained, it was certain that the old whig element would now take the leading nomination and control the general policy of the party, while the old democratic element would be content with the second nomination and the comfortable consciousness of familiar methods in party management. The delegates were from the free states, with the exception of the delegates from Delaware, Maryland, Virginia and Kentucky, and a fraudulent delegation from Texas. The platform was much like that of 1856, except that the conjunction of polygamy and slavery, peculiarly exasperating to the south, was dropped; a homestead law, and protection for domestic manufactures in arranging the tariff, were demanded; and democratic threats of secession and disunion were denounced. For the first place on the ticket, Seward was strongly supported, and he was as strongly opposed, for the assigned reason that his anti-slavery struggle had made him an unavailable candidate; but much of the opposition to him came from the mysterious ramifications of factions in New York. On the first ballot, Seward had 173½ votes, Lincoln 102, Cameron 50½, Chase 49, Bates 48, and 42 were scattering; on the second, Seward 184½, Lincoln 181, Chase 42½, Bates 35, and 22 were scattering; and on the third, Lincoln 231½, Seward 180, and 53½ were scattering. Before another ballot could be taken, votes were so changed as to give Lincoln 354 votes, and he was nominated. For vice-president, on the first ballot, Hamlin had 194 votes, C. M. Clay 101½, and 165½ were scattering; on the second, Hamlin had 367 votes to 99 for others, and was nominated. — In the campaign which followed, the party employed popular methods still more effectively than in 1856. With the exception of the ignominious success of 1840, no previous party had met the democratic party on its own ground. No appeal that could be made to the attention of the people was neglected; monster wigwams, and long processions of "wide-awakes" with torches, transparencies and music, attracted listeners to the political speeches; and for these the party could now command at least as high an order of ability as its opponents. Its candidates obtained the votes of all the free states, except three from New Jersey, and were elected. (See ELECTORAL VOTES, XIX.) From this time the work of the party for the next four years is told elsewhere. (See articles referred to under REBELLION.) — II.: 1861–9. No dominant party ever passed through such a trying experience as did the republican party during the rebellion. Its majority in congress was only due to the absence of southern representatives; and, even with this aid, its majority in the house was hardly preserved in the congress of 1863–5. Nevertheless the management of the party was generally wise and successful. The extreme anti-slavery element was held in check; and, to secure the co-operation of the small but essential percentage of "war democrats," the name "Union party" was adopted, and other measures of conciliation were contrived. Lincoln, in particular, was obnoxious both to the extreme radicals, who disliked his temporizing policy, and to the more timid members of the party, who feared the effects of his emancipation proclamation. Efforts were made to obtain the nomination of Chase, partly as a vindication of the "one-term policy," partly as a rebuke of "presidential patronage," and partly to secure a more careful management of the currency; but the republican members of the Ohio legislature declared for Lincoln's renomination, and

this seems to have ended the Chase movement. A more turbulent but less formidable reaction was a convention of "radical men" at Cleveland, May 31, 1864, which nominated Fremont and John Cochrane of New York, and demanded a more vigorous prosecution of the war, the confiscation of the estates of rebels, and their distribution among soldiers and actual settlers. The candidates accepted the nominations, but withdrew before the election. — In the mass of the party there was no hesitation. When the "Union national convention" met at Baltimore, June 7, 1864, Lincoln was renominated by acclamation after an informal ballot of 492 votes for him and 22 for Grant. To conciliate the war democrats, one of their number was to be nominated for vice-president, and the choice lay between Andrew Johnson and Daniel S. Dickinson of New York. On the first ballot Johnson had 200 votes, Hamlin 145, and Dickinson 113; but votes were at once changed to Johnson, and his nomination was made unanimous. The platform approved the unconditional prosecution of the war, the acts and proclamations aimed at slavery, the proposed 13th amendment abolishing slavery, the policy of President Lincoln, the construction of the Pacific railroad, the redemption of the public debt, and the enforcement of the Monroe doctrine in Mexico. For a little space during the summer the constant slight checks to the national armies threw a cloud over the prospects of republican success; but before the election a general and triumphant forward movement of the army and navy made Lincoln's election a certainty (see ELECTORAL VOTES, XX.), and the war closed with the republican party at its very high tide of success, triumphant and united. — And yet, immediately after the close of the rebellion, the party was to undergo a more severe, because more insidious, test of its steadiness. A succession of exciting events, the assassination of President Lincoln, the offer of rewards for the chiefs of the confederacy and their hurried flight toward the seacoast, the long funeral of the dead president, and the trial of the conspirators in the assassination, appealed directly to the wild justice of revenge; and the appeal was to be resisted, if at all, by republican equilibrium of mind, for the opposition was almost silenced for the time. It is fair to say that the test was endured successfully, and that there was no general desire for sweeping vengeance upon the conquered. Men rather felt a strong sense of relief when the excitement subsided, business was allowed to take its wonted course again, and political problems were remanded to the federal government for consideration. — This sense of relief was not to be permanent. Congress was not in session until December, 1865, and in the meantime the president actively began his policy of reconstruction. (See RECONSTRUCTION, I.) Every new expression of southern satisfaction with "the president's policy" was a fresh stimulus to suspicion in the minds of men who had for four years been engaged in suppressing a southern rebellion; but it was not until after the meeting of congress that the republicans were fully aroused to the disadvantages, and the opposition to the advantages, of the succession of a war democrat to President Lincoln's place. There were no important elections in 1865, and in those which were held the republicans were everywhere successful. The resolutions of their state conventions were evidently guarded in language; expressed approval of the president's policy so far as it had been developed; but demanded "the most substantial guarantees by congress" of the safety and rights of the southern negroes before the seceding states should be admitted to representation. In other words, the party was not disposed to a conflict with the president, but would keep its goods as a strong man armed: it would not object to his reconstruction of the state governments, if he would not object to the passage by congress of such acts as the civil rights bill and the freedmen's bureau bill (see those titles); but, at the first sign of bad faith in the president, it would strike at him and his policy with all its energy, through congress. — It is evident now that this was the universal and deliberately formed programme of the party, and that the party was not forced into it by ultra leaders. These, on the contrary, were steadily held in check during the session of 1865–6, until the veto of the civil rights bill showed the president's intention to insist on the admission of the seceding states to representation without "substantial guarantees." Even then the party majority in congress were content with the passage over the veto of the two bills named above, and the passage of the 14th amendment, as a base of future operations; they then adjourned and left the issue between themselves and the president to the decision of the party. — The decision was promptly given. The republican state conventions in Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, Ohio and Pennsylvania pronounced against the president's policy, and declared that reconstruction must be effected by "the law-making power of the government." The other republican states were mainly silent because no state conventions were held; in not one of them was the president's policy approved. On the contrary, the approval came from the democratic party, whose leaders united with the president's republican and war democratic supporters in a national convention at Philadelphia, Aug. 14, 1866, commonly called the "arm-in-arm convention," from the manner in which the Massachusetts and South Carolina delegates entered it. In some states, as in Connecticut, the federal office-holders openly supported the democratic candidates, with the formal approval of the president, but the intact and vigorous republican organizations were successful. The result of the elections of 1866 left every state north of Mason and Dixon's line with a strong republican majority in the legislature, and a republican governor. Still more important, they gave the re-

publicans in the next congress an unequivocal majority of all its members: 42 to 11 in the senate, and 143 to 49 in the house. If all the southern states had been represented by democrats, the republican majority would still have been 42 to 33 in the senate, and 143 to 99 in the house; until the southern states were represented, the republican majority was sufficient to override the president's veto in every case, and congress could shape legislation at its will for two years to come. — The republican national committee expelled its president, Henry J. Raymond of New York, and two of its members, who had taken sides with the president, and war was fairly declared. The president's utter want of tact and discretion undoubtedly made the republican victory over him easier, but it would probably have been nearly as complete in any event. His obstinate refusal to make any terms only resulted in making the terms accorded to the seceding states more severe, and the work of reconstruction was carried out by congress with hardly any thought of the president, except as an obstructive. (See RECONSTRUCTION, I.) — It has been said that the party forced its congressional majority into reconstruction, and was not forced into it by its ultra leaders. Nevertheless, it is certain that these leaders, during the struggle, used the president's denunciations of congress to carry counteraction unnecessarily far. The president had used without scruple his powers of appointment and removal to reward his friends and punish his enemies; and the civil service was thus made an instrument of offense against the dominant party. The course of events is elsewhere detailed. (See TENURE OF OFFICE; IMPEACHMENTS, VI.) How far the impeachment was desired by the mass of the party can hardly be known. The ensuing national convention pronounced the president to have "been justly impeached for high crimes and misdemeanors, and properly pronounced guilty thereof by the votes of thirty-five senators"; but it is still a question whether the party generally felt more regret or relief at the failure of the impeachment. — The national convention at Chicago, May 20, 1868, fully approved the reconstruction policy of congress; declared that the public faith should be kept as to the national debt, not only according to the letter, but according to the spirit of the laws by which it was contracted, but that the rate of interest should be reduced whenever it could be done honestly; and condemned the acts of President Johnson in detail. Nothing was said of the tariff. For president, Grant was unanimously nominated on the first ballot. For vice-president, the struggle was mainly between Wade, Colfax, Wilson, and Fenton of New York. On the first ballot, Wade had 149 votes, Fenton 132, Wilson 119, Colfax 118, and all others 132. On the fifth ballot, Colfax had 224 votes, Wade 196, Fenton 137, Wilson 61, and all others 32. So many votes were then changed to Colfax that he had 541 to 109 for all others, and was nominated. The candidates were elected without special difficulty. (See ELECTORAL VOTES, XXI.) — III.: 1869–83. With Grant's election the party may at last be considered homogeneous and self-existent, with no trace of borrowed traditions. Distinctions within the party, arising from former political affiliations, had disappeared. Those who still felt their influence, like Seward, Chase, Welles, Trumbull and Doolittle, had generally dropped out during the reconstruction and impeachment struggles; and a new generation, not only of voters, but of leaders, had arisen, who knew only the tenets of the party, and were not embarrassed by former whig, democratic, free-soil or know-nothing bias. Among these new men were Morton, Blaine, Garfield, Conkling, Sherman, Schurz, Edmunds of Vermont, Dawes and Hoar of Massachusetts, Morgan of New York, Frelinghuysen of New Jersey, Kelley of Pennsylvania, Bingham, Shellabarger, Ashley and Schenck of Ohio, Chandler and Ferry of Michigan, Carpenter of Wisconsin, and Yates and Washburne of Illinois. These, and a host of others, while they had practically ousted the original leaders, retained the peculiar combination of whig principles and democratic methods which had resulted from the original amalgamation, and were now to show whether they could make the party a popular broad-construction party in internal administration, as well as in the suppression of slavery. — The first problem which they were to meet was the condition of the southern states. The grant of the right of suffrage to the recently enfranchised negroes had been completed by the process of reconstruction. If it was to be maintained, it must be by the vigor of the negroes themselves in defending it, by federal support to the reconstructed state governments in defending it, or by a constitutional amendment authorizing negroes to defend it. The first method was impracticable; if it had been otherwise, it would itself have been a full vindication of the educating influences of the system of slavery. The second method was adopted by legislation and executive action (see INSURRECTION, II.; Ku-Klux Klan); and the third by the passage of the 15th amendment. (See CONSTITUTION, III., *A.*) In both these methods the party was practically unanimous at first; but, as the difficulties of their execution increased, those who still retained anything of former party bias were the first to grow weary of them. In addition to this, there was very much of the natural repugnance to the control of the party machinery by new leaders. The result was the "liberal republican bolt" of 1870–72 (see LIBERAL REPUBLICAN PARTY), in which the singular spectacle was presented of the party contending against an opposition led by the two great towers of its strength in 1854–5, Sumner and Greeley. Indeed, the contest may almost be described as one between the mass of the party, under its new leaders, and the remnants of those who had entered the party from former organizations; and the result was decisive of the party's integral consolidation. — The national convention met at Philadelphia, June 5,

1872. Its platform reviewed the past achievements of the party; demanded the maintenance of "complete liberty and exact equality in the enjoyment of all civil, political and public rights throughout the Union"; commended congress and the president for their suppression of ku-klux disorders; and promised to adjust the tariff duties so as "to aid in securing remunerative wages to labor, and promote the growth, industries and prosperity of the whole country." This latter paragraph was the first official announcement of protectionist doctrines since 1860, but its place had always been effectually filled by the resolutions of state conventions, and by the consistent policy of the party in congress. For president, Grant was renominated by acclamation. For vice-president, Wilson was nominated by 364½ votes to 321½ for Colfax. The candidates were elected with even less difficulty than in 1868. (See ELECTORAL VOTES, XXII.) — Nevertheless, there was still considerable dissatisfaction in the party. The close of Grant's first term and the beginning of his second were marked by a succession of public scandals, arising mainly from his own inexperience in civil administration and the derelictions of many of his appointees. (See CREDIT MOBILIER; LOUISIANA; CAPITAL, NATIONAL; SUMNER, CHARLES; WHISKY RING; IMPEACHMENTS, VII.) The consequent dissatisfaction was shown by a general defeat of the party in the state and congressional elections of 1874–5. (See DEMOCRATIC PARTY, VI.) It was checked, however, immediately, and the check has often been ascribed to the political skill of the leaders in "waving the bloody shirt," that is, in stimulating a desire for the formation of a solid north to counterbalance the solid south formed by the violent suppression of the colored vote. But a more rational commendation of their political skill may be found in the manner in which they committed their party to the payment of the public debt in coin. The issue of legal-tender paper money had been a republican war measure, but the idea had since grown up that at least a part of the public debt should be paid in paper money. (See GREENBACK-LABOR PARTY.) In most of the western states this idea had completely gained control of the democratic party; it had made a smaller, but very considerable, progress in the republican party; and many of the subordinate republican politicians were inclined to look upon it as inevitable, and yield to it. So prominent a leader as Morton publicly yielded, and fathered the "rag-baby," as the paper money idea was popularly called. To disown that which seemed at first sight their own progeny, to hazard the party's supremacy in its original habitat, the northwest, certainly required no small amount of political foresight, nerve and skill in the republican leaders. Ohio was made the battle ground (see that state), and the gauntlet was thrown down in 1875. Success there was followed by the nomination of the successful candidate for president in 1876, and the committal of the party to specie resumption in 1879. A conflict of this nature did more to bring back the liberals of 1872, and the dissatisfied voters of 1874, than even the "bloody shirt" could do in repelling them. — The national convention met at Cincinnati, June 14, 1876. The platform differed from that of 1872 mainly in its stronger indorsement of civil service reform; in its demand for "a continuous and steady progress to specie payments"; in its denunciation of polygamy in the territories, of "a united south," and of the democratic party in general; and in its declaration in favor of "the immediate and vigorous exercise of all the constitutional powers of the president and congress for removing any just causes of discontent on the part of any class, and for securing to every American citizen complete liberty and exact equality." Much apprehension had been expressed as to President Grant's supposed intention to use the party machinery to compass his own nomination for a third term, but when the convention met he was not a candidate. The leading candidates were Conkling and Morton, representing the adherents of the administration; Bristow, representing the opposition to the administration; and Blaine, with a positive strength of his own, independent of all southern questions. On the first ballot, Blaine had 285 votes, Morton 124, Bristow 113, Conkling 99, Hayes 61, and all others 72. On the sixth ballot, Blaine had 308 votes, Hayes 113, Bristow 111, Morton 85, Conkling 81, and all others 56. On the seventh ballot, there was a general break. Of Bristow's votes, 21 adhered to him; Blaine's vote rose to 351; the adherents of all the other candidates transferred their votes to Hayes, and he was nominated by 384 votes out of 756. For vice-president, Wheeler had hardly any opposition. The candidates were elected, but only after a struggle which is elsewhere detailed. (See DISPUTED ELECTIONS, IV.; ELECTORAL COMMISSION; ELECTORAL VOTES, XXIII.) — The discovery of the "cipher telegrams" (see TILDEN, S. J.) helped very materially to reconcile the party to the irregularities of the election of 1876. Nevertheless, the new president was left with very little party support until the extra session of 1879. (See HAYES, R. B.; RIDERS.) During this administration, for the first time in the party's history, the leaders failed to control its representatives in congress. Resumption of specie payments had been fixed for Jan. 1, 1879. But, since 1870, silver had been steadily falling, in relative value to gold, throughout the civilized world. The act of Feb. 12, 1873, had demonetized silver, and had made gold the only specie of the country, except for subsidiary coinage. The public debt would thus have been payable in gold alone. The idea at once spread that this action was a fraudulent effort to pay bondholders more than they were entitled to by law. Both of the great parties yielded to the storm. After several unsuccessful efforts, the Bland bill, to make the silver dollar (then worth about 92 cents) a legal tender for public and private debts, and to direct its coinage at the

rate of not less than $2,000,000, nor more than $4,000,000, per month, passed both houses. It was vetoed, and passed over the veto by heavy majorities, Feb. 28, 1878. In both houses the leaders of the party voted in the negative, but the mass were either absent or in the affirmative. — The national convention met at Chicago, June 10, 1880. As Grant had been out of office for four years, his nomination was now considered unexceptionable by many, and a plurality of the delegates came to the convention pledged to vote for him. (See NOMINATING CONVENTIONS.) Blaine was next to him in strength, and Sherman, the secretary of the treasury, next. On the first ballot, Grant had 304 votes, Blaine 284, Sherman 93, Edmunds 34, Washburne of Illinois 30, and Windom of Minnesota 10. For thirty-five ballots this proportionate vote was hardly changed, except that on the thirty-fifth ballot, Grant's vote rose to 313, and Blaine's fell to 257. Garfield, a Sherman delegate from Ohio, had been steadily voted for by one or two delegates, since the second ballot. On the thirty-fourth ballot the Wisconsin delegation, against his protest, gave him 17 votes; on the thirty-fifth his vote rose to 50; and on the thirty-sixth, by a sudden stampede of all the anti-Grant elements, he was nominated by a vote of 399, to 307 for Grant, 42 for Blaine, 5 for Washburne, and 3 for Sherman. Arthur, to placate the Grant delegates, was nominated for vice-president on the first ballot, by 468 votes, to 193 for Washburne, and 90 for all others. — The result of the election seems to show a very considerable party advantage in a policy of devotion to economic principles. In 1876, after eight years of a vigorous repressive policy in southern disorders, the republican candidates were only successful by a single electoral vote, and the honesty of the success was denied by the whole opposition party. In 1880, after four years of simple endeavor to settle the economic problems which pressed for settlement, the party's candidates were elected beyond cavil, by 214 electoral votes to 155. And, further, a forged letter (the so-called Morey letter) appeared just before the election, purporting to come from Garfield, and advising the encouragement of Chinese immigration in order to bring American servants and mechanics to a more manageable condition. This forgery undoubtedly cost Garfield the five votes of California, the three votes of Nevada, and probably the nine votes of New Jersey. Without it, the result would have been 231 to 135, and the party would have had the entire northern and western vote, for the first time in its history. It is also noteworthy that the prospects of possible republican success in southern states, without federal coercion, date wholly from Hayes' administration. (See TENNESSEE, VIRGINIA, NORTH CAROLINA.) — Before and after President Garfield's assassination, (see GARFIELD, J. A.), the terms "stalwart" and "anti-stalwart" came into common use. They can hardly be considered as designations of the Grant and anti-Grant factions, respectively, for one of the anti-Grant leaders claims the parentage of the term stalwart in politics; nor as representing the friends and opponents of the abandoned policy of repression in southern affairs. If a conjecture may be hazarded, the stalwarts represent the leaders of the party organization, as it stands in 1882, who have reached that position during the policy of repression, though they do not propose to attempt it any longer; and the anti-stalwarts, the coming leaders who will succeed gradually and naturally to the party leadership on altogether economic grounds. Neither name as yet indicates any disintegration in the party. It is, therefore, very proper to give the present, and probably permanent, basis of the party's existence. It is nowhere stated so clearly as in the second and fifth sections of the platform of 1880, as follows: "2. The constitution of the United States is a supreme law, and not a mere contract. Out of confederated states it made a sovereign nation. Some powers are denied the nation, while others are denied the states; but the boundary between powers delegated and those reserved is to be determined by the national and not the state tribunals." "5. We reaffirm the belief that the duties levied for the purpose of revenue should so discriminate as to favor American labor; that no further grant of the public domain should be made to any railroad or other corporation; that, slavery having perished in the states, its twin barbarity, polygamy, must die in the territories; that everywhere the protection accorded to a citizen of American birth must be secured to citizens by American adoption; that we esteem it the duty of congress to develop and improve our watercourses and harbors, but insist that further subsidies to private persons or corporations must cease." With a programme of this nature, developed as further occasion may require, there seems to be no reason to anticipate that dissolution of the party which was so confidently predicted in 1874. — Authorities will generally be found under the articles referred to. See also, 2 Wilson's *Rise and Fall of the Slave Power*, 406; 1 Greeley's *American Conflict*, 246; McClellan's *Republicanism in America* (to 1869); Giddings' *History of the Rebellion*, 382; Smalley's *History of the Republican Party* (to 1882); Johnston's *History of American Politics*, 162; *Tribune Almanac*, 1855–83; Greeley's *Political Text Book of* 1860; McPherson's *Political History of the Rebellion*, and *Political Manuals;* Moore's *Rebellion Record;* Schuckers' *Life of Chase;* Raymond's *Life of Lincoln*, and other authorities under names referred to; Spofford's *American Almanac*, 1868–83; Appleton's *Annual Cyclopædia*, 1861–83; *The Nation*, 1865–83; and current newspapers.

ALEXANDER JOHNSTON.

REPUDIATION. The history of the bonded indebtedness of the various states of the Union goes back to the period 1830–40. At the begin-

ning of that decade the aggregate debt of the states amounted to about $13,000,000 only. Then began an era of extravagance, in which certain states entered upon a series of reckless undertakings that crippled the resources and ruined the credit of more than one commonwealth, whose name had formerly ranked high for commercial prudence and honesty. Two causes united to foster this spirit of prodigal expenditure: a natural demand for necessary internal improvements; and an easy means of raising large sums on long loans. By the act of congress of June 13, 1836, the surplus above $5,000,000 arising from the sale of government lands was allowed to remain on deposit to the credit of, or loaned to, the different states. In this way nearly $30,000,000 was put out, in three installments, a fourth, after some $28,000,000 had been paid, being postponed by the act of October, 1847, because of a reduction in revenue, owing to the requirement that land payments be made in specie and not in notes of the state banks. The great incentive to incur a heavy state debt, the demand for internal improvements, sprang from a natural and healthy cause. The annually increasing tide of immigration began to pour over the vast and fertile areas of virgin soil, in the development of which lay prosperity and fortune. But as yet the means of communication between the granaries of the west and northwest, the rice and cotton plantations of the south and southwest, and the markets of trade, were wholly inadequate to meet the needs of the cultivators. Rich in the natural products of the soil, money was so scanty with them that, even for the purposes of ordinary trade between themselves, they had to resort to barter. To the active and industrious farmer, or the keen and ambitious planter, an opening to the markets of the world, by new means of transportation which should insure quick delivery on reasonable terms, meant individual success and the commercial prosperity of his state. Private ambition and public spirit were skillfully played upon to induce voters to ratify with eagerness what doubtless seemed to many a public duty as well as a private gain. Railways and canals were begun, turnpikes constructed, river beds widened and "improved," and every scheme which bore on its face the slightest resemblance to a public work claimed the aid of the public credit, and, in the absence of constitutional safeguards, generally got what it claimed. Our national credit abroad stood high. The affairs of government had been economically administered, the interest on our foreign commercial debt promptly paid, and state securities found an easy sale in foreign markets. Good credit, great natural advantages of soil and climate, offering unmistakable promise of limitless development, and, above all, a pay day far ahead in the dim future, with only the interest account to provide for from time to time, proved temptations too strong for the young and growing communities. Within the twelve years succeeding 1830 the aggregate debt of the states had risen to over $200,000,000, an increment of more than 1600 per cent! It was distributed as follows: *

Eastern states	$ 7,158,274
Middle states	73,343,072
Southern states	73,340,017
Western states	59,931,553
Total	$213,777,916

—In May, 1838, after the passage of the general banking law, authorizing the United States comptroller to issue bank notes on a pledge of the evidences of public debt of the several states, a circular was issued by the comptroller, Mr. Flagg, requesting the financial officer of each state to return its indebtedness under authorized loans. According to their replies, it appeared that even then the aggregate debt, inclusive of the sums deposited with the several states by the United States ($28,101,644.97), amounted to $198,907,824.32. This indebtedness had been incurred for the benefit of railroads, canals, banks, turnpike companies, and kindred speculations. "The operations of the states have been so extensive and varied," said Hunt's "Merchants' Magazine," in 1839 (vol. i., p. 174), "that it is not an easy matter to get at the precise amount of stock issued and authorized to be issued. It is probable, however, that the aggregate amount of stock authorized by all the states is even greater than the amount stated in the tables."—By 1836 the state of Indiana had already loaned a large portion of the surplus revenue derived from the United States, and in that year an act was passed appropriating the sum of $10,000,000 for a gigantic internal improvement scheme, covering no less than seven different enterprises, including canals, banks and railways. When we find that there were only 100,000 voters in the state at this time, the outlay, even if kept within the proposed limit, seems stupendous. Yet the expenditure was far beyond the expectations of the promoters. "The original plan of internal improvement was, as a matter of course, considerably extended, and it very soon became evident that $20,000,000 would not more than *half* suffice to complete any portion, in consequence of the necessity of spending all the money that could be got in all parts of the state at once. The negotiation of the bonds was also a source of most fearful jobbing which resulted in serious losses to the state." ("Merchants' Magazine," 1847, p. 577.) One of the bond commissioners, a Dr. Coe, was also one of the largest stockholders in the Morris Canal bank, the heaviest customer for the state bonds. According to the report of a legislative investigating committee, Dr. Coe received from his own company over $100,000 in commissions and profits; one item of which was 398 bonds, received by the company at par, when they were worth about fifteen cents on the dollar—a difference of about $33,680! Within a very

* It is impossible to state with accuracy the exact amount of the debt during this period. The table given is taken from an article by Robert P. Porter, "International Review," 1880, p. 556. Compared with other statements, the figures seem by no means exaggerated.

short time the pressure began to be felt. Depression in foreign commercial centres caused a tightness of the money market all over the world. By 1841 Indiana found herself without the means of defraying the running expenses of government. The money for the civil list had to be raised, and the state was again forced to go upon the market as a borrower, pledging her bonds at ruinously low rates. "The majority of the 100,000 voters then occupying Indiana," says a writer, six years later, "were small farmers living in log huts, depending on the sale of surplus pork and grain for the purchase of their necessaries; and the expectation of drawing $1,000,000 per annum from such sources, to pay the interest or principal of debts contracted for legislative purposes, was not realized. The capital employed in trade in Indiana was scarcely $3,000,000, and it was proposed to draw 50 per cent. of that every year to pay interest!" In 1841 the interest account fell behind, and an attempt was made to settle by an issue of 7 per cent. five-year bonds, but these the creditors, who had already begun to distrust the state's pledges, refused to accept in exchange for their interest coupons, to any appreciable amount. The distress spread so that it seemed to affect every department of government. The assessment for tax purposes was wretchedly conducted on a wholly erroneous system of valuation, until finally the people became convinced that the taxes could not be paid. From this to hopeless and acknowledged insolvency the plunge was rapid. In June, 1839, the tax of thirty cents, levied in 1838 to meet the internal improvement interest, was reduced to fifteen cents, and by 1840, after various fruitless attempts at settlement and compromise, all effort to pay the state interest had been abandoned.— Ohio began her borrowing in 1825, by pledging all the canal profits as security for loans authorized for the benefit of internal improvement schemes. Under the law of 1836–7 she had gone on increasing her expenditures, loaning the state credit to turnpike and other companies, subscribing for their stock and running into debt with contractors. Her credit fell, and yet it was impossible either to go ahead or to give up the work without money. In 1841 the legislature passed an appropriation bill of $2,301,625. The commissioners of the canal fund were authorized to raise $981,000 of this amount, with which to meet the demands of the contractors, *at any rate of interest*, and the remainder on 6 per cent. bonds, payable in 1860. The bankers of London and New York would not touch the loan, and it was finally proposed, at an extra session of the legislature convened for the purpose, to raise the rate of interest to 10 per cent. *and go into the foreign market on the best procurable terms!* Under this provision the state was squeezed like a sponge. Fortunately her immense resources proved equal to the terrible strain. The people were honest, the sophisms of repudiation gained little ground, and the legislature by various enactments provided for the interest and a sinking fund with which to meet the principal.— Even the eastern states were affected by the universal mania for reckless expenditure which obtained throughout the country during the years 1834–6. Massachusetts pledged her credit without taking care to provide sure means of payment, and found herself in 1847 with over $6,000,000 outstanding indebtedness on loans and subscriptions to railroads alone. The enterprises proved successful, however, and she was never heavily pressed to make good her guarantee.— Maine, a lumber and fishing state, with a soil for the most part unadapted to raising grain, acting upon an absurd theory of encouragement to home producers, actually went into debt at the rate of $8 per head of her population, to pay bounties for the cultivation of wheat and corn, and distributed in one year over $150,000 in premiums on the production of less than three million bushels of grain!— By 1840 the state debt of Pennsylvania had increased to $31,000,000, about $30,000,000 of which had been assumed in behalf of railroads and canals. Within two years the bank of Pennsylvania went down with a crash that echoed throughout the commercial world, and in August of that year the state failed to pay its interest. So bitter was the feeling abroad against the people of the defaulting commonwealth, that the Rev. Sydney Smith declared he felt inclined, if he met a Pennsylvanian at dinner, to strip him of his clothes and boots for division among the guests, most of whom had probably suffered by his state's dishonor!— It was during this period that the word "repudiation," in its present commercial and political signification, came into use. There was a default in the interest on the bonds which the state of Mississippi had issued in aid of the Union bank, and after the authorities had in vain cast about for various expedients to meet the difficulty, the governor of the state, in a message to the legislature, broached the now familiar doctrine of repudiation, and suggested, in undisguised terms, his state's dishonor. "The bank," he declared, "has hypothecated these bonds, and borrowed money upon them of the Baron Rothschild; the blood of Judas and Shylock flows in his veins, and he unites the qualities of both his countrymen. He has mortgages upon the silver mines of Mexico and the quicksilver mines of Spain. He has advanced money to the sublime porte and taken as security a mortgage upon the holy city of Jerusalem and the sepulchre of our Saviour. It is for this people to say whether he shall have a mortgage upon our cotton fields and make serfs of our children"!. To the honor of the state legislature, be it said, they rejected, with scornful emphasis, the disgraceful suggestion, and declared that the governor's insinuation that Mississippi would violate her solemn pledge was "a calumny upon the justice, honor and dignity of the state." Subsequent Mississippi legislatures show no traces of the honest spirit of this session. *Post bellum* repudiators have no more shameless example of flagrant dishonesty than that afforded by the successors of

the very men who, thirty years before, declared that the mere suggestion of repudiation was an insult to the state (*vide infra*). — One after another the spendthrift commonwealths felt the pinch of want, and when the public debt became, from the taxation which it necessitated, a private burden, repudiation followed as a matter of course. Numerous plans for compromise were canvassed; legislative committees were appointed, bills reported and conferences held with the representatives of the bondholders at home and abroad, but from year to year the bankrupt states drifted along, plunging, at intervals, more and more hopelessly in debt. Finally, the civil war swept away for the time all vitality from the bond question as an issue. Its revival as a political question, and its historical development in certain communities, where it divided parties and became the most potent factor in state politics, is given under the headings of the different states below. — *Georgia.* Under the rule of the "carpet-baggers" the state was plunged into debt for all sorts of alleged public improvements. When the "conservatives," as the democrats were fond of proclaiming themselves, regained control, they at once set to work to devise pretexts for avoiding the obligations by which the state had been burdened by their opponents. A committee appointed by the first legislature at which the conservatives found themselves in the majority, reported in favor of invalidating, on the ground of fraud at their issue, six million of state bonds. The suggestion was at once acted upon, and the securities promptly repudiated. A constitutional amendment was then adopted, wiping out the bonds altogether. At the constitutional convention the bondholders offered to submit their claims for adjudication to the supreme court of the state, but the proposition was rejected by an overwhelming vote at the May election of 1877. To provide against any possible qualms of conscience on the part of succeeding legislators, a clause was inserted in the new constitution (sec. 11) prohibiting the general assembly from making any appropriation to meet interest or principal on the dishonored securities, with which were included all the war debts of the state. A sweeping majority carried this amendment at the election of December, 1877. The act of Feb. 25, 1874, had already deprived the governor of the power to lend the credit of the state by indorsement, except where the right to such had already vested. Soon after the passage of the repudiating amendments (in January, 1878), Gov. Colquitt was applied to for his official indorsement upon the debentures of the Northeastern railroad. After consulting the most eminent legal authorities in the state, who advised him that the right to such guarantee had vested in the company before the passage of the repealing act, he granted the application of the railroad authorities and indorsed their bonds to the amount of $260,000. His act caused widespread complaints, which his political opponents took pains to fan into a burst of popular indignation, by representing that he had willfully transcended his authority, and deliberately nullified the will of the people in favor of the corporation. He at once demanded a legislative investigation, and a committee, which examined the question with great care, reported in the only way that it was possible for them to conclude, that the governor had no option in the matter, but had simply done what he was legally bound to do. Much the same treatment was given to the $3,000,000 of bonds of the Brunswick & Albany railroad company, guaranteed by the state before the war, and disposed of mainly to capitalists at the north. The secession convention had granted immunity from confiscation to all public works. But in spite of this the road was seized upon as the property of alien foes. After the war the owners came forward to claim their property, and a compromise was effected upon their agreeing to complete the road, in return for which the state was to pay a subsidy of $15,000 per mile. This compromise was ratified by a democratic legislature in 1869; yet in 1871 Gov. Bullock took possession of the road, though the state had failed to pay the subsidy, claiming that the agreement had not been fulfilled by the owners. Henry Clews, Esq., of New York, who represented a majority of the bondholders, sold the bonds to German bankers at Frankfort-on-the-Main. In August, 1872, the general assembly declared these bonds null and void, and a constitutional amendment forbidding the payment of either principal or interest was carried in 1874. — *Louisiana.* At the constitutional convention of 1879 a committee appointed to examine and report upon the bond question, recommended the acknowledgment of about $4,000,000 of these securities and the repudiation of nearly $20,000,000. The report declared that it was a matter of history that the state house had been seized by United States soldiers in December and January, 1872–3, and the legal legislature overthrown. That, therefore, the body of men alleged to have passed the funding act of 1874 was not a constitutional legislature, and had no power to bind a free people. That there was no evidence on file of any ratification of the so-called amendments of 1874, except the mutilated copy of what purported to be a certificate to that effect, signed by J. Madison Wells and others. "They are unable to concede," reported the committee, "that the funding of any portion of the debt has given it any greater validity than it originally possessed, and, on the other hand, they do not admit that the absolute repudiation of 40 per cent. of the debt detracts in the least from the validity of that which was honest and legal." The report concludes by a reference to the fact that the bondholders are mainly northern capitalists, and dismisses their claims in these remarkable words: "But may it not be in the order of the eternal fitness of things that those who directly or indirectly (unwittingly, it may be) aided to tear down the basis of our former prosperity, should share some of the ills that have so long

and so powerfully borne down upon the once proud and wealthy people of Louisiana?" A minority report, protesting against the attempt to dishonor the state, was vainly offered, to stem the rising and angry tide of repudiation. "Every sentiment of honor and justice," said this paper, "demands that he who receives what does not belong to him should restore it. If the bonds are void, the state has received something for nothing. Law and justice concur in the enforcement of the duty on the part of the state to surrender that something to its true owner." This report declared that the state had received in cash $6,893,507.31 for securities funded at $7,294,744, all but $500,000 of which was to be wiped out. The wanton bad faith of the legislators who agreed to the majority report, is the more strongly emphasized by a reference to the opinion of the supreme court of the state, delivered only a few months before: "We regard the faith of the state as irrevocably pledged to the payment of her consolidated bonds issued under the authority of that act (the funding act of 1874). * * The contract with the holders of these bonds is one which, in the language of the constitutional amendment, the state can by no means and in no wise impair." This act, the court held, was approved Jan. 24, 1874, and settled beyond possibility of question by a constitutional amendment upon the same day: "This amendment has become a part of the constitution by its subsequent ratification at the polls." (State *ex rel.* Pacific R. R. Co. *vs.* Nichols, Governor, 30 La. Ann. Rep., 980.) A reiteration of what the court had already declared in 1875, when it said: "This amendment was adopted, and it now forms part of the organic law of the state." (State *ex rel.* Forstall *vs.* Board of Liquidation, 27 La. Ann. Rep., 577.) Moreover, the declarations of the repudiating committee regarding the condition of the state's resources and its inability to meet its honest debts are flatly contradicted by the words of the governor in his message of 1881: "The outlook for the state is most hopeful. The advantages of soil and climate are nowhere else equaled. * * The future for Louisiana is a grand one. It does not seem chimerical, when we look at our extraordinary advantages, to anticipate a future maximum production of $500,000,000 per annum. There is no reason for the continued cry of 'Poor Louisiana and her impoverished people.' We must realize the fact that she is rich, and force her to the front rank of states. * * Confidence will be restored; our bonds will be on the market at a reasonable interest, commanding a premium; capital will readily find its way here; and we will no longer be humiliated at the low credit of our state." Both reports were supported with vigor, but the repudiating element was too strong to be successfully combated, and after a hot debate an act, known as the debt ordinance, was adopted for submission to popular vote. This ordinance provided for retiring the bonds in exchange for a new issue, upon which the interest was scaled to 2 per cent. for five years, 3 per cent. for fifteen years, and 4 per cent. thereafter; with an option to the holders to exchange their bonds at seventy-five cents on the dollar for 4 per cent. semi-annual interest bonds. The consolidated bonds issued under the act of 1874, to be retired by this forced exchange, were pledged to pay 7 per cent. interest! The act was simply highway robbery by legislative sanction. The constitutionality of the debt ordinance was at once put to the test in two actions brought by John Elliott and others against the board of liquidation. The first was to enjoin the board from recognizing the ordinance and disregarding the funding act of 1874 and the constitutional enactment of the same year; the other, to compel by *mandamus* the payment of the interest on the consolidated bonds, and the levy and collection of a tax for that purpose. The recent decision (March, 1883) of the United States supreme court, upon the points at issue, held that the state had entered upon a voluntary contract in 1874, which had been violated by the act of 1880. But that there were no means of compelling the state's officers to carry out this contract, for the reason that the state as a sovereign commonwealth could not be sued without its permission. Upon this point the opinion of Chief Justice Waite reads as follows: "Neither was there when the bonds were issued, nor is there now, any statute or judicial decision giving the bondholders a remedy in the state courts or elsewhere, either by *mandamus* or injunction against the state in its political capacity, to compel it to do what it has agreed should be done, but what it refuses to do." A proceeding suggested by a correspondent of the "New York Nation," in February, 1878, (No. 660), was the last effort made to coerce the defaulting commonwealth. Before the adoption of the 11th amendment to the constitution of the United States, the supreme court had rejected the doctrine that a state could not be sued upon its own contracts. In the case of Chisholm *vs.* State of Georgia, 2 Dall., decided in 1792, Chief Justice Jay said: "It would be strange indeed that the joint and equal sovereigns of this country should in the very constitution by which they professed to 'establish justice' so far deviate from the plain path of equality and impartiality as to give to the collective citizens of one state a right of suing individual citizens of another state, and yet deny to those citizens a right of suing them." To nullify the principle which this decision established, the 11th amendment was passed in 1794, declaring that "The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state or by citizens or subjects of any foreign state." To avoid this constitutional bar the legislatures of New York and New Hampshire authorized the transfer to them by their citizens of the defaulted securities, and actions were then begun in the name of each of these states against the state of Louisiana. The supreme court, however, held that to allow such

suits would be simply to permit the practice of a palpable absurdity, and the evasion of the 11th amendment. In other words, the court very properly refused to countenance a mere subterfuge by which private individuals, the real parties in interest, might dodge a plain provision of the federal constitution, and practically sue a sovereign state. Such is the history of the vain attempts to induce the state of Louisiana to keep its solemn pledges. That public dishonor entails a loss of private credit may be inferred from what follows; the words are those of a writer treating of the financial condition of the state in 1882. "The unsettled condition of the finances of the state for several years past has seriously impaired her growth and prosperity, causing a universal distrust which has not merely affected the credit and honor of the commonwealth, but has also, to a great extent, affected injuriously individual credit, prevented investment of foreign capital, and excluded immigration." (Ann. Cyc., 1882, p. 480.) — *Minnesota.* A legislative committee in 1876 attempted to show that the state was under no obligation, legal or moral, to pay the railroad bonds guaranteed by her in 1858. Public opinion, however, was opposed to wholesale repudiation. In his message to the legislature, Gov. Pillsbury, after referring to various decisions upon the bond question in the courts of the state and of the United States, said: "With such unmistakable and imperative commands from the voice of law and equity and honesty, is the question not reduced to the simple one of our willingness to pay our honest debts?" There was at this time over two and a quarter millions of outstanding indebtedness of the $5,000,000 bonds issued in aid of certain railroads, the validity of which was disputed on the ground that the railroads had failed to comply with the conditions of the issue. The amendment of 1858, under which the issue was made, had been wiped out by another amendment in 1860; which also declared that the legislature should make no provision for payment of the principal or interest without submitting the proposition to the people for ratification. A compromise proposed in 1871, and agreed to by the legislature, was rejected by a vote of 21,499 to 9,293, not half the average vote being cast. The "Grangers," or "Patrons of Husbandry," had taken up the bond issue, and protested against their acknowledgment by the state, threatening to "scratch" all candidates for judicial office who would not pledge themselves against the validity of the bonds. One representative of grangerism testified before a senate committee of the United States that his notion was to elect judges pledged to "wipe out the bonds." When asked what he would do if the supreme court of the United States sustained their validity, he replied, "Wipe out the supreme court"! In pursuance of Gov. Pillsbury's suggestion the legislature, on March 1, 1877, created a board of commissioners of the public debt, and authorized the issue of new bonds to holders of defaulted securities on terms of compromise. The act was subject to amendment, to be submitted to popular vote. It provided for the sale of a portion of the "internal improvement lands" in aid of the proposed settlement. The amendment and the compromise depending upon it were rejected by a large popular majority. Again the governor, with commendable spirit, declared that although the result "indicates that they are not prepared to make settlement of this vexed question, my convictions as heretofore expressed upon this subject have undergone no change, and I earnestly hope that in the near future the people of our state will take a different view of the matter." By this time the repudiators had secured a firm grip upon the politics of the state. The national greenback-labor party, at a convention held June 10, 1879, after declaring in favor of the unrestricted coinage of silver, and the immediate repeal of the resumption act, "believing that its passage at the time was an infamous sin and crime against the debtor classes," made the following declaration in regard to the state debt: "We regard the old Minnesota railroad bonds as dishonest and illegal in their whole origin and history; a measure conceived in sin and brought forth in iniquity, and one that is not morally binding on the people of this state." Once more, in 1880, the governor urged settlement, insisting that it was possible without commercial distress. "The discharge of this debt," said he, "is demanded as a simple act of justice, which would be none the less imperative were it to involve serious sacrifices. But these are not required. The task is plain and easy, and level to the simplest comprehension. The exhibit of the state auditor shows that with a wise use of the internal improvement lands (which cost the state nothing, being a grant from congress) this can be accomplished at the present rate of taxation, without any increase of taxation." For the fifth time an attempt at settlement was made. An act was passed providing for the submission of certain questions to the supreme court of the state. The court pronounced the act void, but declared, at the same time, the invalidity of the constitutional amendment of 1860, on the ground that it impaired the validity of the contract made with the bondholders of 1858. This left the responsibility upon the legislature to act without appealing for ratification to the popular vote. An extra session was at once convened, which passed an act in accordance with the governor's suggestion. Under this act the bonds were scaled at 50 per cent. of their nominal value, with accrued interest, and exchanged for thirty-year 4½ per cent. "adjustment bonds." By the end of 1881, almost all the old bonds had been taken up. The people, at the general election of 1882, approved the proposition to apply a portion of the proceeds of the internal improvement lands sale to the bond sinking fund. These lands are said to be so valuable that only about $1,250,000 will have to be provided for by taxation. — *Mississippi.* In 1875 $7,000,000 of "Union" and other bonds, issued before the war,

were outstanding. No interest had been paid since 1842 (*vide ante*). The state made short work of the bondholders' rights. A republican legislature adopted and submitted an amendment, which was subsequently engrafted upon the constitution by a democratic legislature, and which read as follows: "Nor shall the state assume, redeem, secure or pay any indebtedness or pretended indebtedness claimed to be due by the state of Mississippi to any person, association or corporation whatsoever, claiming the same as owners, holders or assignees of any bond or bonds now generally known as Union railroad bonds or Planters bank bonds." — *Tennessee.* At the close of the war the bonded indebtedness of the state amounted to about $43,000,000, which was subsequently reduced by sales of railroad property to about $23,000,000. Upon this amount the state found itself, in 1875, greatly in arrears for interest, and without provision for meeting the principal on those bonds which were already beginning to fall due. The heaviest creditors of the state proposed to the governor that he should suggest to the legislature the propriety of appointing commissioners to agree with them upon terms of settlement. In accordance with the governor's suggestion, a committee of five was appointed from the legislature, which, with five New York bankers, made up an arbitration board. A meeting held at the clearing house in New York, "to consider the embarrassment of the several southern states which are in default, and to devise a plan for the readjustment of their debts," appointed, as arbitrators on the part of the bondholders, Messrs. Geo. S. Coe, Jacob D. Vermilye, B. B. Sherman, B. B. Comegys, and Enoch Pratt. At the conference with the committee from the Tennessee legislature, the latter took pains to disclaim any power beyond that of conferring with the bondholders' representatives, and reporting such compromise as might be agreed upon to their legislature for ratification. The settlement adopted for recommendation was as follows: The debt, with arrears of interest to Jan. 1, 1877, should be readjusted at 60 per cent., and settled by a new issue of 6 per cent. bonds. In the meantime, on May 17, 1876, in response to an urgent appeal from Ex-Gov. Brownlow, the republican state convention at Nashville had passed resolutions denouncing repudiation in every form. The democrats, however, fought shy of the question, for the repudiators had already won some of their followers by urging the doctrine that the abolition of slavery amounted to a destruction of taxable property for which those who were responsible—meaning thereby the bondholders at the north—should suffer the loss. It was remarked at the time that this argument "wholly ignored the continued existence of the negroes and their production as making part of the resources of the state." (N.Y. "Nation," 1877, No. 636.) On Dec. 5, 1877, a special session was convened to consider the award of the arbitrators. A bill finally passed the senate, providing for an adjustment scheme by which the old bonds were retired at 40 per cent. of their face value, in exchange for thirty-year bonds, with interest at 4 per cent. for five years, 5 per cent. for five years, and 6 per cent. thereafter. This act was rejected by the house, on the ground that any plan which contemplated scaling the old bonds at less than 60 per cent. would not be accepted by the creditors. The legislature adjourned, after a three weeks' session, without coming to any definite results. A year later, Gov. Porter, in his message, stated that there were over $20,000,000 bonds outstanding, of which $11,000,000 had been declared invalid. — The bond question had now become a distinct political issue. Although the party lines were not strictly drawn on the question, the republicans were generally in favor of meeting the debt in one way or another. The parties or factions were divided into four distinct groups: 1, wholesale repudiators; 2, those who favored retiring the old bonds at 50 per cent. of their face in exchange for 6 per cent. bonds; 3, those who favored scaling the bonds, principal and interest, to a third of their nominal value; and, 4, a party which approved the settlement urged by the arbitration committee. On these issues party lines wavered, ordinary majorities were shaken, and members of the assembly were elected because of their known standing on one or the other of these four schemes of adjustment. The finance committee reported a bill retiring different classes of bonds at different rates: some at "60 and 4," *i. e.*, scaled to 60 per cent. of their nominal value, and exchanged for 4 per cent. bonds; some at "50 and 4," and some at "33⅓ and 4." About $2,250,000 (mineral house bonds) were absolutely repudiated. Another class were to be scaled at 33⅓ per cent., and exchanged for non-interest-bearing tax warrants, receivable for state taxes and other dues to the state. After a long debate, during which every scheme was modified in one way or another, an act was passed by a close vote, March 28, 1879, providing for the retirement of most of the bonds at 50 per cent. in exchange for state fours. The provisions of this bill were supported by the railroad companies, which agreed to waive immunity from taxation and to pay taxes to such an amount as would leave about 40 per cent. of the burden to be borne by the people at 4 per cent. interest. The committee went to New York in April, 1879, where the compromise was agreed to by the representatives of the creditors, and the state seemed on the verge of a final settlement. But repudiating sentiments had made too strong headway with the people, who refused to ratify the compromise by a large majority at the popular election on Aug. 7, 1879. At their convention in the year following, May 6, the republicans declared once more in favor of the validity of the debt, insisting that any attempt to avoid it would be "downright repudiation, and an act of high-handed dishonor," and that any voluntary proposition from the creditors to take less than their claim demanded ought to be accepted as a favor. On the other hand, the greenbackers showed plainly enough that the taint

of their financial heresies had affected their regard for a question of common honesty. Their platform contained these planks: "Resolution 1. That neither the state of Tennessee nor its citizens are bound in law or morals to pay the bonds issued in aid of the railroads, amounting to $25,000,000, and that such bonds are no part of the state debt. Resolution 2. That we are opposed to scaling the railroad bonds, and to any other act recognizing them, because the people of Tennessee do not owe them." The democrats, at their convention, June 8, 1880, recognized the liberal disposition of the state's creditors, and favored a settlement on the best terms possible for the state. Two minority reports, however, were so earnestly pushed as to show how large a portion of the party had succumbed to repudiating theories. One (the "Johnson Report") favored a settlement after canvassing among the people to learn the terms to which the majority would agree; the other (the "Garner Report") urged out-and-out repudiation, as follows: "§ 4. We are unalterably opposed to any settlement of the state debt by the legislature." After the adoption of the majority report, so amended, however, as to provide that the new coupons should not be made receivable for taxes, etc., 160 delegates left the hall, organized a separate convention, nominated S. F. Wilson for governor, and adopted a resolution declaring against the railrond bonds, the war-interest bonds, and the receivability of coupons for taxes and other state dues. The result of this split was, that the republicans carried the election of Mr. Hawkins, their nominee for governor, by a large vote. In 1881 a funding act, which had been carried through the house, passed the senate by a bare majority of one. But popular opposition to the recognition of the debt was still strong. Henry J. Lynn and others, claiming to be citizens and tax payers, applied to the court of chancery for an injunction, on the ground that the funding act was procured by bribery and fraud. The bill was dismissed, and, on appeal, the supreme court decided that the act which provided for funding the entire debt at par by 3 per cent. 99-year bonds, redeemable at any time after five years, was legal, except as to the provision which made coupons receivable for taxes, etc.; on the ground that the legislature could not "contract away" the revenue or enter upon an agreement which a subsequent legislature might not repeal. On May 19 the "60 and 6" act was passed, providing for the issue of new bonds at 3 per cent. interest for two years, 4 per cent. for two years, 5 per cent. for two years, and 6 per cent. thereafter, to be given in exchange for the old bonds scaled at 60 per cent. This was in accordance with a proposition from Eugene Kelly, Esq., of New York, chairman of the bondholders' committee. On Jan. 1, following, the comptroller reported that less than half of the old bonds had been funded. The bond question remained, therefore, unsettled, the democrats having split into "state credit" and "low tax" factions, with the republicans, for the most part, favoring a settlement on the best possible terms. The democrats, owing to these dissensions in their ranks, were forced to hold the bond issue in abeyance. At their convention, June 20, they resolved, "2. While we accord to all an honest difference of opinion, we regard the enactment of the '60 and 3, 4, 5, 6' as unwise, because it is, in our opinion, not in accordance with the views of the people." Their third plank recommended funding the "state debt proper," the validity of which had not been disputed, at par, less war interest; and their fourth urged a tender to the creditors of a settlement of the remaining debt by ten-year bonds on the "50 and 3, 4" plan. Their nominee was Gen. W. B. Bate. One hundred and fifty delegates promptly bolted, approved the "60 and 3, 4, 5, 6" settlement, and nominated Jos. H. Fussell on the "state credit" ticket. The greenbackers, after repudiating the railroad bonds, and all but a small portion of the state debt, declared against the settlement even of that portion until ratified by popular vote, and nominated Jno. R. Beasley. Gen. Bate, the nominee of the "low tax" democrats, was elected. The "60 and 3, 4, 5, 6" plan is therefore stamped with popular disapproval, and the politicians will hardly venture upon the consideration of as favorable terms for the state's creditors in the teeth of the popular feeling. It is believed that the "readjusters" will consent to a settlement of the "state debt proper," less war interest, in full; with a provision for compromising the remainder by funding it in 3 per cent. thirty-year bonds, scaled at 50 per cent.; and the swindled creditors will have to make the best of a very bad bargain. The federal government loses by Tennessee's repudiation. At various times, from 1836 to 1851, the United States invested moneys held in trust for certain Indian tribes by the secretary of the interior, in Tennessee bonds. Up to Jan. 1, 1883, the amount due the government, with accrued interest, was $493,270. As the United States held the money in trust, the interest has been paid to the beneficiaries from time to time by congressional appropriation. As the debt has been repudiated by Tennessee, the tax payers of the nation have been, and will be called upon periodically to settle the debt of that state. It is claimed by ex-congressman William R. Moore, (*vide* letter to "N. Y. Herald," March 13, 1883), that both political parties in the state have again and again, through their governors and legislators, recognized the validity of the bonds which United States senator Harris declared void in the campaign of 1882. "Propositions," said Secretary Teller, in a letter to Mr. Moore, March 3, 1883, "have been made by the state of Tennessee, to issue new bonds for accrued interest on the bonds held in trust by this department, but the records do not show that any offer has been made by said state to pay said interest." — *Virginia.* At the close of the war the public debt of Virginia amounted to about $41,000,000. In 1866 the auditor of the state reported that the interest account, to the amount of

about $2,250,000, could not be promptly met. In the session 1870–71 the funding scheme was passed, by which the coupons of the new issue were made receivable for taxes, etc. The next legislature repealed the act, as containing provisions too favorable for the creditors, but the repealing act was not sustained by the courts, so the legislature adopted the expedient of taxing the funded bonds, evidence of the state's own indebtedness, ¼ per cent. In 1874–5 "these measures had reduced the interest account from $2,500,000 to $1,417,000, but the taste for repudiation, or 'adjustment,' as it is called in Virginia, had set in and was growing, so that, after several years of cheating, the question is still a prominent one in the politics of the state, and it was only after a vigorous and excited canvass that the nomination of an open repudiator for governor was prevented. His successful opponent is now obliged to treat the subject with great caution, and there is every prospect that in the end 'readjustment' will carry the day." ("N. Y. Nation," 1877, No. 636.) In 1875 the interest account was nearly $3,000,000 in arrears, and the outstanding bonds in 1876 amounted to $29,489,826.38. On March 11, 1878, the legislature passed the refunding act, providing for the issue of eighteen-year and thirty-two-year 3 per cent. and 4 per cent. non-taxable bonds. In his message to the legislature, Dec. 4, 1878, the governor said: "As long as the state debt continues unsettled, there is an incubus upon the spirit and a clog upon the movements of Virginia. When it is settled honorably and finally, she will start upon a career that will not be unworthy of her history." One of the bondholders, a citizen of the state, published a statement at this time to the effect that the only possible remedy for the financial condition of the commonwealth was readjustment, *i. e.*, scaling the old issue, and reducing the interest to 4 per cent. A bill was passed in February, 1878, but vetoed by the governor on the ground that it failed to meet the requirements of the situation, and was vague, unjust and unconstitutional. In the following December he urged a further attempt at adjustment with the creditors. By this time the issue was fairly before the people, and the state divided into "debt payers" and "readjusters"—a euphemism for repudiators. Early in 1879 the McCulloch bill, which provided for refunding $8,491,961 by a new issue, to be dated Jan. 1, 1879, payable in 1919, with interest at 3 per cent. for ten years, 4 per cent. for twenty years, and 5 per cent. for ten years, was passed. The state was to have the privilege of redeeming the new issue at any time after the first ten years, and the coupons were made receivable for taxes and other state dues. The readjusters, under the leadership of Gen. William Mahone, assembled in convention at Richmond on Feb. 25, 1879. After adopting a resolution professing adherence to democratic principles, they declared themselves formally separated from the democratic party, and resolved as follows: "3. That in any settlement with the state's creditors the annual interest of the recognized indebtedness must be brought within her revenues under the present rate of taxation. * * 6. That a settlement within the limitation designated is the utmost stretch of the people's ability to pay, and should be satisfactory to the creditor as the furthest exaction he can fairly insist on. * * 16. That full recognition of these principles and declarations by the people of Virginia and her creditors, is absolutely essential to any amicable readjustment, and no readjustment in which they, or any of them, shall have been neglected, can be final, certain and satisfactory." Gov. Holliday declared in his message that he did not believe a higher rate of taxation could not be borne when the object was to preserve the credit of the state. "Whatever may be the views of some," said he, "I feel that should the present funding bill be stopped in its execution, it would be a great misfortune. It has been regarded by the world as a fair and honest settlement between the commonwealth and her creditors. * * We have every reason to believe that, had no opposition been manifested and its repeal not been mooted, the bonds by this time would have been well nigh all brought in to be funded under its operation." The vote at the election of November, 1879, stood as follows: debt payers, 69,736; readjusters 77,070. 7,689 republicans voted with the debt payers, and 18,426 with the readjusters; a result which showed a large defection from the ranks of the regular republican party, and pointed unmistakably to the coming union. So-called republicans, who cared more for victory than principle, made haste to join in a coalition which insured them a place on the side of the successful faction, and their defection swelled the readjuster ranks to the dimensions of a working majority in the state. At the ensuing session of 1879–80 the notorious senate bill No. 176, impudently entitled "An act to restore the public credit," and known as the Riddleburger bill, was passed, repudiating over $13,000,000 of the state debt. It was promptly vetoed by Gov. Holliday. "I can not put my signature in approval to this bill," said he, in his memorandum. "I respectfully return it to your honorable body in which it originated, because I believe it to be in violation of the constitution of the state, in violation of the constitution of the United States, in violation of the spirit which has ever moved and inspired the traditions of the commonwealth and made her name so honored among men." After referring to the credit of the state, pledged as far back as 1888, the governor added: "no sooner was peace proclaimed than a general assembly, composed of her best citizens, men of the old *régime*, unanimously reaffirmed that obligation. This was repeated, in one form or another, not less than four times." The readjuster convention met July 7, 1880, with the issues and prizes of a national campaign before them. They indorsed the vetoed bill "as constituting the extreme limit of legal and moral obligations upon the part of this commonwealth to the hold-

ers of her bonds." Both readjusters and democrats favored the national nominees of the democratic party, and were careful to declare their belief that in national politics only national issues should be regarded. An attempt at fusion was made but failed, because, it is alleged, the readjusters were too grasping in their claims for the lion's share of the spoils in event of success. The futile negotiations only widened the breach, and finally the national democratic committee, seeing that a union was out of the question, and perceiving that this dickering with the repudiators was likely to lose the party votes elsewhere throughout the country, issued an address late in October, 1880, urging the democratic voters of Virginia to support the ticket of the regulars. Whereupon the chairman of the readjusters brought out a counter address, declaring that his faction were striving for a higher prize than "any abstract title to democracy," viz., the right of the people to govern their own state in their own way. The election resulted as follows: conservative democrats ("regulars"), 96,912; readjusters, 81,679; republicans, 84,020. Meanwhile the readjuster coalition had elected Gen. Mahone to succeed R. E. Withers as United States senator for the six years beginning March 4, 1881. In the national senate the parties were equally divided, thirty-seven republicans, thirty-seven democrats, and two independents, Mahone of Virginia, and Davis of Illinois. Gen. Mahone did not appear until the second day of the session, when the debate on the organization of the committees was at its height. The fact that he had taken no part in the democratic caucus, and proclaimed himself an independent, aroused the suspicions of the democratic senators who had counted upon him to give them a bare majority entitling their party to the rights of a majority in making up the senate committees, and upon his appearance he was at once attacked by Mr. Hill of Georgia, who accused him of treachery and bad faith. Gen. Mahone took the floor in his own defense and began a statement of his position. He declared himself a democrat in principle, but insisted that he did not owe his seat to the democratic party, and announced his intention of voting with the republicans in organizing the senate. Mr. Davis voting with the democrats, a tie was the result. Whereupon Vice-President Arthur cast the deciding vote in favor of his party and against the protest of the democratic senators, who endeavored to show that the vice-president had no vote upon a question of organization, even in a tie. Gorham was chosen secretary of the senate, and Riddleburger, the readjuster, sergeant-at-arms; a selection which gave rise to renewed charges of a "deal" between Mahone and the republicans. Their opponents made desperate efforts to stave off the election of officers by all sorts of dilatory measures, motions to adjourn, etc.; but Senator Davis then declared, that, having voted for the existing organization as he had felt bound to do, now that the majority, though a majority of but one, had changed, he would no longer stand in the way to block the business of the senate. This decided the matter, and the new organization was completed. Soon after the fall election of 1880 the United States supreme court decided, in January, 1881, in the case of Hartmann *vs.* Greenhow, Treas., etc., 102 U. S. Rep., that the Virginia act of 1873–6, which provided that the state treasurer should retain as a state tax 50 per cent. of the market value of the interest coupons on the bonds, funded and unfunded, could not be applied to coupons separated from bonds and in the hands of different owners, without impairing the obligation with such bondholders, contained in the funding act of 1871, and the contract with the holders of the coupons At the readjuster convention, June 2 and 3, 1881, the Riddleburger bill was again indorsed, and Mr. Cameron nominated for governor. The second place on the ticket was given to Jno. F. Lewis, who at the time was chairman of the republican state central committee. The republican committee at once convened, deposed Lewis by a vote of 15 to 2, and elected Gen. W. C. Wickham in his stead. Lewis protested, and a struggle at once began between those who favored the coalition with the readjusters and the "straight out" republicans. Both factions adopted platforms, the former declaring their reasons for allying themselves to the readjuster, or, as they called it, the "liberal" party, in opposition to the conservative democrats whom they dubbed "bourbons." Their manifesto upon the bond issue was as follows. "4. * * Abating no part of our determination to deal justly with all the creditors of Virginia, and to labor to pay every dollar she honestly owes her creditors, we deem it inexpedient and unwise to make separate nominations for state officers, and we declare in favor of hearty co-operation with all other citizens who support the candidates nominated by the anti-bourbon or liberal convention of June 2 and 3, 1881." The regular republicans, or "straight outs," also held a convention and put in nomination a separate ticket, with Gen. Wickham at the head. This was their bond plank: "3. That the republican party of Virginia hereby pledges itself to redeem the state from the discredit that now hangs over her in regard to her just obligations." On Aug. 4 the conservative democrats convened, denounced repudiation, and nominated for governor Jno. W. Daniel. The readjusters' fusion elected their candidates, Cameron and Lewis, and a majority of the state legislature. At the election for United States senator to succeed Gen. Johnson in 1883, the readjusters carried their candidate, H. H. Riddleburger, the author of the repudiation act, and with a working majority of six in each branch of the legislature, proceeded to carry out their schemes for repudiating the state debt by enacting the measures commonly known as "coupon-killers." The first of these laws, entitled "An act to prevent frauds upon the commonwealth and the holders of her securities," (passed Jan. 14, 1882), provided, under the plea of protecting the state against forged and spurious

coupons, that no coupons should be received by the tax collectors in payment for dues to the state until tested by a legal tribunal. In other words, it required the receiving officer to whom coupons should be tendered under the act of 1871, for taxes or dues to the state, to give a receipt for the same as "held for identification," and then to collect the taxes in legal tender, coin, or national bank notes. He was then to mark the coupons so surrendered and deliver them to the court, with which the tax payer might file a petition to prove the genuineness of his securities, and if successful in his law suit have his money refunded! The other act practically refused *mandamus* in tax cases. The constitutionality of these enactments was at once put to the test. In March, 1882, Andrew Antoni tendered for taxes a coupon of 1871, and on the collectors' refusal to accept it as payment, applied to the state court for a *mandamus*. The court divided equally on the law of 1882; and, on appeal, the United States supreme court, Chief Justice Waite delivering the majority opinion, held (March, 1883) that the state was bound to accept these coupons as already laid down in Hartmann *vs.* Greenhow, (*supra*), but declared, as the supreme court had also held in Hoffman *vs.* Quincy, 4 Wall., 553, that so long as the state legislature did not impair any substantial contract it could change the form of the remedy, and that the right to appeal to the state court for adjudication upon the validity of the coupon left to the creditor an adequate remedy. "No attempt has been made," said Chief Justice Waite, "to fix definitely the line between alterations of the remedy which are deemed to be legitimate, and those which, under the form of modifying the remedy, impair substantial rights. * * In all such cases the question becomes, therefore, one of reasonableness, and of that the legislature is primarily the judge." After rehearsing the provisions of the act of 1882, and the steps which a tax payer had to take to enforce his rights, the chief justice said: "It matters not whether the coupons have been refused for the taxes, if full payment of the amount that they call for is actually made in money. A remedy, therefore, which is ample for the enforcement of the payment of the money, is ample for all the purposes of the contract. That we think is given by the act of 1882 in both forms of proceeding." The court took especial pains to say that the question was not, whether the collector might not be held responsible in damages if he attempted to collect after refusing to accept the coupons. "We decide only the question which is actually before us,"—plainly intimating that an attempt on the part of the collector to levy after such tender and refusal would render him liable. This reasoning, which to many seems rather specious, was not concurred in by Justices Harlan and Field. "No greater calamity," said the former in his dissenting opinion, "could, in my judgment, befall the country than the general adoption of the doctrine that it is not a constitutional impairment of the obligation of contracts to embarrass their enforcement with onerous and destructive conditions, and thus to evade the performance of them."—The people of the defaulting states have not always relied solely upon an appeal to popular vote, legislative enactment or judicial decision for aid in their efforts to avoid payment of their honest debts. Voters have been coerced, by threats of heavy taxation, to lend their countenance to the schemes of the readjuster and the repudiator. In more than one state judges have lost their seats upon the bench because their decisions in favor of state honesty have given offense to the popular demand; and even force has been resorted to in some communities where the heavy interest tax has threatened a serious burden. In one county of Missouri, against which an interest judgment had been obtained, and *mandamus* to compel the levy and collection of a tax secured, an organized mob seized the books and expunged the levy. As may be seen from the decisions already noted, pronounced by the highest tribunal of the land, the defaulting commonwealths have matters entirely in their own hands. Under the 11th amendment no power can legally coerce a state to keep its solemn pledge. Whether a sense of national dishonor will ever prove strong enough to demand and secure the repeal of that provision, is a thing of doubtful surmise. But while that inhibition stands, a sovereign state possesses the royal right of snapping its fingers in its creditor's face. To the creditor no remedy is left save to rely upon the innate honesty of the people, and to wait for the slow revival of a healthy and honest public opinion. Hope of such in some communities rests, it must be admitted, upon but slight foundation.

GEORGE WALTON GREEN.

RESIGNATION. Applied to an office in the American system of government, the proper meaning to be attached to this term is, the relinquishment—and the return by a formal act—of all claim to the position of honor or trust which had been conferred upon the individual to the power which originally bestowed it, or to its agent accredited by law to receive such formal surrender. The highest office known to the American system is that of president. The selection of president is by the ballots of electors (electoral college), who are themselves chosen by ballot by the people of the various states of the Union. The next highest office is that of vice-president, chosen in the same manner and at the same time as the president, and who, in case of the removal, death, resignation or inability of the president to perform the duties of the office, becomes president. —Now, with respect to the resignation of these two important offices, the laws of the United States provide (Rev. Stat., sec. 151) that the only evidence of a refusal to accept or of a resignation of the office of president or vice-president shall be an instrument in writing declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the secretary of state. In case of the

removal, death, resignation or inability of both the president and vice-president, the president of the senate, or, if there be none, then the speaker of the house of representatives for the time being, shall act as president until the disability is removed or a president is elected in accordance with the forms of law. — Each state is entitled to a representation of two senators in the senate of the United States, who are chosen by the legislature of the state in accordance with the provisions of the constitution, the laws of congress, and those of the state enacted for that purpose. In case of the resignation of a United States senator during the recess of the legislature of a state, the executive of such state is empowered by the constitution to fill the vacancy thus occurring, by making a temporary appointment until the next meeting of the legislature, which shall then fill such vacancy by the election of a successor.— As it is the duty of the executive of a state from which a senator has been chosen, to certify his election, under the seal of the state, to the president of the senate of the United States; and as it is likewise the duty of the executive when vacancies happen in the representation of his state in the senate of the United States, that he shall notify the legislature that such vacancy exists, it is therefore incumbent that the resignation of a senator should be transmitted to the executive of such state as he has represented in the United States senate. — The constitution also provides that when vacancies occur in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies; therefore when a representative in congress from any state resigns his seat in that body, his resignation must be forwarded to the governor of his state, who will thereupon issue his writ ordering an election in such district to fill the vacancy created by the resignation. But the governor of a state has no authority to appoint a member temporarily to fill the vacancy in the state's representation in the house of representatives, as he is empowered by the constitution to do when, under certain circumstances, a vacancy exists in the senate. — Should a member of the cabinet resign his position as head of the department to which he was called by the president, the resignation of such officer must be addressed to the president of the United States from whom he received the appointment, and who, at his early convenience, will appoint his successor by and with the advice and consent of the senate. Until his successor is appointed, the duties of the office are performed by the assistant secretary or assistant head of the department.— Sometimes a president calls for the resignation of a single member of his cabinet when displeased with his course, or, upon a change of policy or for other cause, he may require the resignation of all the members of his cabinet; and it is usual for each member of the cabinet to tender his resignation to the president, to take effect at the expiration of his term of office; and likewise all members of the cabinet of a deceased president tender their resignations as such to the vice-president on his assuming the duties of president. — Whenever the heads of bureaus or the subordinates of any of the heads of the departments resign their offices, if they have been appointed by the heads of such departments, their letters of resignation will be addressed to such heads of departments; but if their appointment proceeds from the president of the United States, the letter of resignation must be addressed to the president of the United States. The resignation of persons in the various branches of the diplomatic service come under this rule. — Whenever the governor of a state resigns his position as such, the powers, duties and emoluments of the office for the residue of the term devolve upon the lieutenant governor. In case the lieutenant governor should resign also, or become incapable, from any other cause, of performing the duties of the office, the president of the state senate will act as governor until the vacancy is filled or the disability removed. And if the president of the senate, from any of the above-named causes, becomes incapable of performing the duties of governor, the same will then devolve upon the speaker of the house of representatives. — If the office of auditor, treasurer, secretary of state, attorney general, superintendent of public instruction, or other state officer, becomes vacant by reason of resignation or otherwise, the laws of the states generally authorize the governor to fill the same temporarily until successors are elected in such manner as may be provided by law. — Whenever members of either branch of the state legislature resign their positions as such, the executive of the state will immediately issue writs of election to fill the vacancies thus created, and the person thus resigning must direct his letter of resignation to the governor of the state, who will, upon this notification, proceed as directed by law. — Whenever a vacancy occurs in the office of chief justice of the supreme court of the United States by reason of resignation or otherwise, the duties and powers of his office will devolve upon the associate justice who is first in precedence, until another chief justice is appointed and duly qualified. This provision applies to every associate justice who succeeds to the office of chief justice. — Should a judge of a United States circuit court resign his position as such, the court for that circuit may be held by the circuit justice or by the district judge of that district, sitting alone, or by the two sitting together; but a district judge thus sitting can not give a vote in any case of appeal or error from his own decision: *Provided*, That such a cause may, by the consent of parties, be heard and disposed of by him when holding a circuit court, sitting alone. When sitting with the justice of the circuit, the judgment or decree in such cases must be rendered in conformity with the opinion of the presiding justice. — If, by reason of resignation or otherwise, no justice is allotted to a circuit, the chief justice of the supreme court may request the justice of another circuit

to preside at the court to be held therein, and exercise all the powers connected therewith, until a justice is allotted to such circuit. — When the office of judge of any district court becomes vacant, by reason of resignation or otherwise, all process, pleadings and proceedings pending before such court must be continued until the next stated term after the appointment and qualification of his successor. But when the office is vacant in any district of a state containing two or more districts, the judge of the other or of either of the other districts may hold the said district court, and all proceedings before him will have the same effect and validity as if done by or before a judge appointed by such district. — Section 714 of the Revised Statutes provides that, whenever any judge of any court of the United States resigns his office, after having held his commission as such at least ten years, and having attained the age of seventy years, he shall, during the residue of his natural life, receive the same salary which was by law payable to him at the time of his resignation. — Whenever vacancies occur in the office of judges of state courts by resignation or otherwise, and such offices are elective, such vacancies must be filled by an election; but generally, when the unexpired term does not exceed one year, the vacancy is filled by an appointment by the governor of the state, to whom the letter of resignation is addressed, and by whom all judicial officers are commissioned. — With respect to the resignation of officers of the army, the law provides that whenever a vacancy occurs, by resignation or otherwise, in the office of general or lieutenant general, such office shall cease, and all enactments creating or regulating such offices shall, respectively, be held to be repealed. — The laws further provide that no officer of the army shall hold any civil office, whether by election or appointment, and every such officer who accepts or exercises the functions of a civil office, shall thereby cease to be an officer of the army, and his commission shall be vacated, the same as if he had resigned from the service. Also, that any officer of the army who accepts or holds any appointment in the diplomatic or consular service of the government, shall be considered as having *resigned* his place in the army, and it shall be filled as a vacancy. — Article 49, of the Articles of War, provides that any officer who, having tendered his resignation, quits his post or proper duties without leave, and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of the same, shall be deemed and punished as a deserter.— With respect to the resignation of officers in the naval service of the United States, the law provides that vacancies occuring in the grades of admiral and vice-admiral shall not be filled by promotion or in any other manner; and that when the offices of said grade shall become vacant, either by resignation or otherwise, the grade itself shall cease to exist. — The laws further provide, that if any officer of the navy accepts or holds an appointment in the diplomatic or consular service of the United States, he shall be considered as having resigned his place in the navy, and it shall be filled as a vacancy. Also, that no officer of the navy who has been dismissed by the sentence of a court martial, or suffered to resign in order to escape such dismissal, shall ever again become an officer of the navy. — Article 10, of section 1624, Rev. Stat., relating to the government of the navy, provides that any commissioned officer of the navy or marine corps, who, having tendered his resignation, quits his post or proper duties without leave, and with intent to remain permanently absent therefrom, prior to due notice of the acceptance of such resignation, shall be deemed and punished as a deserter.

JNO. W. CLAMPITT.

RESTRICTIVE SYSTEM. (See EMBARGO, in U. S. History.)

RETURNING BOARDS (IN U. S. HISTORY). There is an infinite diversity in the laws of the different states which regulate the declaration of the results of popular elections; but they may be very roughly grouped under three classes. 1. The returns of elections for governor and other state officers are generally sent to the secretary of state. In some states they are sent by him to the presiding officers of the legislature, to be opened and canvassed in the presence of the two houses; in others they are canvassed and declared by the persons holding certain designated state offices. These latter are canvassing boards; and their powers are thus summed up by Cooley, as cited below: they "act for the most part ministerially only, and are not vested with judicial powers to correct errors and mistakes that may have occurred with any officer who preceded them in the performance of any duty connected with the election, or to pass upon any disputed fact which may decide the result." Nevertheless, some correction is always done, the extent and importance of it varying in different states, and sometimes according to party necessity. Indeed, much of the difficulty of 1879 in Maine (see that state) arose from the partisan application by the canvassing board of varying state precedents in the correction of errors or the refusal to correct them. 2. In the case of members of the legislature, the returns usually go at first to the secretary of state, though sometimes to a canvassing board or directly to the presiding officers of the two houses. Contests, however, are decided by the houses themselves. 3. In the case of other state and local officers, contested returns are generally settled by the courts, either by statute or by the issue and decision of common law writs in the nature of *quo warranto*. 4. In the mixed case of presidential electors, appointed "in such manner as the legislature of the state may direct," but acting in a national capacity, the final and absolute decision of contests properly belongs to the state also (see PENNSYLVANIA), with a general power in congress to make rules for the authen-

tication of the state's decision. Congress, however, has never done its duty in the premises, but has reserved to itself a special power to decide arbitrarily upon special cases of contested elections of electors. (See ELECTORS.) — The circumstances of the reconstructed state governments of the southern states after the rebellion (see RECONSTRUCTION, III.) were peculiar. The voting majority had been made ignorant, timid, poor and debased by a system of hereditary slavery; the minority, whether voting or disfranchised, was embittered by defeat, by a rankling sense of injustice, and by a hatred of negro rule. What was to prevent the minority, by organized or spontaneous fraud or violence, from ousting the majority as soon as the strong hand which had reversed their positions should be withdrawn? The first effort to solve this problem by the interposition of returning boards may be found in the Arkansas constitution of 1868. Hitherto the returns of elections to ratify or reject a state constitution had always been made to one or more of the old state officers, with only ministerial power, that is, power to compile, count and declare the results sent them by election officers. The Arkansas constitution designated three private persons by name as returning officers, with judicial powers. They were to receive returns from the judges of election, to compile and count them, to reject all fraudulent or illegal votes, and in case of fraud, fear, violence, improper influence or restraint, to set aside the whole election and order a new one, or to reject or correct the result in any county or precinct. On the contrary, the constitution of the same state in 1874, while naming three returning officers, gave them no judicial powers. — In Florida, South Carolina and Louisiana, returning boards with judicial powers were established by the reconstructed state governments by statute. In all three states the power to do so was claimed under very similar clauses in the state constitution: in Florida, that "laws shall be passed regulating elections, and prohibiting undue influence thereon from power, bribery, tumult, or other improper practice"; in Louisiana, that "the privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from bribery, tumult, or other improper practice"; in South Carolina, that "the right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct." Outside of these clauses there is absolutely no provision by which the powers given to the returning boards can be defended; and the clauses specified seem to be plainly intended for the regulation of the elections themselves, and not to empower the legislative or executive departments to assume judicial functions in counting the results of the elections. And, as one of the members of the electoral commission commented on the Louisiana provision as a novelty in state constitutions, it may be well to note that in Florida since 1838, and in Louisiana since 1812, these same provisions, *ipsissimis verbis*, had been inserted in all their state constitutions; but no one, until 1868–72, supposed that they authorized the creation of returning boards, with judicial powers, by the state legislatures. Indeed, such assumption is impliedly forbidden by the constitution of every state, and expressly forbidden in most of them, as it is in Florida and South Carolina: "The legislative, executive and judicial powers shall be separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other." In Louisiana, also, it is provided that "no judicial powers, except as committing-magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title [judges of various grades]." The powers given to a returning board, in state elections, seem to have been absolute usurpations by the legislature: a violent revolution, to be resisted by the individual just so far as he should choose to risk his personal safety. But, in the matter of presidential electors, in which the country at large was most interested in 1876–7, the power of the legislature to constitute returning boards with judicial powers rests on an entirely different basis, distinct from and higher than the state constitution itself. The national constitution directs the appointment of the electors of a state to be "in such manner as the legislature thereof may direct." The power of the legislature over the manner of appointment is thus absolute, and can not be restrained or abridged either by the state constitution or by congress. If the state constitution should expressly prohibit returning boards in the case of presidential electors, the prohibition would have no effect whatever on the legislature. The distinction is essential. It will explain why the Hayes administration in 1877 abandoned the defense of the state governments which were the creatures of the returning boards; and will show the sophistry of the plausible assertion that the administration had thereby impeached its own title. — The Florida act of Feb. 27, 1872, constituted the secretary of state, the attorney general, and the comptroller, or any two of them with any other member of the state cabinet designated by them, a board to canvass returns of state elections, and elections for presidential electors, and to determine and declare who have been elected. "If any returns are so irregular, false or fraudulent that the board can not determine the true vote, they shall so certify, and shall not include such returns in their determination and declaration." In Louisiana (see that state) there was a continuous difficulty in ascertaining the true returning board; but the final act of Nov. 20, 1872, constituted "five persons, to be elected by the senate from all political parties," a board with power "to make the returns of all elections." A majority of the board was to be a quorum; and in case of any vacancy by death, resignation or otherwise, the vacancy was to be filled by the

residue of the board. In case of any violence or bribery in any precinct, the local election commissioners were to certify the facts to the returning board through the secretary of state or the supervisors of registration, annexing their certificate to the returns, which were to be sent within twenty-four hours after the election. Within ten days after the election the returning board was to meet in New Orleans; canvass and compile those returns which had no certificates of bribery or violence annexed; then investigate the certificates which had been annexed, taking evidence thereon, and sending for persons and papers; and finally exclude the returns from any voting place, if satisfied that the commissioners' certificate was correct, and announce the result. Their determination was to be *prima facie* evidence of the right to hold office, "until set aside after contest according to law." If the constitutionality of the law be granted, its provisions, honestly executed, would seem to be very fair. The twenty-four hours' limitation on the sending of certificates by local commissioners would preclude any general collusion; open trial of evidence would ascertain the truth or falsity of the certificates of violence; and the power of setting aside their decisions, to be exercised by the legislature in the case of its own members and by the courts in the case of other officers, would have been a sufficient safeguard. Unfortunately, we can know little of the possible results of a righteous execution of the law; for the board systematically disobeyed most of its provisions, and perverted the rest. The essential point of the twenty-four hours' limitation was disregarded; the secret sessions of the board made the taking of "evidence" a farce; and by these two perversions it made both the courts and the legislature so entirely its creatures as to practically destroy any right of appeal. — The South Carolina statute was a combination of both the preceding. Local canvassers sent their returns to the county canvassers, and these to the state returning board, composed of the secretary of state, the treasurer, the comptroller, the attorney general, and the adjutant general. These had judicial powers over the canvass, except as to the returns for governor and lieutenant governor, which they were to transmit to the speaker of the house, to be counted in the presence of both houses. — Bitter complaints had often been made of the partisan and unfair action of the returning boards, particularly in Louisiana, but little attention was paid to them in northern states, where the boards were generally considered in some sense an antidote to southern lawlessness at elections. Immediately after the presidential election of 1876 it was found that the whole result hinged on the decision of the returning boards. (Oregon is not regarded here, since in that state the canvassing officer, the secretary of state, had been given no judicial powers, either by the constitution or by the legislature.) In Florida the returning board consisted of Samuel B. McLin, secretary of state, Clayton A. Cowgill, comptroller, and Wm. A. Cocke, attorney general; in Louisiana, of J. Madison Wells, T. C. Anderson, L. M. Kenner, and G. Casanave, all private citizens except Wells, who was federal naval officer at New Orleans; in South Carolina, of Henry E. Hayne, secretary of state, F. L. Cardozo, treasurer, Thos. C. Dunn, comptroller, Wm. H. Stone, attorney general, and H. W. Purvis, adjutant general, all colored except Dunn and Stone. Nov. 10, a large number of republican and democratic leaders in northern states, on the invitation of President Grant and the democratic national committee respectively, went to the three disputed states to watch the canvass; but they had no concert of action, and can not really be said to have acted at all. The boards met and organized in South Carolina Nov. 10, in Louisiana Nov. 16, and in Florida Nov. 27. In Louisiana the fifth member of the board, Oscar Arroyo, a democrat, had, for some unexplained reason, resigned immediately after the election, and the remaining four, all republicans, refused to fill his place. When the board, by its tenth rule, resolved to decide contests in secret session, the democrats protested, but without success. The board also refused to allow United States supervisors to be present at their secret sessions; to allow counsel for contestants to inspect the counting of the returns; or to count the ballots of four republican parishes, on which the names of five of the eight Hayes electors had been forgotten, only for the three electors specified on them. It is impossible to give the board's defense of its action in these cases, for it assigned no reasons. Dec. 6, it declared elected the republican candidates for state officers, 4 republican and 2 democratic congressmen, 19 republicans and 17 democrats in the state senate, and 71 republicans, 43 democrats, and 8 independents in the state lower house. Its principal changes had been made by counting for all the eight Hayes electors some 1,200 ballots bearing the names of only three; and by throwing out about 13,000 democratic and 2,000 republican votes, mainly in the parishes of East Baton Rouge, De Soto, East and West Feliciana, Grant, Iberia, Lafayette, Lafourche, Morehouse, and Ouachita. No attempt was made to control the board by the state courts. — In Florida the state circuit court for Leon county, before the meeting of the board, had ordered it to canvass the votes forthwith. Dec. 5, the board declared the popular vote on presidential electors to be 23,849 republican, and 22,923 democratic, a republican majority of 926; all of Manatee county, and parts of several other counties had been rejected for violation of election laws. Dec. 22, the state supreme court ordered the board to canvass the votes for state officers only from the face of the returns. What the "face of the returns" was, is doubtful. Both parties agree that, taking all the counties but one (Baker), the vote in the state was almost an exact tie. From Baker county two returns had been sent: one, made up Nov. 10, by the county clerk and a justice of the peace, giving the vote as 143 republican, and 238 democratic, a democratic majority of 95; and another, made up

Nov. 18, by the county judge, sheriff, and a justice of the peace, excluding two precincts, and giving the vote as 130 republican, and 89 democratic, a republican majority of 41. The gist of the difficulty was thus in the double return from Baker county. Taking the second return from Baker county, and throwing out Clay county (164 democratic majority), the board reported, Dec. 27, a republican majority of 206 for electors, and a democratic majority of 195 for governor. This report the court refused to receive; and, Jan. 1, 1877, the board at last made return in accordance with the democratic claims, and the democratic state officers were inaugurated. But in the case of the electors it was too late. The Hayes electors had received the governor's certificate on the board's first return, had met and voted, Dec. 6, and were now dead in law. The Tilden electors had met and voted the same day, on a certificate given by a single member of the board. Jan. 17, 1877, the new legislature passed an act requiring the new state officers to canvass the returns for 1876. This they did, and declared the Tilden electors successful; but the electoral commission decided this action to be entirely *ex post facto*, and void. — In South Carolina the state supreme court ordered the board to exercise no judicial functions in the state count, Nov. 17, and in the presidential count, Nov. 22; but on the same day that the latter action was taken, the board gave certificates to the republican electors and state officers, and adjourned *sine die*. They were arrested for contempt, but released by the federal circuit court on *habeas corpus*. — In Louisiana and South Carolina new election laws were at once passed by the new democratic legislatures, under which the judicial functions of the returning boards were almost entirely cut off. The same result had almost been reached in Florida by the supreme court's construction of the board's powers; but in 1878 the board (now democratic) again threw out two counties for informality. The state supreme court again decided against the board. It may be taken for granted in future that Judge Cooley's definition of the powers of a canvassing board, heretofore cited, will be followed by all American courts; and that any attempt by a state legislature to give such a board judicial functions, without a plain authorization of the act by the state constitution, will be held by the courts to be unconstitutional and void. — For further proceedings in regard to the votes of the presidential electors, see ELECTORAL COMMISSION; DISPUTED ELECTIONS, IV. See constitutions of the states referred to in Poore's *Federal and State Constitutions;* summary of provisions for election returns in the various states, 2 Hough's *American Constitutions*, 758; authorities under ELECTORAL COMMISSION; Cooley's *Constitutional Limitations*, 3d edit., 734, and law authorities there cited; *Louisiana Rev. Stat.*, 96 (act of Nov. 20, 1872); 25 *Louisiana Annual Rep.*, 14, 263, 267; 16 *Florida Reports*, 17; and later authorities under LOUISIANA.

ALEXANDER JOHNSTON.

REVENUE, Public. Finance is declared by Bentham to be "an append and inseparable accompaniment of political economy." Economists are, however, divided in their opinions regarding the closeness and the legitimacy of this connection. Joseph Garnier remarks, that certain writers of general treatises on political economy have not even touched the subject: Malthus, Skarbek, Senior, and James Mill. Others have only dealt with it in a highly summary manner: Sismondi, Rossi, Storch, Cherbuliez, Courcelle-Seneuil and Stuart Mill, while treating the subject very briefly, have yet pointed out and discussed the fundamental questions of finance. Adam Smith, continues M. Garnier, devoted to this subject a fourth of his "Wealth of Nations." J. B. Say has given a like proportion of his "Treatise" and of his "Course" in political economy to the causes and effects of the public consumption of wealth. He did not, however, examine, as Smith had done, the different kinds of taxes. Ricardo has entitled his chief work, "The Principles of Political Economy and Taxation"; but that which relates to finance, proper, occupies no more than a fourth of his work. McCulloch has not treated of financial questions in his political economy, but has discussed them in a separate treatise, giving to them a very full consideration. Rau has, likewise, treated separately that which M. Garnier calls "this important branch of political economy." — The causes which have thus led to the exclusion of finance from formal treatises on political economy, or to its very slight and partial recognition therein, may be stated as follows: First, According to the most frequent classification of the subject, the revenue of the state falls into that one of the old-fashioned "departments" of political economy, which is known as "consumption." The tendency of the writers of the present and of the last generation has been to omit all consideration of the consumption of wealth, whether as to its objects or as to its effects. Secondly, The revenue of the state falls outside the sphere of contract, which would be a sufficient reason for omitting to take note of it, in the case of the school of writers who make political economy to be purely "the science of exchanges." As Dr. Sturtevant remarks, "The wages of government are not determined by economic laws; it receives whatever it demands. In some cases it takes the position of a partner, and accepts for its compensation a certain percentage of the profits; but that share is not determined by an agreement between the partners, but by the will of this one partner." Thirdly, and chiefly, considerations purely political always enter in a great degree, and often in a controlling degree, into the decision of questions relating to the collection of public revenue. The statesman, as financier, may legitimately ask, not which is the best tax, or the most economical mode of assessment, but which is the most politic. He not only may, he must, consult the temper and habits of his people. He must consider the times and the circumstances,

quite as heedfully as he does the normal operation of economic laws. Even the special race-quality imparted by descent must be respected in the collection of public revenue. "A land tax," wrote Sir James Steuart, in the last century, "excites the indignation of a Frenchman; an excise that of an Englishman." Thomas Jefferson observed a corresponding difference in the susceptibilities of the northern and the southern portions of this country, in his day. "In most of the middle and southern states," he says, "some land tax is now paid into the state treasury; and, for this purpose, the lands have been classed and valued, and the tax is assessed according to that valuation. In these, an excise is most odious. In the eastern states land taxes are odious; excises, less unpopular."—M. de Parieu, in his monumental work on "Taxation," thus expresses a striking characteristic difference between the Teutonic and the Latin nations in enduring taxes on property and income: "While countries inhabited by the pure Germanic race, or by its principal branches, Germany, Scandinavia, Great Britain and North America, support almost universally taxes of this kind, the financial history of the Neo-Latin peoples has made us acquainted with but a small number of isolated applications, temporary or abortive, of such a rule of contribution. Even in Switzerland, a country of mixed race, the field of general taxes upon property and income appears, with the exception of Geneva, to be confined within the frontiers which circumscribe the German race and language. This difference of moral aptitude in relation to the taxes under discussion, which appears in comparison of the Germanic and the Latin races, whether from history or from contemporary statistics, long since attracted the attention of certain Italian publicists. Machiavelli, Botero and Braggia have mentioned German customs in this regard as exceptional. * * That which characterizes the methods of applying general taxes to property and income, is the necessity of a certain degree of loyalty,* patience, and even of spontaneity,† among the tax payers. "Is it not," continues M. de Parieu, "easy to understand that, following the analogy of individuals, some nations may present, relatively to others, the character of greater sincerity, of a greater disposition spontaneously to burden themselves, and of a greater patience when in contemplation of a right object? Is it inconsistent with our observation of manners and morals to acknowledge that certain populations possess, with a temperament more cold, a stronger infusion of that natural sense of justice, so necessary in the application of an income tax equally among the contributors summoned to declare their fortunes, and among the assessors charged with supervising and correcting these declarations? I could not," he concludes, "assert that there is among the Germanic peoples more of authority or of liberty than among the Neo-Latin peoples. What seems certain is, that authority and liberty are there distributed and understood in a different manner. The Germanic peoples appear to accept more easily than do the Neo-Latins, authority coming close to the individual, at the hearth of the family, in the town or near at hand."—It will readily appear that differences in race aptitudes for taxation, such as those indicated by M. de Parieu, may not only control the forms of assessment or contribution, as between one community and another, but may have power to appreciably affect the proportion of the aggregate income of a community which the treasury can command, whether for ordinary public purposes or in the great exigencies of state. Of two nations of equal wealth, one may, through the stronger sense of justice native in its people, through an excess of loyalty and spontaneity in the support of the government, possess a fiscal force twice or thrice that of the other.—It is not, however, alone differences of a moral nature which affect the relative fiscal force of communities. Differences in the prevailing occupations of the people, in the rapidity of circulation, and in the distribution of wealth, irrespective of its aggregate amount, may have important effects upon the power of the treasury to secure contributions to public uses. In a commercial or manufacturing nation, where capitals are concentrated, and where nearly the whole body of the annual product becomes the subject of exchange, perhaps is even exchanged several successive times between the hands of the producer and those of the consumer, the government can command a far higher proportion of the aggregate income of the people than can be done in a purely agricultural state.—But while considerations like the foregoing may properly enter to influence the views of the financier, in matters which can hardly be termed matters of detail, the essential subjection of the fiscal interests of the treasury to the economic interests of the community,‡ can never safely be disregarded. Mr. R. H. Patterson, in his "Science of Finance," justly says, paraphrasing in his final sentence Burke's remark about justice as the great standing policy of nations, that "the statesman may, for reasons such as have been intimated, deal with the collection and disbursement of revenue on methods somewhat different from those which the strict application of economical principles would require; but it must always be as a conscious deviation from a right rule. He must never go very

* *Selbstschätzung*, says M. Rau; self-taxation, an Englishman would say, according to the analogy of "self-government."

† In addition to the facts of self-assessment, fully attested as occurring in Geneva, Bremen and Holland, must be placed to the credit of the morality of the Germanic peoples, those very numerous acts of restitutions to the treasury, which form what is in England termed "conscience money." In France the yield of reparations of this sort, though on the increase, has never been large.

‡ Ajoutons que c'est par l'étude de la science économique en général qu'il serait bon de commencer celle des finances publiques. * * Mais, dira-ton, la solution des questions de finances comporte divers points de vue: le point de vue économique, et les divers points de vue, fiscal, politique et moral. L'observation est exacte. Mais les raisons fondamentales sont d'ordre économique. (Jos. Garnier.)

far from principles, or remain long away. Else, his policy will prove no policy at all." Mr. Patterson adds, as justly as piquantly, "there are many things in the world which have the knack of being as broad as they are long; and this is peculiarly the case with state finance." — Taxes and public revenue are commonly used as interconvertible terms, and in popular speech, or for the purposes of approximate statement, this is well enough. Yet for scientific purposes, or in any careful survey of the fiscal history of a country, or in a comparative statement of the fiscal resources of two or more nations, the public revenue may include something more than, perhaps something very far in excess of, the aggregate of all sums received into the treasury as the result of official assessment and of compulsory collection. Among these may be named the sums received by gift or voluntary contribution of citizens, the value, known or estimated, of all prerogatives or privileges of requisition or of purveyance, respecting services or supplies, together with a fair rental of all domains, buildings or other property occupied or used for public purposes. — The revenue of France, for instance, during the present year, when properly stated, will include, in addition to the actual receipts into the treasury, the market value of the services rendered by some hundreds of thousands of citizens of the republic, as soldiers under the conscription act, over and above that which the state actually pays as wages to these involuntary servants. This last item is of enormous consequence in all countries having a compulsory military system. Indeed, this, which by some has been called "the blood tax," is by far the greatest of all the taxes of modern times. Were it necessary for France, Germany or Russia to go into the market for labor, and pay wages sufficient to induce men, to the number of its present soldiery, to enter its service voluntarily, the expenses of the government would be enormously increased, probably to the result of early fiscal bankruptcy. It is fairly matter of question whether any one of the countries named could, by the utmost exertion of the power of taxation, short of producing universal revolt, raise money enough to hire the services of its existing army. Yet the market value of these services clearly belongs to the revenue of the state, whether those services are obtained by payments out of the treasury, or through an exertion of legal authority in the form of conscription; while it is certain that the cost of those services to the people, obtained as they are by abruptly and violently withdrawing from industry and trade that number of workers, many of them of the higher grades of intelligence, and occupying positions of responsibility, is vastly greater than would be involved in obtaining an equal number of equally good soldiers through solicitation and voluntary enlistment. In like manner, if the government of France exercises rights of requisition or purveyance through officials, high or low, as to supplies, whether for peace or war, the amount saved to the treasury thereby, through avoiding purchase in an open market, is properly to be included in an account of the public revenue. In a word, the revenue of any state, for any given year, is constituted of each and every valuable thing which is, in that year, applied to governmental purposes. — A classification of the several principal sources of public revenue has long been a desideratum. No such scheme could be free from objection, and many a scheme may, in some one respect, possess an advantage over that scheme which is, as a whole, the best. The following classification will be observed in this article: *Sources of Public Revenue.* I. Voluntary contributions. II. Public property, lucrative prerogatives and state enterprise. 1, rent charges in favor of the state, as the proprietor of all lands; 2, escheat; 3, fines and forfeitures for criminality and delinquency; 4, tributes from colonies, dependencies and conquered nations, including war fines, requisitions and indemnities; 5, sale of offices, honors and titles; 6, domains (*L'état capitaliste*); 7, state enterprise (*L'état entrepreneur*). III. Quasi taxes. 1, monopolies; 2, lotteries; 3, purveyance of supplies, and requisition of services; 4, fees; 5, seigniorage on coin; 6, paper money. IV. Taxation, in its various forms. Taxes may be assessed, 1, on the basis of realized wealth, commonly spoken of as capital; 2, on the basis of annual income or revenue; 3, on the basis of faculty, or native and acquired power of production; 4, on the basis of expenditure, or the individual consumption of wealth. Exemption from taxation may be claimed, 1, for noble and privileged classes; 2, for clerical persons and religious orders; 3, for charitable and educational institutions; 4, for the poorer classes of the community, either through the omission from assessment of a certain minimum income, or through an ascending scale of taxation upon higher incomes (progressivity in taxation). Taxes may be collected, 1, in services; 2, in products; 3, in money. Taxes are commonly, in discussion, divided as, 1, direct; 2, indirect. This distinction, however, is of only very general use, it being impossible to distribute the taxes actually levied in any state, under these two heads, without great confusion and much manifest error. The French writers further divide direct taxes into, 1, taxes *de répartition*, of which the produce is certain and known in advance; 2, taxes *de quotité*, of which the produce can not be known in advance, and varies with external conditions. — The following classification of taxes, made by M. de Parieu, according to the objects they reach, or at least upon which they are assessed, is believed to be the most convenient and useful: 1. *Les impôts sur les personnes, ou capitations*—Taxes upon persons, or poll taxes; 2. *Les impôts sur la richesse, ou sur la possession des capitaux et revenues*—Taxes upon wealth, or upon the possession of capital or income; 3. *Les impôts sur les jouissances*—Taxes upon use or occupation [corresponding very closely to the English assessed taxes on carriages, horses, windows, lodgings, etc.]; 4. *Les impôts sur les consommations*—Taxes upon consumption; 5. *Les im-*

pôts sur les actes—Taxes upon transactions [sales, etc.] Of these five classes, M. de Parieu remarks, that the first three approximately conform to the general definition of direct taxes, the last two being indirect. Of the first group, taxes upon wealth, and of the second group, taxes upon consumption, are at once most characteristic and the most important. These constitute "the two poles of the general system of taxation." — Having offered the foregoing classification of the sources of public revenue, we will proceed to speak briefly of each. — I. *Voluntary Contributions.* It is difficult for the man of the present age to conceive of the state as supported by voluntary contributions; yet not only were these once, in theory, almost the sole resource of the ruler, except through personal services; but they, in fact, survive to this day, in a few isolated communities, in the form of the self-assessment of the citizen. To go no farther back than the feudal days, in England, while the chief military support of the kingdom was afforded by the muster of the vassals, it was the fiction of the law, that, so far as aids and subsidies were concerned, the tax payer made a voluntary offering to relieve the wants of the prince; and that the promise of a tax bound only the individual who made it. It was the practice of bringing personal property and income under contribution, which gave rise to the idea that taxation and representation must go together, and caused the formal grant of money. At the beginning of the system of poor relief, in the early years of Elizabeth, collections were taken in churches, and each person was left to be the judge of what for him constituted "a reasonable contribution."— The papal revenues, also, may perhaps be brought under this head. The pope was by far the greatest capitalist of the middle ages. The British parliament at one time declared that the contributions made by their people to the pope were five times as great as those made to the sovereign. — Adam Smith cites Hamburgh, Basle, Zurich, Unterwald and Holland, among the communities where the self-valuation of the citizen was still, in his day, accepted. Riesbeck, in his "Travels in Germany," says of the first named city, "some taxes are voluntary, and the burghers have the right to put what they think their quota into the purse, which is shut, and the deputies dare not open it in their presence." Even within a few years there have remained free cities in Germany and cantons in Switzerland, where the rule of voluntary contribution still subsisted in all its purity. — II. *Public Property, Lucrative Prerogatives and State Enterprise.* 1. Rent charges in favor of the state, as the proprietor of all lands. Throughout considerable portions of Asia and in Turkey in Europe, the rent of land, paid to the state, furnishes by far the greater part of the public revenues. That the soil originally belonged to the community or nation, private property in land being, indeed, a comparatively modern institution, and finding its justification only in political expediency, is admitted by nearly all publicists of authority. By vesting the title to the soil in individuals, the state sacrifices that large revenue resulting from the progressive enhancement of the value of land, which would otherwise have accrued to the treasury. It is equally beyond question that all the advantages of the private ownership of land might have been obtained, while yet the state imposed fiscal charges and military or political obligations which would have secured for the community a considerable share of that progressive enhancement of values. — The proposition to reassert the right and interest of the state in all the land which has become the subject of individual ownership, was made by Mr. John Stuart Mill, in the later days of his life, and the programme for this substitution of rent for taxation, with the arguments in its favor, will be found in his later speeches and essays. Mr. Mill pointed to the commutation of the feudal obligations of the English landowners, for the altogether insufficient consideration of a tax of four shillings in the pound upon the valuation of 1692, and also to the sacrifice of the interests of the crown in the lands of a portion of British India, by which the "unearned increment" was allowed to pass into the hands of individual proprietors, instead of being reserved to the public treasury. Mr. Mill's practical proposition was to appraise all estates according to their present market value, and thereafter to assess them to the full amount of all enhanced value which could not be shown to be due to applications of labor and capital. To this he looked as a fiscal resource which should relieve the community from the greater part if not all of the burden of taxation. More recently Mr. Henry George has proposed, in his "Progress and Poverty," to assert the right of the state, not only to all future increase of value in the land, but to its present value, asserting that all grants of exclusive property in land are and have always been void, and that the proprietors of land are not even entitled to reserve the value of their improvements. — 2. Escheat, the principle, viz., that the state is the proprietor of all estates, real or personal, to which individual titles or claims are lost. It will at once appear that the scope of this principle, from the point of view of revenue, will widen or contract in correspondence with the laws which regulate the descent and bequest of property, and prescribe the times and modes of proving claims, in which respect some countries are far more liberal than others. Under the feudal system. escheat constituted a most important source of revenue. In England the right of devising real property did not exist, after the conquest, until the time of Henry VIII.; and no small proportion of the lands of the kingdom passed to the crown under the operation of this principle. Modern society, however, whether out of sympathy with the instincts of property right,* or from a politic desire to promote the spirit of accumulation, has given continually wider and wider extension to the

* Sinclair, in his "History of the Revenue," stigmatizes escheat as "a species of confiscation."

power of bequest and to the principle of inheritance, until escheat, as a source of revenue, has ceased to be of much importance. — In 1795 Jeremy Bentham published a notable tract entitled "Escheat *vs.* Taxation," in which that daring reformer proposed an extension of the existing law of escheat, "a law coeval with the very first elements of the constitution," with a corresponding limitation of the power of bequest. The intended effect was "the appropriating to the use of the public all vacant successions, property of every denomination included, on the failure of near relatives, *will or no will*, subject only to the power of bequest, as hereinafter limited." By "near relatives" Bentham intends "such relatives as stand within the degrees termed prohibited, with reference to marriage." Furthermore, in the case of "such relatives" within the pale as are not only childless, but without prospect of children, he proposes that, instead of taking their share in ready money, they should take only the interest of it, in the shape of an annuity for life. As to the latitude to be left to the power of bequest, he says, "I should propose that it be continued in respect to the half of whatsoever property would be at present subject to that power." Bentham argues that the scheme he proposes for dispensing with taxation by limiting the power of bequest and restricting succession to near relatives, would work no wrong. Hardship, in the distribution of property, is in proportion to disappointment: expectation thwarted. If distant relatives were taught by the general provisions of the law that they could not succeed, no expectations would be excited, and such persons would suffer no wrong, being simply put into the case of others who have no rich distant relatives. Bentham's proposal received no special attention at the time; and, except in the way of taxes upon successions and bequests,* little progress has since been made in the direction indicated; but it is probable that among the earliest of the measures of a militant and triumphant democracy would be the limitation of the power of bequest and the restriction of succession, each in the interest of the state, as the proprietor of all estates to which individual titles or claims may be lost. — 3. Fines and forfeitures for criminality and delinquency. It might be supposed, that, since government exists largely for the protection of property and life, and for the punishment of offenses against society, the cost of maintaining government and administering justice might largely be thrown upon delinquents and criminals. In feudal times, fines and forfeitures constituted a very important source of revenue to the crown. This was the result of two causes. First, the relation of the tenant to the lord was a personal one, and failures in personal loyalty, although not rising to what in the present day would be deemed crimes against society, were punished by heavy fines or total forfeiture. Second, the crimes of those days were largely political, and great offenders were likely to be men of wealth and position who would be fat subjects for amercement.† The wars of the roses, for example, were so fruitful of forfeitures that a large proportion of the land of the realm became the property of the crown. In the present age, political crimes have become comparatively infrequent, and the criminal class are mainly drawn from the poor. Hence, this branch of the public revenue has shrunk to comparative insignificance. Fines and forfeitures still pay a part of the expenses of strictly judicial establishments, especially in the lower or police courts, but they add little to the general revenues of the state. Even the labor of condemned criminals is seldom found to be sufficiently remunerative to pay the cost of their maintenance under ward. — 4. Tributes from colonies, dependencies and conquered nations, including war fines, requisitions and indemnities. "In all ages," says Sir Erskine May, "taxes and tribute have been characteristic incidents of a dependency. The subject powers of Asiatic monarchies, in ancient and modern times, were despoiled by the rapacity of satraps and pashas, and the greed of the central government. The Greek colonies, which resembled those of England more than any other dependencies of antiquity, were forced to send contributions to the treasury of the parent state. Carthage exacted tribute from her subject towns and territories.‡ The Roman provinces 'paid tribute to Cæsar.' In modern times Spain received tribute from her European dependencies, and a revenue from the gold and silver mines of her American colonies. It was also the policy of France, Holland and Portugal to derive a tribute from their settlements." In our own day, Holland has drawn a net revenue of £8,000,000 from the island of Java, the natives being required to cultivate defined portions of land in specified crops. That compulsory cultivation used to include many crops; subsequently, it was for a long time confined to sugar and coffee; since 1880, as I understand it, coffee has remained the sole crop so cultivated. — I have quoted a passage from Sir E. May, relative to the forced contributions of colonies and dependencies: let me complete the sentence. "But England, satisfied with its colonial trade, by which her subjects at home were enriched, imposed upon them alone all the burdens of the state." This sentence expresses the essential characteristic of the English system of

* By the revenue measures introduced by Mr. Gladstone in 1853, the tax upon the direct succession of a child to a parent was placed at 1 per cent.; that upon the succession of an entire stranger in blood, at 10 per cent. Intermediate rates were fixed for successions within certain degrees of consanguinity. If 10 per cent., why not 50?

† The extortions of the early kings of England, under the pretense of administering justice, are very strikingly portrayed by Mr. Hume, in his "History."

‡ Immense contributions were enforced by the Carthaginians from the towns on the Libian-Phœnician coast. "At one time," says Mr. Grote, "immediately after the first Punic war, they took from the rural cultivators as much as one-half their produce."

dealing with colonies. It must not be supposed, however, that the system was necessarily lighter in the burdens it imposed than would have been a system of taxation. The constraints which the navigation acts of England*—designed to give to British shippers and British merchants the profits of the colonial trade—placed upon the energies of those young and growing communities, were frequently more galling and depressing than heavy taxation would have been. Another incident of the British colonial system in the past was patronage, affording, as that system did, a wide field for the employment of the friends, connections and political partisans of the home government. Until the reform of the civil service this was of a real and great fiscal value, being worth more to the administration than an addition of millions to the revenue would have been. Even now it is asserted† that the Indian army is maintained and employed quite as much for the imperial interests of Great Britain as for the preservation of the peace and unity of India; that the salaries of British officials are there vastly greater than necessary or desirable; and that the construction of immense systems of public improvements, railways, canals and irrigating works, at the expense of India, has been controlled largely by the interests of British capitalists or by the demands of British cotton spinners.—The Danish Sound dues, "the most important transit duties in the world," until 1857, constituted a striking example of this class of contributions. In the year named, these duties were finally abolished, Denmark receiving 30,476,825 rix dollars in final commutation, of which sum Great Britain paid a full third. The United States subsequently joined in this purchase of the rights of Denmark over the navigation of the Baltic, having, at a much earlier period of its national history, made successive contributions to the revenues of the piratical Barbary states, for the privilege of sailing the Mediterranean. — The principle of making the enemy, as far as possible, pay the cost of war while in progress, and exacting an indemnity subsequently for such expenses as could not be met by requisitions and billeting, is of too wide historical usage to require mention here. The application of that principle is only limited by the power of belligerents. After the treaty of 1842, the Chinese government was compelled to pay England sums approaching thirty millions of dollars on account of opium seized, and for the expenses of the expedition. It was reserved for Germany, after the war with France in 1870–71, to exact the most gigantic war indemnity ever paid in the history of mankind. — 5. Still another source of revenue is found in the sale of offices, honors and titles. The accounts of such sales under the Roman empire, in the days of its decline; by the popes throughout the middle ages; by the kings of France, especially from Louis XII. to the time of the revolution; and in England, under the Stuarts; form a very interesting chapter in the history of finance;‡ but space will not allow us to enter upon it here. At times these sales were mere acts of extortion by the sovereign; at others they amounted to little else than the sales of annuities under the name of salaries attached to the offices conferred; at times these offices carried privileges and opportunities by which the purchaser might reimburse himself for his outlay, whether through a monopoly, or through the right to collect or disburse the public revenues, which was a very common incident of these sales. — 6. Domains (*L'état capitaliste.*) Even under the modern European principle of the private ownership of lands, the state is, in all countries, the possessor of larger or smaller domains, from which a revenue, in money or produce, may be derived, or which, while yielding no revenue in form, serve public uses which would otherwise require expenditures out of the treasury. M. Leroy-Beaulieu, the editor of the *Economiste Français*, author of an excellent work on "Finance," expresses the distinction between the property of the state which is left to the enjoyment of individuals, yielding no revenue, and that which is productive: the former he calls *domaine public*, and the latter *domaine privé de l'état*. The former, he says, is almost everywhere vastly greater than the latter, and tends continually to increase; and he makes this striking statement regarding the extent of the property thus belonging to the state, given up to public uses, without yielding a revenue to the treasury: "In a country like France, it appears to us difficult to appraise at less than 800 millions of francs per annum, that which is so employed by the central government, the departments and the communes." — The domains of the state from which money or produce is derived, make, of course, a much larger figure in the history of finance, though no more truly, as we said at the beginning, constituting a part of the public revenue. — In England the royal domains were, at first, very ample. Even in the time of Edward the Confessor it was said that the crown was possessed of 1,422 manors, besides other lands and quit rents. The Norman conquest largely increased the landed wealth of the sovereign. In the reign of Henry V. this was augmented by the appropriation of the alien priories, 110 in number. Yet notwithstanding this large endowment, successive alienations, sometimes in real exigencies of the state, but more commonly wasteful and often shameful in their origin, so reduced the crown lands that the income of Henry VI. was stated at but £5,000. In this impoverishment of the crown, several general resumptions of grants

* For the influence of these acts in the American colonies, see Bancroft's History of U. S., vol. v., p. 265-6.

† See the speeches of Rt. Hon. Henry Fawcett on successive Indian budgets. "India," says Prof. Fawcett, "seems too often to be looked upon as if she had been specially created to increase the profits of English merchants, to afford valuable opportunities for English youths, and to give us a bountiful supply of cheap cotton."

‡ See especially the works of Savigny, Ranke and De Tocqueville, *passim*.

were authorized by parliament. The breach with Rome, and the plunder of the religious establishments by Henry VIII., placed vast wealth at the disposal of that disinterested reformer; but a similar course of improvident and wasteful alienations soon brought the income of the sovereign again below his urgent necessities. In the seventh year of James I. the entire land revenue of the crown and of the duchy of Lancaster amounted to only £66,870. James sold lands to the value of £775,000, and left debts to an equal amount. — Prodigal, however, as had been the alienation of the crown lands under the Tudors and the Stuarts, it was William III., the author of the modern scheme of public finance, who did most to dissipate the hereditary property of the crown; nor is it likely that the two facts were without a vital connection. William, foreseeing the vast fiscal power of government, under the commercial as contrasted with the feudal organization of society, would seem to have regarded the traditional revenues of England with contempt. At the end of his reign, parliament, says Sir Erskine May, "having obtained accounts of the state of the land revenues, found that they had been reduced by grants, alienations, incumbrances, reversions and pensions, until they scarcely exceeded the rent roll of a squire." — Whatever William may have thought of landed revenues, as compared with the proceeds of excises and customs, his immediate successors were not content with the situation, and an act was passed in the first year of Anne's reign, whereby all future grants or leases from the crown, for any longer term than thirty-one years, or three lives, were declared void, except with regard to houses, which may be granted for fifty years. "The misfortune is," says Blackstone, "that this act was made too late, after almost every valuable inheritance in possession of the crown had been granted away." "There are very few estates in the kingdom that have not, at some period or other since the Norman conquest, been vested in the hands of the king by forfeiture, escheat or otherwise. Fortunately for the liberty of the subject, this hereditary landed revenue, by a series of improvident mismanagement, is sunk almost to nothing." — It was especially the contemplation of English experience in this respect, which drew from Adam Smith that strong assertion of the impolicy of seeking to derive revenue from public domains, which is so often quoted in discussion of this subject: "The servants of the most negligent master are better superintended than the servants of the most vigilant sovereign." "The crown lands of Great Britain do not at present afford the fourth part of the rent which could probably be drawn from them if they were the property of private persons. If the crown lands were more extensive, it is probable they would be still worse managed. * * In the present state of the greater part of the civilized monarchies of Europe, the rent of all the lands in the country, managed as they probably would be, would scarce, perhaps, amount to the ordinary revenue which they levy upon the people even in peaceful times." Perhaps had Dr. Smith the opportunity to observe the able, comprehensive, frugal and solicitous Prussian administration of public estates to-day, he might find reason to qualify the judgment expressed above. — M. Cherbuliez, in his *Science Economique*, takes strong ground against making public domains an important element in the fiscal system. One remark is especially notable. Domains do not, he says, furnish an available resource in time of emergency. On the whole, this remark is both true and important; yet the recent examples of Chili and Peru, with their guano deposits,* Egypt, with the large sugar plantations of the khedive, Honduras, with her precious forests of mahogany, have shown that a tangible property of this kind may sometimes afford a certain advantage for quickly placing a large loan, for a state of small credit. — We have seen how the crown lands of England were wasted by improvident alienations. Everywhere much the same story is told by the shrunken domains of the state. What was once the chief fiscal resource of many states, now remains even an important item in the budgets of but a few states. Russia, says M. Cherbuliez, is almost the only state of modern Europe which draws from its fiscal domain a notable share of its revenue. Yet Prussia, Bavaria, Würtemberg and Sweden still retain extensive and profitable domains. The same might be said of the crown lands of Hanover, if any one could find out to whom they belong. — In the United States the possession of vast areas of fertile territory by the new government, was, at the beginning of our fiscal history, looked upon by almost all the statesmen of the republic as a resource to be cherished and improved. Gradually, however, as told under other titles of this work, the project of drawing revenue from the public lands was abandoned; and for the past two generations it has been the object of the government to promote the appropriation of the public lands by individual citizens, on the payment of a merely nominal price, or of merely the fees of registration. This policy was announced by President Jackson, in his message of 1832, in which he said, "It seems to me to be our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue; and that they be sold to settlers, in limited parcels, at a price barely sufficient to reimburse the United States the expense of the present system, and the cost arising under our Indian contracts." — In the respect of the proportion of revenue drawn from state domains and state enterprise, M. Leroy Beaulieu offers the following contrast between England and Prussia: "The one has, so to speak, no revenues from domains; what remains of such revenues constitutes but an infinitesimal part of its vast budget. Moreover, it does not appear desirous of creating such a revenue. The other

* M. Garnier states, that, in the budget of Chili guano stands for a revenue of 114,000,000 francs, against 4,000,000 from customs, and 1,250,000 from all other sources.

nation, on the contrary, while relying upon taxation for the greater part of its revenue, nevertheless draws sums relatively enormous, in part from the private estates of the crown, in part from industries which it carries on subject to competition, and in part even from floating capital which it has placed at home or abroad. This nation, moreover, appears not the least in the world desirous of abandoning this system; it seems, on the contrary, to wish to extend it." Prussia, remarks this excellent writer on finance, is *agriculteur, industriel, entrepreneur de transports.* The following is his summary of the revenue of Prussia from this general class of resources, during the year under discussion:

	Francs.
Domains, properly so called, *i. e.*, estates under culture	35,581,000
Produce of forests	54,525,000
Gross revenue of the state railways	173,500,000
Tolls upon roads	5,720,000
Tolls upon canals	2,250,000
From the profits of the bank of Prussia	7,507,000
Produce of the mint	1,290,100
Produce of the state printing establishment	1,232,500
Produce of schools of agriculture, etc.	3,958,080
Produce of mines, factories and salt works belonging to the state	112,343,555
Total	397,857,185

Extending this comparison to the countries of Europe generally, M. Maurice Block presents the following instructive table:

COUNTRIES.	Revenue—Percentage derived from				
	Domains.	Direct Taxes.	Indirect Taxes.	Other Sources.	Total
France	5.5	19.4	55.1	20.0	100
Prussia	44.0	19.0	37.0	--------	100
Great Britain	0.5	13.2	75.3	11.0	100
Austria, Cisleithan	7.5	23.5	29.9	39.1	100
Austria, Transleithan	3.1	55.1	20.4	21.4	100
Russia	14.2	11.8	45.4	28.6	100
Italy	2.6	30.0	28.4	39.0	100

—III. We reach, now, the class of public revenues which are derived from sources which we have indicated by the term *quasi taxes.* The distinction between these sources of revenue and taxes proper, on the one hand, or certain lucrative prerogatives, on the other, is not always clearly marked; yet, in general, it is believed that the classification adopted is a convenient one. Under this general title we note the following: 1. Monopolies. These have played a most important part in the history of public revenues, and, in spite of the spirit of the age, which is strongly opposed to exclusive privileges of production or of sale, still form a prominent feature in the budget of many of the most progressive nations of Europe. Monopolies may be commercial, industrial or financial. The distinction between the monopolies of the past and those of the present day is very marked. Formerly, monopolies were granted, for the profit of the government, to persons or corporations, to carry on a vast variety of operations, great and small alike,* most of which were susceptible of individual management.—The study, not of finance but of political economy (for the distinction is one important to be observed), has freed industry and trade from monopolies of the order of those of the seventeenth and eighteenth centuries. The monopolies of to-day rest upon a few great industries, carefully selected for their fiscal capabilities; and these, by preference, such as naturally tend toward monopoly, for example, banking or railway traffic. A few articles of manufacture of exceptional "richness" as the subjects of monopoly, such as opium, tobacco, salt and matches, have been hit upon by the governments of several European countries. The manufacture of tobacco is a state monopoly in France, Italy, Spain and Austria. Even the imperious will of Prince Bismarck has, however, failed to introduce this monopoly into the fiscal system of the German empire. The government monopoly of this article was established in France in 1674. During the revolution, under the powerful impulse experienced toward the removal of all restrictions upon industry and society, the constituent assembly abolished the monopoly, and threw open the manufacture to competition; but sought still to retain the revenue previously derived from this source, by imposing a requirement of licenses for the manufacture. This measure was followed by the rapid diminution of receipts; and in 1810 Napoleon restored the monopoly, conferring upon the *régie* the combined rights of the purchase of tobacco in the leaf, and of the manufacture and sale of the article for consumption. In 1864 the gross receipts were, in francs, 220,000,000, and the expenses of administration, 66,000,000; net receipts, 154,000,000 francs. In 1877 the gross receipts had risen to 312,000,000 francs.—A most instructive lesson in finance is furnished by the recent experience of the government of France in enforcing the monopoly of the manufacture of matches, the government having been completely baffled, in its earlier efforts, through the ease of illicit manufacture in the case of this article, nothing being required for the purpose but "a small quantity of phosphorous paste and a bundle of wood." The student of fiscal science will be well repaid by reading the Paris correspondence of the "London Economist" on this subject, extending through 1874, 1875 and 1876.—2. Lotteries. These

* Thus, Brodie, referring to the soap monopoly, constituted by Charles I. of England, says: "Almost every article of ordinary consumption, whether of manufacture or not, was exposed to a similar abuse: salt, starch, coals, iron, wine, pens, cards and dice, beavers, pelts, bone-lace, etc., meat dressed in taverns, tobacco, wine casks, brewing and distilling, lampreys, weighing of hay and straw in London and Westminster, gauging of red herrings, butter casks, kelp and seaweed, linen cloth, rags, hops, buttons, hats, gutstring, spectacles, combs, tobacco pipes, etc., saltpetre, gunpowder, in short, articles down to the sole gathering of rags, were all under the fetters of monopolies, and consequently deeply taxed." Of Queen Elizabeth's system of monopolies Hume remarks that, had it been continued, the England of his day would have contained as little industry as Morocco or the coast of Barbary.

only require to be mentioned, as a source of revenue largely made use of in the past by nearly all governments, and still constituting a not unimportant feature of the budgets of many countries. "The profit which the public draws from lotteries," wrote Hamilton, "may be considered as a tax on the spirit of gaming, and added to the amount of other taxes." While lotteries afford a most effective means of securing revenue in the immediate instance, there can be no question that, in their ultimate effect, they reduce the fiscal capabilities of a people, by discouraging patient and steady industry, and by weakening the instincts of frugality and abstinence.—3. Another quasi tax, once widely in exercise, but now restrained and confined, and in almost all civilized states wholly discontinued, except in the event of warlike operations, is purveyance, defined by Blackstone as the "right enjoyed by the crown, of buying up provisions and other necessaries, by the intervention of the king's purveyors, for the use of his royal household, at an appraised valuation, in preference to all others, and even without consent of the owner; and also of forcibly impressing the carriages and horses of the subject to do the king's business on the public roads, in the conveyance of timber, baggage and the like, however inconvenient to the proprietor, upon paying him a fixed price." "A prerogative," adds the commentator, "which prevailed pretty generally throughout Europe during the scarcity of gold and silver, and the high valuation of money consequential thereupon." — 4. Another mode of raising a revenue, which partakes largely of the nature of a tax, without bearing its form, is through the exaction of fees for stated or occasional services, performed by the agents of the state. The mention of fees brings up an illustration of what was said at the beginning of this article regarding the difficulty of comparing the revenues of different states. Take the matter of tolls upon bridges and roads. In one community, travel is free; the great cost of maintaining this service goes into the budget of expenditures; and the amount to be collected in taxes is by just so much increased. In another, perhaps an adjacent, community, transport and transit pay tolls, which are employed to maintain the bridges and roads in repair, to pay interest on the cost of construction, and perhaps also to accumulate a sinking fund for the final discharge of the principal sum; and the tolls so paid do not enter at all into the budget. In the same way the expenses of judicial proceedings and of the administration of justice may be met out of the general treasury, in monthly or quarterly salaries, or may be paid, in minuter portions, by individual suitors. According as the one or the other method prevails, the apparent receipts and expenditures of the state will be increased or diminished, without regard to the real burden resting upon the community. The earlier abolition of tolls in the northern than in the southern states of the American Union, in England than in Ireland, for example, is a fact which no student of comparative revenue could safely leave out of account. — The question of the equity or expediency of judicial fees may be studied with amusement and profit, in the vigorous writings of Jeremy Bentham. Almost in the degree in which communities advance in civilization, are roads and bridges made free to travel; and the expenses of their construction and maintenance assumed by the state, instead of being charged upon the individuals using them. — 5. Coinage.* Coinage has always been one of the most cherished attributes of sovereignty the world over. Of India, Dr. Hunter says: "Little potentates, who, in every other respect, acknowledged allegiance to Delhi, maintained their independent right of coining. As it was the last privilege to which fallen dynasties clung, so it was the first to which adventurers, rising into power, aspired. While the Mahrattas were still mountain robbers, they set up a mint; and in 1685 the East India company, at a period when it had only a few houses and gardens in Bengal, intrigued for the dignity of striking its own coin." — But it was not only the right of striking the coin which kings asserted for themselves. The right of debasing the coin, was, says Hallam, "a flower of the crown." The imposition known as *moneyage*, after the Norman conquest of England, was a tax of one shilling paid every three years by each hearth in the kingdom specifically to induce the king not to use his prerogative in debasing the coin. By the charter of Henry I. this imposition was abolished, but not with any impeachment of the right of the crown to debase the coin at its pleasure. The antiquarian, Ruding, states that, at one period in the reign of Edward IV. the seigniorage on gold money was above 13 per cent. In France the debasement of the coin, under the royal prerogative, was carried to a far greater extent. The seigniorage exacted by John II. rose at times, it is stated, to three-fifths, changing, says Le Blanc, almost every week, and sometimes oftener. Seigniorage, to the extent of the cost of rendering bullion into coin, has received the approval of almost all economists, from Adam Smith down; yet the English government has, since 1666, coined gold of full value free of charge. That government has, however, since 1816, exacted a heavy seigniorage on its silver coin, which is legal tender in only a limited amount. Such a seigniorage on the smaller coin of a country affords a proper souree of revenue, either to cover the expense of minting the principal coin, wherever the English system of gratuitous coinage is adopted, or to be brought into the treasury, for the general purposes of government. — 6. The issue of paper money. Paper money is money in respect to which seigniorage is carried out to the full nominal value of the piece. Instead of taking out, say 1 per cent., to cover the cost of coinage; instead of taking out, say, 10 per cent., as tribute to the sovereign, the entire amount of bullion is abstracted, and a paper sign,

* The regulation of weights and measures in England was, until 11 and 12 Wm. III. (c. 20) conducted to secure a profit to the state.

token or promise is substituted. — The issue of paper money having legal-tender power, offers a resource to government which has always been found most tempting in periods of great national exigency. Provided the circulation at the outbreak of a war, for instance, consisted of metal money, it would be possible for the government to issue paper to the same denominative amount, replacing the gold or silver in the circulation, whereupon the metal could be exported to buy goods and supplies abroad. According to Ricardo's doctrine of money, the paper, so issued, would not, so long as it did not exceed the full denominative amount of the metal money replaced, necessarily become subject to depreciation. Thereafter, the advantage to government would be limited to the profit of a forced loan, without interest. During the war of the revolution the continental congress had recourse to this expedient. "The United States," says Dr. Ramsey, "for a considerable time derived as much benefit from this paper creation of their own, though without any fixed funds for its support or redemption, as would have resulted to them from the gift of as many Mexican dollars." In 1862–4 the United States issued several hundred millions of dollars, in payment for services or supplies, of which it enjoyed the use without payment of interest until 1879. The value of the use of that amount of capital, for that term of years, was, in effect, levied upon the people of the United States, by a species of irregular and doubtless very mischievous taxation. — The issue of paper money without legal-tender power, its circulation to be secured by the offer of government to receive it in payment of taxes, and to redeem it on demand, is quite a different thing. This is not open to any grave economical objections. Under the title of treasury notes, such issues frequently took place in the fiscal history of the United States, long before the exigencies of the war of secession caused the issue of the legal-tender "greenbacks." — IV. *Taxation, in its Various Forms.* Public contributions may be exacted in three ways: in service, in products, or in money. 1. By services. This was the original form of taxation, and corresponds closely to the ideal tax upon faculty, as distinguished from the tax upon income, upon realized wealth or capital, or upon expenditure. In the early history of Greece and Rome the citizen served his country in the army, as a matter of direct personal obligation, irrespective of payment. The custom of paying the soldiery was not introduced into Athens until the age of Pericles; and did not become general throughout Greece for more than a generation afterward. It was not until the siege of Veji that the practice was introduced into the Roman armies. After the downfall of the Roman empire, the institution of the feudal system created a national militia which was adequate to wars carried on with the lance, the sword, the pike and the crossbow. The introduction of gunpowder was soon followed by the creation of mercenary armies, and by the conversion of the military obligation of the mass of citizens into a fiscal obligation for the support of those armies. The historian Robertson attributes this general change in Europe to the long wars waged by the powers which disputed the mastery of Italy. — Curiously enough, within the present century, and especially within the last half of the century, we have seen the obligation of personal service revived and enforced upon a scale which dwarfs all precedent instances in history. The legions of Rome were but a handful to the hosts which are now kept permanently under arms or hourly subject to call from headquarters. Almost universally, the great powers which are prepared to dispute the supremacy of Europe, and the smaller nations that live in apprehension of being overwhelmed by their gigantic neighbors, have abandoned, as too costly and too dilatory, the attempt to keep up armies by a system of voluntary enlistment, and have resorted to the rule of universal personal obligation. England stands almost alone, to-day, in maintaining the system of mercenary soldiership. Within the past eighteen years the "blood tax" has grown to be the greatest tax levied in the world. "It is computed," wrote Mr. Hume, a century ago, "that in all European nations the proportion between soldiers and people does not exceed 1: 100." According to M. le Faure, the armies of Europe, on a war footing, amounted, in 1875, to 9,333,000, the immediately disposable forces of the German empire, alone, being 2,800,000. — The difference between the cost of armies maintained on the compulsory principle and those kept up by recruiting, is a tax which makes no figure in the budget, and does not enter into the accounts of receipt and expenditure. Yet it is a tax often of the most distressing character. Indeed, the opinion was expressed in the beginning of the present article, that not one of the great military nations of Europe could, by the utmost exertion of its fiscal powers, support its existing army if it were compelled to go into the market for labor and hire the services it now commands. This element is rapidly increasing the difficulty of ascertaining the comparative cost of government, for it is eminently characteristic of taxes by personal service that their real value can never be ascertained. M. Garnier speaks of *impôts tout à fait latents; qui ne rapportent rien au fisc et qui n'en pèsent pas moins sur les populations.* Such, eminently, is the obligation of military service. Of course the weight of it, measured by the loss it inflicts, will vary greatly according to the occupations of the people, whether engaged in manufactures and commerce, or in agriculture; according to the severity with which military requirements are enforced, and penalties for delinquency exacted; according to the spirit which presides over headquarters, and passes down to animate commanders and staff. Even in a purely agricultural community how great a difference will be made by a call to field manœuvres ten days before, or ten days after, harvest;* or by

* Baron Riesbeck, in his travels through Germany in the middle of the last century, thus speaks of the army of the

the requirement of brigade and division evolutions, instead of company drill! — While, thus, one primitive form of tax by personal service has recently sprung into unexampled importance, another, once of vast extent, has sunk almost out of the fiscal system of Europe. This is the road tax. "Up to the reign of Louis XV.," says De Tocqueville, "the highroads were not repaired at all, or were kept in repair at the cost of the state and of the roadside landowners; it was at that period that the plan of keeping them in repair at the expense of the peasantry was commenced. It seemed so excellent a mode of securing good roads without paying for them, that in 1737 a circular of the comptroller general applied it to the whole of France. Thenceforth, proportionately to the extension of trade and the increased desire for good roads, *corvées* were extended and increased. In ceasing to be seigniorial and becoming royal, *corvées* were gradually applied to all public works. In 1719 they were exacted for the construction of barracks. 'The parishes must send their best workmen,' said the ordinance, 'and give up all other work for this.' *Corvées* were also exacted for the conveyance of convicts to the galleys, and of beggars to charitable institutions, and for the transport of military baggage when troops were to be moved from station to station." — Turgot gives a pitiful account of the burden of this exaction in connection with the removal of troops. "The distance to be traversed is," he says, "often five, six and sometimes ten or fifteen leagues. Three days are consumed for the journey and the return. The sum allowed is not one-fifth the value of the labor. These *corvées* are almost invariably required in the summer, during harvest time. The oxen are almost always overdriven, and often come home sick. The work is done in the most disorderly manner; the peasantry are continually a prey to the violence of the soldiery. Officers habitually exact more than the law allows; they sometimes compel farmers to yoke saddle horses to carts, whereby the animals may be seriously lamed. Soldiers will insist on riding in the carts which are already heavily laden; and, in their impatience at the slow gait of the oxen, will prick them with their swords, while, if the farmer complains, he is roughly handled." — The above affords an excellent illustration of the remark already made, that the weight of taxes by personal service can never be truly estimated. Were the requisition, in an agricultural region, to fall upon a time when men and teams would otherwise be idle, the actual net sacrifice would be small. If at an inconvenient season, the greatest waste and confusion may ensue; while in a manufacturing or commercial community, it is wholly impossible to compute the mischief that may be effected by the slightest requirement of personal attendance and personal service. — In the United States the road tax is still "worked out" to a certain extent, with the general result of bad roads; but in all the more prosperous communities the change to labor hired and paid out of the general treasury has been effected. — 2. The second mode of paying taxes is in produce, or, as we say, "in kind." Mr. Merivale thus describes the Roman system of revenue, in this respect. "In many parts of the empire it was most convenient to make the payment in kind, and the government was long in the habit of accepting large consignments of corn and other raw produce, in place of current coin. These abundant stocks of provisions never wanted consumers while the armies of the republic were maintained on Roman soil; and the urban population, we may believe, were always ready to receive the overflowings of the fiscal granaries, whether government chose to dole them out at a cheaper rate, or to dispense them gratuitously. We may conjecture that the fatal institution of regular distributions of grain originated in this source. The revenues of the state could only be paid in kind; and the ample stocks thus received must sometimes either be given away or thrown away." — On this system Gibbon remarks: "In the primitive simplicity of small communities, this method may be well adapted to collect the almost voluntary offerings of the people; but it is at once susceptible of the utmost latitude and of the utmost strictness, which, in a corrupt and absolute monarchy, must introduce a perpetual contest between the power of oppression and the arts of fraud." — In all the English-American colonies this form of contribution to public uses was largely employed. In Massachusetts and Connecticut, for example, taxes might be paid in corn or rye, at fixed rates, or in cattle or beaver; in Maryland and Virginia, tobacco was received. During the war of the revolution, congress, for a brief period, upon the failure of the continental paper money, instituted the system of contribution in kind. On Feb. 25, 1780, it was resolved that the states should be called upon for specific supplies, beef, pork, flour, corn, hay, tobacco, salt, rum, and rice, to be credited at certain fixed rates to the states by which they were furnished. By March, 1781, the scheme of specific supplies had been found so unmanageable that it was abandoned. — Throughout eastern Europe, in Russia, Hungary, and even in Germany, down to a very recent date, if not to the present time, payments in kind, especially for the support of the army and the church, have formed no inconsiderable portion of the contributions of the peasantry. Mr. Banfield, in his excellent work on the "Organization of Industry," remarks that in Sweden the number of barrels of meal paid away

great Frederick: "All the military regulations have these two ends in view: that of preventing the improvement of agriculture from suffering by the number of troops, and that of making them subservient to the circulation of money. For these purposes the annual reviews always take place at the end of the year, when fewest hands are wanted for the purposes of agriculture. Each regiment has a peculiar part of the country assigned it for recruiting, and in that, or near it, are commonly its standing quarters. By this means the troops are not only easily got together when they are wanted, but the father has always his son in the neighborhood to help him to improve his land; and, at the annual review time, the latter has not far to go to join his regiment."

as salaries still "figure in the budget." Mr. Banfield calls attention to the consideration that the system of contributions in kind presupposes an absence of all means of easy and effective communication. "So long as society remains in this state, in which, as all produce is consumed at home, *a produce tax is identical with a tax on consumption*, there is no choice but to draw directly on this fund for taxation." — In Turkey, today, the onerous taxes of the government, which are, in reality, rent charges by the state as the proprietor of all lands, are largely collected in kind; and administered as the Turkish system is, with despotic brutality, over a helpless population, it constitutes one of the most important causes of the misery which there prevails. The peasant, forbidden to remove the produce from the soil until the officers of the government have made their inspection, and satisfied themselves of the amount to which the state is entitled, may see his whole harvest rot in the fields while the agents of the treasury are making their leisurely rounds. — The true view of the economical relations of contributions in kind seems to be that intimated by Gibbon. When such a system grows naturally up among a people in a somewhat primitive condition of society and industry, and is maintained and administered, in good faith and good feeling, by officers coming from the people and responsible to the people, it may be, not only unobjectionable, but positively beneficial, as, under similar circumstances, the payment of taxes in personal service, and indeed, for that matter, as the use of truck payments between master and workmen, may be. But, on the other hand, the truck system, the system of contribution by personal service, and the system of taxes in kind, may, under different conditions, be made the means of the most monstrous exactions, far transcending the capabilities of money taxes, in the respects of hardship and injustice. — 8. The third and now usual mode of paying taxes is in money, the contribution of each individual being determined according to some mode of assessment. In its ultimate effect, however, it should never be forgotten that every tax is a requisition by the state upon the services of its citizens. If money is taken, it is only as the most convenient form (convenient to the state, or to the citizen, or to both) of obtaining services and products; and products are, in the last analysis, embodied services. And in the same connection we may add the remark of M. Garnier, that it is an error, which is at once gross and widely spread, to suppose that the state, the moral personification of the body of citizens, acting through men charged to perform public functions and to minister to public needs, can possess resources transcendental, inexhaustible, or, indeed, any resources whatsoever, other than those of its citizens, any resources beyond the share it takes of their fortunes and of the products of their industry and labor. — Inasmuch as Mr. Wells discusses, under its appropriate title, the principle of TAXATION, this paper on PUBLIC REVENUE properly comes here to a close.

FRANCIS A. WALKER.

REVOLUTION. The word revolution is, in its political signification, so peculiar to the French language, that other languages adopt it without any modification, in default of being able to find a suitable equivalent. The Latin term, which it reproduces phonetically, has never had the same meaning; and the course of things subject to an order of successive changes, as the revolution of the stars, implies a regularity and a kind of predisposition which do not appear to be a necessary condition of political revolutions. The latter, or the changes which take place in public affairs, differ considerably in importance, in extent and in duration, as in their form, their object and their result; but they have generally the characteristic of carrying a certain disturbance into the established order of things, and in our day this disturbance has become a trait sufficiently prominent and grave, for the name of revolution to be applied almost exclusively to political changes in which violence has played a part.—We must then almost always, in speaking of revolutions, make a distinction between the times preceding and following the French revolution. Before that event, which has become, so to speak, the type with which all others called by the same name are compared, people understood indistinctively by revolutions, either accidental and partial changes in the course of affairs, which all more especially depend on the will of individuals, or the profound and general changes which are brought about by time and the inclinations of the public, and which resemble the *dénouement* or at least the catastrophe of a long drama, in which neither incidents nor characters have been lacking. It is in the former sense that Montesquieu speaks when he says: "Revolutions occur every ten years in France." He evidently designates by these words the capricious changes caused by individual influences and temporary embarrassment in a government in which neither institutions nor characters have any stability. These frequent changes are more particularly met with in absolute monarchies and pure democracies. Montesquieu adopted the second meaning, and expressed a different thought, when he wrote these lines: "Many centuries are sometimes necessary to pave the way for changes. Events ripen, and lo! the revolution breaks forth. Such are the revolutions of empires upon which great minds love to meditate, and which are the principal subject of the political part of Bossuet's "Discourse on Universal History." When we consider them methodically, connecting them with each other, we cause to enter into the general idea of a revolution the idea of a certain order which popular language seems to exclude from it. However contingent may be the events in which human activity plays the chief part, there are in nature and in the destiny of man general causes, unceasingly renewed, which in the long run,

combine to produce general effects susceptible of being foreseen in their aggregate, or at least of being explained by the sagacity of the statesman, of the publicist and of the historian; and these real facts appear, after they have been accomplished, impressed with a stamp of a relative necessity which is nothing but *the force of things*, that is to say, the natural bond between causes and their effects. But among these causes it must never be forgotten that the principal one, on this earth of ours, will always be that free cause called man. — But it is hard to give a date in history to revolutions as thus understood. For their origin is in the depths of the past, and in this sense one might say that they are always preparing and never finished, However, a distinction has been made, and rightly so, between the, so to speak, perpetual revolution which is the slow work of ages, and the distinct manifestations, the special crises which occur in the history of peoples, and which attest in a palpable manner the work of time and the condition to which the course of ages carries powers, laws and customs, or minds and things. Then, *events having ripened*, some incident, a personal mistake, a fortuitous fancy, a profound scheme, in short, a determination of the will of individuals or of the masses, provokes a serious change in the state which concerns either the government or society, and transforms one or the other in a lasting manner. It was outbursts of this kind which men have in mind when they speak of the Dutch, English or American revolution. These names designate various limited series of facts sufficiently connected with each other easily to form a harmony, and which can be connected with direct causes, the date of which is assignable. We can scarcely conceive of this sort of revolution without the intervention of force, acting outside the law. The news so often received in our time of a revolution accomplished at a given moment upon a point of the inhabited globe, suggests immediately the idea of a more or less rapid change, effected either in the government, or in society, and in which violence, or the threat of it, has not been wanting, The same change, lawfully effected, would be called a reform. — It is this intervention of force, almost inevitable in a trial of this kind, this character of illegality and violence, which makes all revolution a very grave matter for both the conscience and the reason. Even when arising from serious causes, a revolution is always a formidable and extreme measure, which should be neither lightly undertaken, easily accepted, nor blindly amnestied, no matter what the object of it, were it even the restoration of order or that of liberty. These *coups d'état*, even when the work of a nation, are, in internal politics, what war is in international law; and the citizens or the powers who hazard a revolution without necessity or justice, incur the same responsibility as the authors of a war which is neither just nor necessary. Independently, then, of the lawfulness of the end, the first and absolute condition of every political undertaking, the use of force, constitutes the dubious point in all questions of war or of revolution. The nature, the duration, the intensity, the success of a means odious in itself and only exceptionally licit, should be well weighed before solving the problem which is imposed upon whomsoever intends to decide the fate of men by arms. — The part played by force in all revolutions has made its name suspicious to a large number of upright and dispassionate minds, of whose scruples and weaknesses parties and powers often take advantage. It is thus that a certain school has striven to use this abstract expression of revolution in a bad sense. We often read that such or such a cause, such or such an enterprise, would succeed if *revolution* does not meddle with it. This designedly equivocal form of speech tends to decry with good citizens a certain aggregate of ideas and sentiments which brought about the liberal revolutions of which this age has afforded so many examples. At bottom it is intended, under the name of *revolution* to proscribe the so-called principles of 1789, that is to say, of the revolution of July 14th, in France. This language is a mask which must be torn away. If, on the contrary, the only object be to put people on their guard against violence in the passions and the acts which is too frequently the accompaniment and the ruin of revolutions, it is not these latter principles which are to be condemned *en masse*, but the *revolutionary spirit*. This last epithet, invented by the English and the Americans, and which is used among them in a neutral sense as the adjective of the noun *revolution*, has, with the French, hardly any but an odious sense. The revolutionary spirit may thus continue to be understood as a spirit which seeks revolutions without scruple, without measure and without choice. As the dictatorial spirit differs from the governmental spirit, and the soldierly spirit from the warlike, so should the liberal spirit be distinguished from the revolutionary spirit. The first dreads revolutions, labors to avoid them, and has recourse to them only in the last extremity; the second seeks them, paves the way for them; it commences with them, and offers to itself as an end what is only a last resort. These distinctions, always ignored, should be always insisted on and constantly called to mind. Thus, in political history, we must distinguish the revolution of the ages, or that long life of humanity, sown with innumerable events which conduct it, as it were, from station to station toward an unknown goal; then, the changes in the divisions of universal society, or in the civil and moral constitution of special political societies, changes which are brought about in the course of centuries, and which are called revolutions; then again we must distinguish those revolutions which are but the crises of the chronic condition which gives a new aspect to affairs, or those abrupt changes, the work of an accidental will or of a fortuitous circumstance. In short, for nearly ninety years, since the era opened by the French revolution,

the word revolution designates more especially such of these reformatory changes as have for their object the progress of liberty and equality. The reactions of which they are often the cause are revolutions in an inverse sense, and are often, for this reason, called counter-revolutions. A revolution lawful in its aim, just in its principles, moderate in its acts, happy in its results, and durable in its work, is the political ideal which the nineteenth century seems to be pursuing.

CHARLES DE RÉMUSAT.

REVOLUTION, The (IN U. S. HISTORY), the name commonly given in the United States to that which is elsewhere called the American revolution, 1775–83. — I.: UNTIL 1760. The imperial development of the British constitution was for centuries very steady. The first strain upon it came from the conquest of Ireland. Wales and Scotland were tacitly or formally absorbed in the kingdom of Great Britain, in which the parliament had fairly defined rights: Ireland remained a foreign and allied or subject kingdom, in which the British parliament had all the rights which it could succeed in maintaining. The result was the genesis of the idea that the British parliament was in some sense an imperial parliament, with undefined power to legislate for those portions of the empire which were outside of its original jurisdiction. — English colonization in America brought with it a far more severe strain, for which the British constitution was totally unprepared. A new order of things, the indefinite extension of the empire, was to be provided for; and unfortunately the task of providing for it was assumed by a legislative body whose constituents and members were equally purchasable in open market, and were equally indifferent to any consideration except present interest. To these the grand idea of an imperial parliament, clothed by the lofty patriotism of Burke and Chatham in language well worthy of it, meant only the opportunity to escape part of the burden of present taxation by transferring it to the colonies. They undertook to make an every-day matter of that which Burke and Chatham would have reserved to meet some overmastering emergency; and they lost the colonies. — The English colonists in America always insisted that they had lost none of their hereditary rights by migrating from the king's British to the king's American dominions (see UNITED STATES, I.); and that they were still entitled to the "free privileges of free-born Englishmen," which the king's word had confirmed to their fathers and to them, the right to personal liberty, to private property, and to representation in the taxing body. They acknowledged that distance made it practically impossible for them to be represented in parliament; and they therefore insisted that their taxes must be levied by their own parliaments, the colonial assemblies. Two irreconcilable theories of the constitution were thus gradually developed in Great Britain and in America; and, after 1760, circumstances brought them face to face, and compelled a settlement by force. — *The American Theory.* The American theory really made the empire a confederation, the king being the bond of union. In his kingdom of Great Britain the king had certain prerogatives, such as the power to make peace, war and treaties; while parliament alone had the power to grant or withhold supplies and to levy taxes to provide them. In his other kingdoms, Ireland, New York, Massachusetts, or South Carolina, the respective parliaments had just as much power, and the king just the same prerogatives, as in Great Britain. But in each kingdom the jurisdiction of the parliament was territorially limited: the parliament of Great Britain had no more rightful jurisdiction in Ireland or in Massachusetts than the parliaments of Ireland or Massachusetts had in Great Britain. Franklin formulates the theory as follows: "Our kings have ever had dominions not subject to the English parliament. At first the provinces of France, of which Jersey and Guernsey remain, always governed by their own laws, appealing to the king in council only, and not to our courts or the house of lords. Scotland was in the same situation before the union. It had the same king, but a separate parliament, and the parliament of England had no jurisdiction over it. Ireland the same in truth, though the British parliament has usurped a dominion over it. The colonies were originally settled in the idea of such extrinsic dominions of the king, and of the king only. Hanover is now such a dominion." "America is not part of the dominions of England, but of the king's dominions. England is a dominion itself, and has no dominions." "Their only bond of union is the king." "The British legislature are undoubtedly the only proper judges of what concerns the welfare of that state; the Irish legislature are the proper judges of what concerns the Irish state; and the American legislatures of what concerns the American states respectively." The Americans felt that the words "colony" and "colonist" were themselves misleading, as importing some superiority of privileges in the Englishmen who had remained at home; and they maintained that every charter granted by the king was a compact between him and the people of a new kingdom. — *The British Theory.* On the contrary, the whole feeling of Great Britain spoke in Grenville's pithy statement that "colonies are only settlements made in distant parts of the world for the improvement of trade, and that they would be intolerable except on the conditions contained in the acts of navigation." The colonists, then, did not escape from the jurisdiction of parliament by migrating. Parliament might allow them a temporary latitude of self-government; but its absolute power, though latent, could be called forth at any moment, and the colonists, in the view of the law, were still Englishmen and under control of the British parliament. This theory was maintained on the grounds, 1, that the omnipotence of parliament was not limited by the four seas which

bounded Great Britain; but that, by the extension of the empire, parliament had acquired a nobler position as an imperial body, with, as Burke expresses it, "a reserved power in the empire to supply any deficiency that may weaken, divide and dissipate the whole"; 2, that the colonies were "virtually represented" in parliament, since each member of that body represented not a particular constituency, but the whole empire and all its interests; 3, that the colonists had no more claim to a more direct representation than Birmingham, Manchester, Leeds, and other unrepresented cities, but must be content with the constitution as it was; 4, that it was patently unjust that the expensive duty of maintaining fleets and armies for the defense of the whole empire should be imposed upon the imperial parliament without the corresponding right to insure proportional contributions from the parts of the empire; and 5, that the colonists themselves had always acknowledged the right of parliament to levy American customs duties, from which the right to levy internal taxes could not logically be distinguished. This last assertion could not be disputed, and when it was seriously advanced as an argument it put an end to the tacit compromise which will next be considered. — *Compromise.* It will readily be perceived that these two theories were irreconcilable, and that both were equally impracticable. On the American theory it would have required superhuman tact and discretion in the king to avoid constant and ultimately fatal conflicts with his twenty different parliaments; on the British theory, the parliament would have become, under the guise of imperialism, an exasperating instrument of British selfishness. The American Union has solved its similar territorial problem by giving congress the imperial power over the territories, while holding out to the latter the promise of admission to the national government as soon as they shall develop the necessary powers and interests. (See ORDINANCE of 1787, TERRITORIES.) Until 1760 the colonies and the mother country lived under a tacit compromise of a far clumsier sort. The home government made no attempt to assert any power to levy taxes within the limits of the colonies; these were levied by the colonial assemblies, on a requisition, or request, from the king, through one of his secretaries or the governor. The supplies voted were always liberal, and sometimes so lavish that parliament voted to return a part of them. On the other hand, the colonies made no objection to the exercise by parliament of complete control over foreign trade, and in many cases over domestic trade also; and no resistance was made to the abrogation or alteration of the Massachusetts charter in 1685, 1691 and 1724. The navigation act of 1651 confined the colonial export trade to Great Britain in English-built ships; and in 1663 this was extended to the import trade also, so that the colonies could legally trade only to and from Great Britain. (See NAVIGATION LAWS.) In the commercial colonies, however, these laws were felt but little before 1760; smuggling and bribery of custom house officers opened the free foreign trade which the laws forbade. In 1672 duties were imposed on the trade from one colony to another. In 1699 the colonists were prohibited from exporting their wool, yarn or woolen manufactures to any place whatever. In 1719 the house of commons formally condemned all American manufactures as tending to independence. In 1732 the export of American hats was prohibited. In 1750, rolling mills, iron furnaces and forges in the colonies were declared public nuisances, to be suppressed by the governors. At first all these restrictions were submitted to, partly from indifference, as they were not extensively felt, and partly from inability to resist; but for some years after 1760 the right of parliament to impose them was still acknowledged, this being the last point which the colonists were prepared to yield. So late as 1774, congress, in its declaration of rights, "cheerfully consented" to such parliamentary restrictions on commerce as should be intended in good faith to benefit the whole empire. When it was at last found that this concession was only accepted as a basis for further demands, it was withdrawn, and all the colonists were ready to echo Franklin's language: "That is a wicked guardian and a shameless one, who first takes advantage of the weakness incident to minority, cheats and imposes on his pupil, and, when the pupil comes of age, urges those very impositions as precedents to justify continuing them and adding others." This language, though natural, was to a great extent unjust. The fault really lay in that narrow colonial system which was then and long afterward the law of every European nation, and is still a part of the English theory, though it is very seldom enforced in practice. — II.: 1760–66. The open struggle between the two theories, which began in 1760–63, came from an unlucky combination of causes: the accession of a king who was determined to "reign"; the influence of the old whig notion of the omnipotence of parliament; the high feeling of a nation flushed with successful foreign war; the increase of the national debt, and the consequent necessity of an increase in the revenue; the increase of wealth in the American colonies; and the comparative meagreness of receipts from that quarter of the empire. The initiation of the struggle was facilitated by the fact that there was practically no denial in Great Britain of the abstract right to tax the colonies. Even when the stamp act was introduced in parliament, the opposition was publicly challenged to make such denial, and not a voice was raised to make it, though many, like Burke, considered it highly impolitic to exercise the right, and wished to restrain the controlling power of parliament to commercial regulations and to cases of supreme necessity. This, indeed, was the original ground of the colonists themselves, but it was a poor barrier to the usurpations of a hungry parliament. — In 1760 the first effort was made to enforce the navigation act. Instructions were sent to the American cus-

tom house officers to spare nothing of the revenue laws, and to obtain from the courts "writs of assistance" in order to enter houses and stores, and search for goods which had not paid duty or were forbidden to be imported. The first application for such writs was at Salem in November, 1760, and their issue and enforcement at once brought a few radical men, like Otis, to deny parliament's right to levy the duties. In the great commercial colony, Massachusetts, colonial and loyalist parties were at once formed. The former was headed by James Otis, Samuel Adams, John Adams, Oxenbridge Thacher, James Bowdoin (afterward governor), and Thomas Cushing. The latter was headed by Francis Bernard, the governor; Thomas Hutchinson, the lieutenant governor, a native and the best historian of Massachusetts, the ablest royalist leader, but unscrupulous in method; Andrew Oliver, Hutchinson's brother-in-law; Jeremiah Gridley, attorney general; and Timothy Ruggles. Behind these stood the great mass of royal officeholders in the colonies; much of the subsequent action of the ministries must be attributed to their persistent advice to establish a regular army in the colonies, and tax the colonies for its support. — Feb. 23, 1763, Charles Townshend became first lord of trade, with the administration of the colonies, and he inaugurated, with the support of the ministry, the new system of colonial government. It was announced by authority that there were to be no more requisitions from the king to the colonial assemblies for supplies, but that the colonies were to be taxed by act of parliament. Colonial governors and judges were to be paid by the crown; they were to be supported by a standing army of twenty regiments; and all the expenses of this force were to be paid by parliamentary taxation. It is unnecessary to follow all the windings of British politics for the next few years: the above programme was the chart of all the ministries, which each followed as closely as it dared. Gov Hutchinson tells us that the American use of the terms whig and tory dates from this step. (See AMERICAN WHIGS.) — In March the naval officers on the American coast were given the duties and fees of custom house officers, in order to enforce the navigation acts. In April the head of the ministry, Bute, retired, and George Grenville took his place under pledge to the programme above. May 5, the lords of trade were requested to sketch for the ministry a safe and easy method of parliamentary taxation of the colonies, but Shelburne, the head of the board of trade, declined to commit himself to any plan. Sept. 23, by direction of Grenville and North, the first secretary of the treasury (Jenkinson) wrote to the commissioners of stamp duties to draft a bill for extending the stamp duties to the colonies. Close investigation has failed to fix the real authorship of the stamp act, but the responsibility for it rests most probably on Jenkinson. March 9, 1764, Grenville announced that he intended to introduce the stamp act at the next session; and in the meantime he suggested to the colonial agents in London that their assemblies should formally approve it, in order to make a precedent for their being consulted in future taxation, or that they should propose some more palatable mode of parliamentary taxation. But the principle was carefully asserted: a bill of April 5 purported, for the first time, to "grant duties in the colonies and plantations of America." — The stamp duty was not objected to in itself: it was a convenient mode of making a tax collect itself, and for that reason was employed in 1759 by the Massachusetts assembly, and in subsequent years by the new federal government. The objection lay wholly to parliament's power to tax, which was thus forced into the foreground of discussion. In June the Massachusetts assembly sent a circular letter asking the "united assistance" of the other colonies; and during the year nearly all the colonial assemblies petitioned against the new scheme. But the idea of forcible resistance does not seem to have occurred to the king, to the ministry, to parliament, to the colonial agents, or to the colonial assemblies. All believed that the tax would execute itself. The act was framed, imposing stamp duties on legal documents, marriage licenses, and publications of every description, and making offenses against it cognizable in the admiralty courts, without a jury. Petitions against it were refused a hearing, on account of an ancient and convenient rule forbidding the reception of petitions against a money bill. The bill was passed with hardly any opposition in either house; the king was by this time a lunatic, and his signature was attached by a commission; and with this evil augury the stamp act became law, March 22, 1765. With it went a suggestive act to authorize the quartering of troops in the colonies, and to require the assemblies to furnish them with subsistence. — The first answer came from the Virginia assembly, which adopted a series of resolutions offered by Patrick Henry, May 30. These declared that the colony had never forfeited and had always enjoyed the right to be taxed by their own representatives; but the assembly rejected two further resolutions, declaring that the people of the colony were not bound to obey the stamp act, and that he who should obey it would be an enemy to the colony. June 8, the Massachusetts assembly took the more important step of calling a congress of all the colonies. (See STAMP ACT CONGRESS.) Through the summer the resistance took the form of an inchoate revolution. Associations, the "Sons of Liberty," were formed; stamp agents were compelled to resign, either by ostracism, or, in some few cases, by actual violence; and the inflammatory resolutions of public meetings were steadily carrying the assemblies to the point of resistance. Nov. 1, 1765, was the day fixed for the operations of the act to begin; but there were by that time neither stamps nor stamp agents in the colonies, and the judges, like the merchants, were compelled to ignore the absence of stamps upon documents. Hutchinson wrote home that the people were "absolutely without the use of reason."

—In the meantime the opponents of the *policy* of taxing the colonies had come into power, under the Rockingham ministry, in July, 1765. Their first design was not to repeal, but to modify the act, and make it more acceptable. But when parliament met, its right to tax the colonies was at last denied by some of its own members, though even these still asserted its power to lay duties and regulate trade. Said Pitt: "In an American tax, what do we do? We, your majesty's commons of Great Britain, give and grant to your majesty —what? Our own property? No! We give and grant to your majesty the property of your majesty's commons in America. It is an absurdity in terms"; and he "rejoiced that America had resisted." The majority, however, followed the ministerial programme. The reception of the petitions of the American congress was evaded. A declaratory house resolution was passed, Feb. 10, 1766, by almost unanimous vote, that the king, with the advice and consent of parliament, "had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient validity to bind the colonies and people of America, subjects of Great Britain, in all cases whatsoever." This was followed up by four others: that there had been tumults and insurrections in the colonies; that these had been encouraged by the colonial assemblies; that the assemblies must make recompense for property destroyed; and that the house would sustain the lawful authority of the crown and the rights of parliament, and would favor and protect the loyal people of the colonies. Under cover of this hot fire of resolutions the stamp act was repealed, March 18. The repeal was wholly on the ground of policy, and was accompanied by a declaratory act in two clauses: 1, containing the first resolution above named; and 2, declaring null and void the votes and resolutions of the colonial assemblies in regard to taxation. One of the most valuable incidents in the repeal was the examination of Franklin before the house of commons, Feb. 13. The questions put to him numbered 174; and his answers sum up calmly, but fully, the American theory of the connection between Great Britain and the colonies, and the compromise to which the Americans were willing to agree. — III.: 1766–70. Hutchinson dates the revolt of the colonies from the repeal of the stamp act. As soon as the rejoicings over that event had subsided, premonitory symptoms of trouble again began to appear. The Massachusetts assembly refused to make recompense for the losses in the riots without an accompanying bill of indemnity. Other assemblies refused to comply with the act of 1765 for billeting and subsisting the army. In November, 1766, the first declaration that parliament had no right to "legislate" for the colonies was made in the Massachusetts assembly; and there was a growing party everywhere which held to the advanced doctrine of "*no legislation without representation.*" And all this time political events in Great Britain were tending against the colonies. In July, 1766, Chatham had formed a ministry composed mainly of friends of America; but Chatham's continued illness was steadily throwing the real leadership into the hands of the chancellor of the exchequer, Charles Townshend. His political creed he summed up as follows: "I would govern the Americans as subjects of Great Britain. These, our children, must not make themselves our allies in time of war, and our rivals in peace." In March, 1767, Chatham really, though not formally, retired from public affairs, and Townshend was master of the situation. He made use now of the parliamentary control over commerce, which colonial assemblies had so often expressly acknowledged; and in July a bill was passed granting duties in America on glass, lead, paints, paper and tea. But the insidiously perilous feature of the act was, that the proceeds were to go into the exchequer, and were to be distributed at the king's pleasure in paying the salaries of governors, judges, and other civil officers. These would thus be, as they had never been before, completely independent of the American assemblies, and not only able but willing to make political war upon them. By other acts, writs of assistance were legalized, and the New York assembly was suspended altogether, until it should obey the billeting act. In September, Townshend died, but his mantle fell on Lord North, his successor. — It was difficult, at first, to find any means of opposition to the new revenue laws. Isolated agreements were indeed made by the people of various districts, to abstain from the use of any of the articles taxed; but these depending on the persistence of individuals, were no safe reliance. Jan. 12, 1768, the Massachusetts assembly formally protested against the new system; and Feb. 11, it sent a circular letter to the other colonies, asking advice. April 21, the colonial office sent a mandate to each of the governors to prorogue the assembly of his colony rather than allow the circular letter to be discussed. To Massachusetts further orders were sent to prorogue the assembly if it should not recant the letter, and to continue the process indefinitely until submission should be made; and in June this penalty was enforced. June 8, four regiments under Gage were ordered to Boston permanently; five vessels took possession of the harbor; and the fort was repaired and occupied. Every petty disturbance, every expression of popular indignation, had been magnified and distorted by colonial officers, until the ministry really believed a rebellion imminent, and took this sure means to provoke it. Even then, it required seven years' wrangling to break the bond of union. — Massachusetts, however, was now very close to rebellion. Her assembly, like that of several other colonies, had been dissolved; and a convention of town delegates met, Sept. 22, protested against the revenue laws, and petitioned the king. "I doubt whether they have been guilty of an overt act of treason," said the British attorney general, "but I am sure they have come within a hair's breadth of it." In February, 1769, parliament

requested the king to have the ring-leaders in Massachusetts sent to England to be tried for treason, under an old statute of Henry VIII. One step further, an attempt to arrest for that purpose, and the rebellion would have begun; but the step was not taken. Nevertheless the troops were left in Boston, a firebrand near a powder magazine; and the next six years are one long record of bickerings between the townspeople and the military, arrests of soldiers for violations of town laws, indictments of officers, even of the commander-in-chief, for "slandering the town of Boston," and similar legal proceedings, blotted by the Boston massacre of March 5, 1770, in which five lives were lost. — The whole of the year 1769 was taken up by the full development of the colonial claim of rights. The Virginia assembly, May 16, passed a series of resolutions, declaring its right of taxation, of petition, and of concurrence with other colonies, and the right of its people to a trial by a jury of the vicinage; and these, for which the assembly was dissolved, were copied by other assemblies, and the fault met the same punishment. The Massachusetts assembly absolutely refused to make provision for the troops, and was, for that reason, dissolved. Whenever an assembly was dissolved, its members at once formed a non-importation league, so that the agreement not to use taxed articles had become much more general than was to be expected. It was effective enough to extort from the ministry a circular letter, in May, 1769, promising to impose no more such duties, and to abandon all those already imposed, except that of three pence per pound on tea, which yielded about $1,500 per annum of revenue. The repeal, in these terms and to this extent, was formally enacted, April 12, 1770. But there remained the preamble, the declaration of the right and expediency of taxation of the colonies by parliament. This was still to be resisted; and the revolution, as Webster afterward remarked, was fought upon this preamble. The only result of the repeal was the dissolution of the non-importation associations, and the renewal of trade with Great Britain, except in the matter of tea. — IV.: 1770–88. The first few years of this period are mainly occupied by apparent efforts on the part of the king and the ministry to put the colonists so far in the wrong as to excuse the use of force. The struggle against the carefully guarded and almost pedantically legal methods of the colonies was growing vexatious. In July and September, 1770, the king made preparations to declare martial law in Massachusetts, filled Boston harbor with war vessels, and even seized the castle guarding the harbor, though this had been built by the colony, and the control of it was reserved to the governor by the charter. Still the colonists avoided any open provocation, and there was no fighting except in North Carolina, where the governor, Tryon, provoked and suppressed an "insurrection," and in Rhode Island, where the "Gasper," a revenue cutter, was burned, June 9, 1772, by a boat party from the shore, after she had run aground. The whole period was marked by exasperating legal battles between the governors, under royal instructions, and the various assemblies. In most of the colonies the upper house, or council, was selected by the lower house, with a power of veto by the governor. Whenever persons were selected who had taken part against the parliament, their nominations were vetoed, and the war of retaliation, thus begun, kept the continent in a ferment. In Massachusetts the higher step was taken of paying the salaries of the governor and principal officials directly from the royal treasury, thus not only violating the charter by making them independent of the colony, but provoking a conflict, for it should have been evident that the assembly would never recognize or act with a governor or judges salaried by the crown. This step, like others equally ruinous, was the fruit of constant pressure by the office-holders in America. In December, 1772, Franklin obtained and sent from London to the assembly the treacherous letters of Massachusetts officers, advising these coercive measures, and these did much to undermine all public confidence in the royal civil service. Every one lived in an atmosphere of distrust, more destructive to loyalty than the open excitement produced by the stamp act. — Nov. 2, 1772, in Boston town meeting, Samuel Adams obtained the appointment of a committee of correspondence with other towns. This was the real opening of the revolution, the installation of the first of those revolutionary bodies which within three years had practically superseded the legitimate governments in the conduct of the struggle. (See NOMINATING CONVENTIONS.) Other towns followed the example; and Virginia laid the basis of the Union, March 12, 1773, by appointing a committee of correspondence with the other colonies. — All this time the tax on tea had been collected, though it had shrunk to $400 per year. In April, 1773, the East India company applied for permission to export free of duty the ruinously large stock of tea which it had accumulated. This offered a fair opportunity to settle discontent, but Lord North induced parliament to vote the company a drawback of the duties, the repayment of the duties, after May 10, to the company after collection. The duties would thus be collected, the principle maintained, and yet the price of the tea would not be increased. After all, the meanness of this evasion, and of the trap which it attempted to set, seems to have had much to do with the result. It early led to the appointment of revolutionary committees by other colonies, and thus to a union antecedent to the meeting of congress. Consignments of tea were sent to Charleston, Philadelphia, New York and Boston. At Charleston it was stored in damp cellars, and destroyed; at Philadelphia and New York the ships were forced to return; but at Boston the officers would not permit the ships to return without discharging. Dec. 16, the revolutionary committee took further discussion out of the hands of the town meeting, sent a body of men, and threw

the tea into the harbor. — Boston at once became the focus of interest. It had placed itself in the forefront of resistance, and behind it were the revolutionary committees of all the thirteen colonies. Its conduct was noticed severely in the king's speech, March 7, 1774; and on the 31st the Boston port bill became law. It forbade the landing or shipping of goods in Boston after June 1, until the owners of the tea should be recompensed, and the king should be satisfied of the town's future obedience. Lord North also declared in debate that the act would be enforced by the use of the army and navy. Salem was made the capital of the colony, and Marblehead a port of entry. Gage, the commander-in-chief for North America, was made civil governor of Massachusetts, with instructions to bring the ringleaders to punishment. — The Boston port bill was followed, May 20, by a bill for the government of Massachusetts, which abrogated a large part of the charter. It took away the choice of the council by the lower house; forbade town meetings, except for elections or on the governor's permission; and gave the appointment of sheriffs to the governor, and the selection of juries to the sheriffs. This might have been fairly termed a bill to transfer the *de facto* government of Massachusetts to revolutionary committees. With it went a supplementary act "for the impartial administration of justice in Massachusetts" by transferring to Nova Scotia or Great Britain the trial of officers or soldiers indicted for murder. Another act legalized the quartering of soldiers in Boston; and another, the "Quebec act," extended the jurisdiction of that province over the whole of that which was afterward called the "Northwest Territory," (see ORDINANCE OF 1787), and to which various colonies laid claim by charter. These were unretraceable steps. The first four called for united resistance by all the colonies which had charters, and by all the colonies which desired charters; the last called for united resistance by all, for this territory was already blindly felt to be the common property of the whole, and the basis of future union. — Gage arrived May 17. The revolutionary committees all over the country had already begun to obtain a popular suspension of commerce with Great Britain; and the New York committee had proposed a general congress. This last measure met with general approval; and the Massachusetts assembly, June 17, formally proposed it for Sept. 1, at Philadelphia, having first locked the doors to prevent the governor from proroguing them. Two days before, the Rhode Island assembly had chosen delegates to the congress; five days after, Maryland took the still more ultra step of electing delegates by a popular convention or provincial congress. This last step was even more decisive than the calling of a congress. It was imitated in the other colonies during the summer; and though these "provincial congresses" ventured at first no further than the preparation of nonimportation agreements, promises of support to the general, or continental, congress, or contributions for the assistance of the people of Boston, they were evidently the germ of rebellion, and within a year were to assume the practical government of their colonies. — The congress met in Carpenter's hall, Philadelphia, Sept. 5, 1774. (See CONGRESS, CONTINENTAL, for its further history.) Gage had already begun to fortify himself in Boston, and had seized the colony's stores, as if in an enemy's country. False alarms had already led to more than one mustering of the militia of Massachusetts and the neighboring colonies. Nevertheless, the only measure of active resistance adopted by the congress was the preparation of an "American association," Oct. 20, 1774, which was signed by the delegates and then circulated for general signature. It not only bound the signers to non-importation, non-exportation and nonconsumption of British goods, and to prohibition of the slave trade (see SLAVERY, III.), but it provided for local committees, chosen by popular vote, to enforce the provisions of the association. This was the first effective step toward national union and preparation for war (see EMBARGO); and it is noteworthy that it was taken by general popular action, not by state action; and yet that state lines, and even town boundaries, were carefully observed in its execution. The peculiar combination of national and local government in the United States could hardly be better illustrated. (See NATION, STATE SOVEREIGNTY.) — From this time revolution in British North America was a certainty. It proceeded steadily at first as a mere protest against, and passive resistance to, the unconstitutional measures of the ministry; then, after April 19, 1775, as a scission of the British empire and the formation of an American nation, George III. being still recognized as its king; then, after July 4, 1776, as the establishment of a self-governing republic under the revolutionary congress, to be succeeded by the articles of confederation and the constitution. (See CONGRESS, CONTINENTAL; FLAG; DECLARATION OF INDEPENDENCE; CONFEDERATION, ARTICLES OF; WARS; CONSTITUTION; UNITED STATES.) — See 7–10 Bancroft's *United States;* 1–3 Hildreth's *United States;* 1 Pitkin's *United States;* 1 Tucker's *United States;* 1–3 Spencer's *United States;* 1–3 Bryant and Fay's *United States;* Holmes' *Annals of America;* 1 Adolphus' *History of England;* 5 Mahon's *History of England;* 2, 6 Burke's *Works;* J. M. Ludlow's *War of American Independence;* Grahame's *History of the United States;* Gordon's *History of the Independence of the United States;* Force's *Tracts*, and *American Archives;* Chalmer's *Introduction to the Revolt of the American Colonies;* Walsh's *Appeal;* 1 Story's *Commentaries;* Doyle's *American Colonies;* Marshall's *American Colonies;* Lodge's *English Colonies in America;* Greene's *Historical View of the American Revolution;* Botta's *American Revolution* (Otis' trans.); Ramsay's *History of the Revolution;* Frothingham's *Rise of the Republic;* Stedman's *History of the American War;* Niles' *Principles and Acts of the Revolution;* Moore's *Diary of the Revolution;* E. Abbott's *Rev-*

olutionary Times; Dillon's *Historical Evidence; Journals of Congress*, 1774–88; 1 Elliot's *Debates;* 4 Franklin's *Works*, 162 (his examination), 228, 270, 281, 406; Sparks' *Writings of Washington, Correspondence of the Revolution*, and *Diplomatic Correspondence of the Revolution;* Trescot's *Diplomacy of the Revolution;* Lyman's *Diplomatic History of the United States;* 1 Bishop's *History of American Manufactures;* Wells' *Life of Samuel Adams;* 2, 3, 5 John Adams' *Works;* for authorities on special topics see Winsor's *Reader's Handbook of the Revolution*, and C. K. Adams' *Manual of Historical Literature*, 605; authorities under articles referred to MASSACHUSETTS, and the other original states. ALEXANDER JOHNSTON.

RHODE ISLAND, one of the original thirteen states of the American Union. Its settlement was begun at Providence in 1636 by Roger Williams, as a place of refuge for persons banished from Massachusetts. In 1637 a band of antinomians, also banished from Massachusetts, made a settlement on Rhode Island; and the traces of this double settlement are still seen in the official title, "the state of Rhode Island and Providence Plantations," and in the two capitals, Providence and Newport, in which the legislature meets alternately. The title to these and other settlements was at first derived from the Indians by purchase. Parliament was then the ruling power in Great Britain, and its lord high admiral of the colonies, Warwick, granted Williams a patent, March 14, 1643, which was renewed by Charles II. in 1663, as stated below. — BOUNDARIES. The patent of 1643 assigned as limits the ocean on the south, the Plymouth and Massachusetts patents on the east and north, and the Narragansett Indian territory on the west. The charter of 1663 was more definite. The southern and northern boundaries remained as before. The western boundary was to be the Pawcatuck river to its head, and thence due north to the Massachusetts line. Originally the eastern boundary of Connecticut (see that state) was to have been the Narragansett river or bay; but this charter stipulated, with the consent of the Connecticut agents, that the Pawcatuck river should be "taken and deemed to be" the Narragansett river mentioned in the Connecticut boundary. Connecticut repudiated the action of her agent, claimed jurisdiction over the Narragansett country, east of the Pawcatuck, both by her charter and by conquest from the Indians, and pressed her claim by all legal means, by appeal to the New England union, and by preparations for force. Rhode Island's threat to appeal to the king brought about an agreement May 12, 1703, to run the boundary from the head of the Pawcatuck to the southwest corner of the Warwick purchase, and thence due north to the Massachusetts line. This was confirmed by the crown in 1727, and after sixty-five years of quarreling the line was settled, Sept. 27, 1728, and confirmed by both colonies in 1742. A new survey was made in 1840. — The eastern boundary assigned was a line from the ocean three miles to the east of Narragansett bay and Seacunck, Blackstone, or Seekonk, river "to the falls called Patuckett falls," and thence due north to the Massachusetts line. But Massachusetts Bay and Plymouth colonies claimed a large part of Rhode Island as lying within their patents; the former claimed Pawtuxet and Warwick; the latter, Aquidneck and the islands. Had these and the Connecticut claims on the west been allowed, very little would have been left of Rhode Island. Only the colony's stubborn resistance carried it safely through a struggle of more than a century, during which feeling ran so high as to exclude Rhode Island from political association with her neighbors. (See NEW ENGLAND UNION.) In 1703 the western boundary was fixed in favor of Rhode Island by royal commissioners, and in 1726 their award was confirmed by the crown. In 1741 the disputed eastern boundary was decided in the same way very nearly in accordance with Rhode Island's claim; and in 1746–7 the award was confirmed by the crown. Rhode Island thus gained its present northeast township, and five others on the southeast. The boundary between the two states was not finally settled until March 1, 1862, when it was so run as to throw Fall River into Massachusetts and Pawtucket into Rhode Island. — CONSTITUTIONS. The provisions of the charter of 1663 gave the colony a "democratical" form of government. No appeal or veto power was reserved to the crown; and even the clause which forbade the making of laws contrary to the laws of England was only to extend so far as the nature and constitution of the colony would permit. The governor and general assembly were to be chosen by the people, and their statutes were final. Rhode Island was thus from the beginning a self-governing community. At first the legislature had but one house, but in 1696 a law was passed forming two houses: the council, or governor's assistants, as the upper house, and the delegates as the lower house. In 1724 a property qualification was established for the right of suffrage. It was subsequently modified, until in 1762 it was settled at £40 ($134) freehold, or 40 shillings ($7.50) annual rent. Only freemen with this qualification could vote or hold office, except that the eldest son of a freeman needed no qualification. — This charter was the organic law of the colony and state until 1843. It was suspended by common consent during James II.'s *quo warranto* warfare upon the colony charters, but was quietly resumed after his abdication. It was not altered at the revolution, except by a law of the legislature in May, 1776, substituting allegiance to the colony for allegiance to the king. — A very simple and excellent constitution was framed by a state convention at Newport and East Greenwich, Sept. 12 - Nov. 5, 1842. It was ratified, Nov. 21–23, by a popular vote of 7,032 to 59, and went into force in May, 1843. It gave the right of suffrage to males over twenty-one, on the old property qualification of $134, or on the annual

payment of a state tax of one dollar. The governor, a house of representatives of not more than seventy-two members, and a senate of one member from each town or city, were all to be elected annually, and there were few restraints on their action. In 1864 an amendment was made, to allow the state's volunteer soldiers to vote for presidential electors, congressmen and state officers. — GOVERNORS. Nicholas Cooke, 1775–8; William Greene, 1778–86; John Collins, 1786–90; Arthur Fenner, 1790–1805; Isaac Wilbour, 1805–7; James Fenner, 1807–11; William Jones, 1811–17; N. R. Knight, 1817–21; Wm. C. Gibbs, 1821–4; James Fenner, 1824–31; Lemuel H. Arnold, 1831–3; John B. Francis, 1833–8; William Sprague, 1838–9; Samuel W. King, 1840–43; James Fenner, 1843–5; Charles Jackson, 1845–6; Byron Diman, 1846–7; Ellsha Harris, 1847–9; H. B. Anthony, 1849–51; Philip Allen, 1851–3; William W. Hoppin, 1853–7; Elisha Dyer, 1857–9; Thos. G. Turner, 1859–60; William Sprague, 1860–63; James Y. Smith, 1863–6; Ambrose E. Burnside, 1866–9; Seth Padelford, 1869–73; Henry Howard, 1873–5; Henry Lippitt, 1875–7; C. C. Van Zandt, 1877–80; Alfred H. Littlefield, 1880–83; Augustus O. Bourn, 1883–4. — POLITICAL HISTORY. The natural conformation, by which Narragansett bay penetrates almost every part of the state, had from an early period developed a large commercial interest; but the apportionment of representation in the legislature among the towns gave the agricultural interest complete control of legislation. For twenty years before the outbreak of the revolution there had been a constant struggle between the town and country, hard money and paper money, parties, led by Samuel Ward and Stephen Hopkins, respectively. The steady and successful struggle of a century against the encroachments of two powerful neighbors had kept up a strong state feeling, which, combined with the rivalry of the state's two great interests, made Rhode Island the brake on every effort at a closer union among the states. On every grant of additional power for which congress asked (see CONFEDERATION, ARTICLES OF) Rhode Island put a veto which was final, since any change in the articles required the approval of every state. The agricultural representatives were determined, 1, to retain the power of laying duties on imports, in order to lighten state taxes; 2, to retain the power of compelling the commercial classes to accept as a legal tender the depreciated paper currency of the state; and 3, to resist any change in the national constitution which should curtail these privileges. Hence, though the urban population was warmly federalist, the state was not represented in the convention of 1787, and the legislature refused even to call a state convention to consider the new constitution, remitting it to the town meetings, when it was overwhelmingly defeated. The new question increased the division of feeling so much that the legislature passed a bill to compel holders of state securities to accept five shillings in the pound for them, and removed the state judges who pronounced the law unconstitutional; and a country army, headed by a judge of the state supreme court, marched upon Providence to prevent a celebration of the general adoption of the constitution, July 4, 1788. In the latter case, bloodshed was averted by an agreement to have a common banquet, without reference to the constitution. Finally, the state yielded, and ratified the constitution, May 29, 1790. (See SECESSION, I.; STATE SOVEREIGNTY.) — Having once gained control of the state, the commercial interest kept it federalist for over ten years; and the tendency was assisted by the operation of Hamilton's scheme for the assumption of state debts (see FEDERAL PARTY, I.), under which the holders of state securities recovered that portion which they had lost under the state paper money laws. The governors, legislatures and congressmen were thus federalist; and the state's electoral votes were cast in 1792 for Washington and Adams, in 1796 for Adams and Ellsworth of Connecticut, and in 1800 for Adams and Pinckney, with one vote for John Jay. (See CAUCUS, CONGRESSIONAL, I.) The general democratic success of 1800 encouraged the party in Rhode Island to a new alignment of country against town. It was immediately successful; the state became democratic in 1801, and in 1804 her electoral votes were cast for Jefferson and Clinton. But, as the embargo system began to press more heavily upon agriculture as well as commerce, the small democratic majority disappeared, and the state again became federalist in 1808, casting her electoral votes for Pinckney and King. In the following year the state government also became federalist, and so remained throughout the war. (See EMBARGO; CONVENTION, HARTFORD.) — The manufacturing interest, which had been developed by the restrictive system and the war, and which was destined to put an end to the federal party (see FEDERAL PARTY, II.), probably grew more rapidly in Rhode Island than in any other state, and has since controlled the state's politics to this day. It gave the state's electoral votes to Monroe and Tompkins, the democratic condidates, in 1816 and 1820; it elected Gov. Knight in 1817 and subsequent years; and, on the break-up of the democratic party in 1824–5, it carried the state into the Adams, or protective tariff, portion, the germ of the whig party. (See WHIG PARTY, I.) From 1824 until 1850 the state's electoral votes were cast for Adams and other whig candidates, with the exception of 1836, when they were given to Van Buren by a majority of 254 out of 5,674 votes. During the same period the governors, legislatures, senators and congressmen were whig, with the exception of a few protective tariff domocratic congressmen. — The charter, an excellent one for a purely agricultural population, had long before 1842 been made obsolete by the growth of other interests. The grievance usually assigned was the property qualification required of voters; but the comparative unimportance of this is shown by the fact that the increase of voting population was

2,947 (51.9 per cent.) from 1836 until 1840, and 3,675 (42.6 per cent.) from 1840 until 1844, after the practical abolition of the property qualification. A more serious grievance was the unequal representation of the towns. While they had varied enormously in their growth, their proportionate representation remained fixed as at first; and the "minority-majority" stubbornly refused to make any change. Representative reform had been unsuccessfully proposed by the growing cities in 1796, 1824 and 1830; and in 1840 the state of affairs seemed unendurable. Providence, with 23,000 inhabitants, had four representatives; Portsmouth, with 1,700, had four; and Newport, with 8,000, had six. Of the whole number of seventy-two representatives, thirty-eight represented towns with 29,020 inhabitants (2,846 voters), and thirty-four represented towns with 79,804 inhabitants (5,776 voters). Party feeling added bitterness to the question. The demand for reform came mainly from the democrats, and was resisted by the whigs; and in other states party organs supported their respective party friends in Rhode Island. The result was the "Dorr rebellion." (See that title, and INSURRECTION, II.) Concurrently with its suppression, the new state constitution was framed and put in force. It removed discontent by slightly relaxing the property qualification; and still more by apportioning representation to population equitably throughout the state on a ratio of one representative to 1,530 inhabitants. — In 1851 the coalition of democrats and free-soilers (see REPUBLICAN PARTY, I.) elected the governor, a majority of the legislature on joint ballot, one of the two congressmen, and the United States senator; and in the following year the state's electoral votes were given to the democratic candidates, Pierce and King, by a majority of 465 out of 17,005 votes. In the congress of 1853–5, for the first and last time since 1824, all the state's senators and congressmen were democrats. The elections of 1854–5 put an end to the temporary democratic supremacy, and by the end of the latter year there were in the legislature but two democratic senators out of thirty-two, and three democratic representatives out of seventy-two. At first the majority called itself the American party (see that title), but before 1856 it had settled into the republican party. Gov. Hoppin's election in 1855 was almost unanimous. From that time until the present the state has been republican in all elections, presidential, congressional and state. But the state's republicanism has never been ultra: it has been fairly represented by such moderate and conservative members as Anthony, Sprague, Jenckes and Burnside. Until 1861, indeed, the republicans elsewhere looked with some suspicion upon the Rhode Island delegations, as if commercial interest had made them cautious even to cowardice. In January, 1861, the legislature even repealed its "personal liberty law" (see that title), as a peace measure. But the call for troops in April showed that the state's caution covered an equally strong determination. Her quota was filled immediately, and the governor literally fulfilled his constitutional function of "captain general and commander-in-chief of the military and naval forces of this state," by heading the state's contingent in person. — Since the close of the rebellion the republican share of the total vote has been from 60 to 70 per cent., except in 1876, when the vote for Hayes was 15,787, and that for Tilden 10,712. In 1880 Garfield had 18,195 votes, Hancock 10,779, and 261 were scattering. In the state elections there is frequently no popular choice of governor, since the democratic and prohibition votes, each inferior to the republican vote, are together superior to it, and prevent a popular majority for any candidate. Any coalition between the two minority parties is at once followed by a complete republican majority; and their separate existence is followed by no popular majority, and the choice of a republican by the legislature. In the legislature in 1883 the republicans had thirty senators and sixty-five representatives, and the democrats seven senators and seven representatives. In every county the republicans are in a large majority. — Among the leaders in state politics have been the following: Henry B. Anthony, whig governor 1849–51, republican United States senator 1859–90; Samuel G. Arnold, whig lieutenant governor 1852–3 and 1861–2, republican United States senator 1862–3, and author of the standard history of the state; Tristam Burges, whig congressman 1825–35; Ambrose E. Burnside, major general in the war of the rebellion, republican governor 1866–8, and United States senator 1875–81; Nathan F. Dixon, congressman (whig) 1849–51, and (republican) 1863–71; Job Durfee, federalist congressman 1821–5 and state chief justice; William Ellery, delegate to congress 1776–81, a signer of the declaration of independence, state chief justice 1785–9, and collector of the port of Newport 1790–1820; James Fenner, United States senator 1805–7, governor 1807–11, 1824–31, and 1843–5; David Howell, delegate to congress 1782–5, and federal district judge 1812–24; Thos. A. Jenckes, republican congressman 1863–71, and the first effective promoter of reform in the federal civil service; Stephen Hopkins, chief justice 1751–4, governor 1755–6, 1758–61, 1763–4, and 1767, and delegate to congress 1774–8; Nehemiah R. Knight, governor (democratic) 1817–20, and whig United States senator 1821–41; Francis Malbone, federalist congressman 1793–7, and United States senator, May, June, 1809; Duttee J. Pearce, democratic congressman 1825–37; Elisha R. Potter, whig congressman 1843–5; William Sprague, democratic congressman 1835–7, governor 1838–9, and United States senator 1842–4; William Sprague (nephew of the preceding) republican governor 1860–63, and United States senator 1863–75; and Samuel Ward, governor 1762 and 1765–7, delegate to congress 1774–5. — See 2 Poore's *Federal and State Constitutions;* Arnold's *History of Rhode Island;* Bartlett's *Records of Rhode Island* (to 1792), *Rhode Island Historical Tracts;* Bowen's *Boundary disputes of Connecti-*

cut, 31 (western boundary of Rhode Island); Callender's *Early History of Rhode Island* (edit. of 1838); *Rhode Island Hist. Soc. Coll.;* G. G. Channing's *Recollections of Newport* (1793–1811); Peterson's *History of Rhode Island* (to 1815, and thence very meagrely to 1850); Bowen's *Memoir of Tristam Burges* (1835); authorities under DORR REBELLION; G. W. Greene's *Short History of Rhode Island* (1875: the Dorr constitution is at p. 317); Stone's *Rhode Island in the Rebellion;* and, in general, Bartlett's *Bibliography of Rhode Island* (1864).

ALEXANDER JOHNSTON.

RICARDO, David. David Ricardo, one of the most celebrated English economists of this century, was born in London in 1772, and died at Gatcom Park, in the county of Gloucester, Sept. 11, 1823. His family is said to have come originally from Lisbon; it is certain that his father, a Dutch Jew, came to England, where he acquired an honorable position by his ability and integrity, at the same time that he made a fortune in financial business and business on 'Change. David Ricardo received a commercial education at a school in Holland, where he remained two years, and, at the age of fourteen, he was placed in his father's office in London. He soon showed, in this struggle with the chances of financial life, a cool and sound judgment, penetrating sagacity, and great skill in calculating mentally the advantages of an operation, in disentangling difficult transactions, and in reaching an exact solution in spite of the most complicated details. — Business did not wholly absorb him, however, and his mind was preoccupied, on the one hand, with the social and economical questions raised by the situation of Europe in general and his own country in particular, and also by religious questions on the other. His reflections on these last decided him to change his religion, and to join the church of England, in spite of the formal disapprobation of his family and his father, toward whom, however, he never forgot his duty as a respectful son. This event rendered a separation inevitable, and young David Ricardo was obliged to consider how to make his fortune alone. But as he had already given proof of a remarkable aptitude for business, support, means and encouragement were not lacking, and he was able to take a share in very lucrative operations. — At the age of twenty-five he was rich, and had married Miss Wilkinson. His lot decided, and being no longer absorbed by the cares of fortune, he, like Lavoisier, divided his time into two parts: one for business, the other for scientific studies, toward which an inborn inclination had long drawn him. He resumed the study of mathematics and of the natural sciences, devoting himself especially to chemical research. He was one of the first to introduce gas burners into one of his residences. At the same time he took great pleasure in reading the *chefs-d'-œuvre* of literature, and Fonteyrand heard it related in his family that he plunged with infinite delight into the reading of Shakespeare. — But he was still more strongly attracted toward political economy, after he had read, as he himself relates, the immortal work of Adam Smith, with which he had first become acquainted in 1799, at Bath, to which place he had accompanied Mrs. Ricardo, whose health had become impaired. Thus it was that, by the nature of his business and the bent of his mind, he was preparing himself theoretically and practically for the financial and economical struggles in which he played so great a part during the last years of his life. — Ricardo made his first appearance as a writer and economist in 1810, at the age of thirty-eight years, by the publication of his pamphlet, entitled, "The high price of Bullion a proof of the depreciation of Bank Notes." This pamphlet made a great sensation, because it revealed the true cause of the decline of the English exchange and of the depreciation of bank notes. Ricardo demonstrated that the increase in prices which merchandise of all kinds had undergone was not, as was generally supposed, attributable to the wars, but rather to the depreciation of paper money. The ministry did not want to believe in this depreciation. A bullion committee was appointed by parliament, and Mr. Horner, who made the report, admitted that Ricardo's demonstration was unanswerable, and he proved by the Hamburg exchange that the value of paper was only 25 per cent. that of specie. This was the opinion of Huskisson, Canning and Henry Thornton; but the house of commons made, nevertheless, on the motion of Mr. Vansittart, chancellor of the exchequer, the singular declaration that paper had not undergone any depreciation! At the head of the opponents of the ideas and measures contained in the treatise of Ricardo, and the report of the committee of the house of commons, was Mr. Bosanquet, who maintained his opinion in a pamphlet which provoked a reply from Ricardo, in the course of this same year (1810). — The next publication of Ricardo was in 1815, at the time when the famous bill relative to the exportation of foreign grain, so often afterward modified and finally withdrawn, on the motion of Sir Robert Peel and by the efforts of the free trade league, was being discussed. In it Ricardo maintained the principles of commercial liberty, and foreshadowed the theory of rent, with which his name is identified. The year following, he published another tract on monetary circulation, and proposed, that, in order to keep paper on the same level as gold and to render it inconvertible, bank notes should be exchanged for ingots or pieces of bullion of the standard weight and measure. — Ricardo retired from business shortly after the peace of 1815, and applied himself to study with renewed ardor. In 1816 he arranged his ideas on economy and finance in their proper relation to each other in his "Principles of Political Economy and Taxation." It is to be remarked, that, in his preface to this book, he is far from claiming as his own the theory of rent. He declares, "that the true doctrine of rent was published simultaneously by Malthus, in a pamphlet, entitled, 'An

Enquiry into the Nature and Progress of Rent,' and by a member of the university of Oxford (Dr. West), in an 'Essay upon the Application of Capital to Land'; that without a profound knowledge of this doctrine it is impossible to conceive of the effect of taxation upon the different classes of society, especially when the things taxed are the direct products of the soil; that Adam Smith and other distinguished writers, not having considered the principle of rent correctly, they had neglected many important truths, the knowledge of which can be acquired only after having thoroughly fathomed the nature of rent." Mr. M'Culloch ("Principles of Political Economy," London, 1843), afterward saw that the first idea of this theory was to be met with in a pamphlet published forty years previous, in 1777, by an Englishman, Dr. James Anderson ("An Enquiry into the Corn Laws"), which seems to have escaped the notice of Adam Smith, and which was undoubtedly unknown to Malthus, West and Ricardo. Be that as it may, we are inclined, together with M'Culloch, Senior, Rossi, and others, to accord to Ricardo the honor of the complete demonstration of this theory, imperfectly seen by Adam Smith, treated of in part by James Anderson in 1777, treated anew and more fully in 1815, in the two simultaneous pamphlets of Malthus and West, and finally expounded with wonderful clearness by Rossi in his *Cours d'Economie politique*. (See RENT.) * — Thanks to these remarkable publications, to his skill in business, and to a large fortune, which was stated to be twelve millions; thanks also to the independence of his mind and character, Ricardo occupied an important position in his country. In 1818 he was returned to parliament by the electors of Portarlington. Two of his letters testify to his extreme distrust of his own strength. "You have seen," he wrote, April 7, 1814, to one of his friends, "that I have a seat in the house of commons. I fear that I shall not be of much use there. I have twice attempted to speak, but in the most embarrassed manner, and have scarcely any hope of being able to overcome the fright which takes possession of me when I hear my own voice." "I thank you," said he, in another letter, dated June 22, 1814, "for the efforts which you have made to inspire me with a little courage. The indulgence of the house has lessened for me the difficulty of speaking, but I still see so many and such terrible obstacles, that I fear much that it would be wiser to confine myself to silent votes." Everything shows that he was too harsh toward himself in this judgment. This is how Lord Brougham expressed himself with regard to it. "Ricardo's language had a remarkable stamp of distinction; his style was clear, simple, correct, and its woof was enriched with facts and valuable documents. He practiced abstention in questions which had not been the object of his long meditation, and, when he spoke on events and laws concerning the church or of politics in general, he seemed to be acting in obedience to the inveterate frankness of his nature and the indomitable freedom of his spirit. Hence it was that few men ever exercised such real effect on parliament; few men have commanded such lively attention, and as he had neither captivating inspirations nor graceful speech, with which to charm his auditors, this influence may be regarded as the triumph of reason, of integrity, of ability. Besides, he commanded the respect of all parties, even the ministerial, against which he was constantly fighting; but he would not submit to the yoke of any coterie, voting with the opposition, the radicals, or the cabinet, from judgment and not from tactics or ambition. Although he owed part of his fortune to the negotiation of government loans, he more than once combated from the tribune that ruinous practice of governments in general and of the then existing English government in particular." — Such was the man as a politician. As a scholar he was no less calm, no less independent. During twenty years he debated with Malthus, with Mill, and with J. B. Say, without the antagonism of ideas impairing the friendship which existed between his illustrious opponents and himself. In private life, Ricardo's character was at once firm, mild, simple and amiable; he was an indulgent father, a kind husband, a devoted friend. He particularly liked to collect about him men of talent, and to converse freely on all subjects, but principally on those which were connected with his favorite science. A most pleasant memory of him is preserved by the club of political economy of London, one of the founders of which he was, and at Paris, in the circle which J. B. Say and his amiable consort gathered together once a week. It is also said that his generosity kept pace with his ability: nearly all the charitable institutions of London counted him in the number of their patrons, and he maintained at his own expense an alms-house and two schools in the neighborhood of his residence in the county of Gloucester. James Stuart Mill has said of him: "His history offers a most encouraging example; he had everything to do, and he performed well his task. Let the young mind which longs to spring beyond the sphere in which it has been placed not despair, in view of his great career, of attaining to the highest place in science or in politics. Ricardo had to make his fortune, to form his mind and even to begin his education, without any guide but his penetrating sagacity, without any encouragement but his energetic will, and it is thus that, while making an immense fortune, he broadened his judgment and endowed his mind with a strength which has never been surpassed." — Without being robust, Ricardo

* Ricardo has been the subject of many different judgments. Some (Rossi and J. S. Mill being of this number) regarded him as the first of economists, after Adam Smith; others place him in the second rank; the truth probably lying between the two extremes. As a thinker, Ricardo appears to us superior, original and profound; as a writer, he sometimes obscures his thought by abstract formulas, the strictness of which is only apparent, though we do not wish to say that he is in error when he is obscure. He employs short sentences when enunciating propositions introduced by hypotheses and followed by explanations.

was gifted with a constitution which seemed to promise him a longer career. But he had for several years a pain in his ear to which he did not pay much attention, and which assumed a very alarming character, in September, 1823, after his return to Gatcom Park at the close of the session. The rupture of an abscess at first afforded him some relief, but inflammation set in again, the brain was attacked, and he died on the 11th of September,* after two days of great suffering. He was but fifty-one years old.

JOSEPH GARNIER.

RIDERS (IN U. S. HISTORY). In the federal government, and in the state governments also, with some exceptions (see VETO), a limited veto power is given to the executive, the president or the governor. Where a legislative majority is sufficient to pass a bill, but not to overcome the veto, a measure which has good reason to fear a veto is sometimes attached to some very necessary bill, such as an appropriation bill, and the two are passed as a single bill, so as to force the executive either to accept the doubtful measure or to incur the odium of a veto of the more essential bill. Such an addition is commonly called a "rider." It is evidently an invasion of the executive province. In most of the states it is now forbidden, 1, by requiring every bill to relate to but a single subject, and that to be expressed in its title, not in order to lay a ground for adjudication by the courts, but to give the executive a fair excuse for the veto; or 2, far more effectively, by giving the executive the power to veto single clauses in an appropriation bill, while approving the rest. The constitution of the confederate states (see that title) adopted both these remedies; and the second has been suggested as a very proper amendment to the constitution of the United States.—I. *In the States.* Riders were not familiar in our early history. The only original state constitution which refers to them is that of Maryland, 1776. "That the senate may be at full and perfect liberty to exercise their judgment in passing laws, and that they may not be compelled by the house of delegates either to reject a money bill which the emergency of affairs may require, or to assent to some other act of legislation in their conscience and judgment injurious to the public welfare, the house of delegates shall not on any occasion, or under any pretense, annex to or blend with a money bill any matter, clause or thing not immediately relating to, and necessary for, the imposing, assessing, levying or applying the taxes or supplies to be raised for the support of government, or the current expenses of the state." In Delaware, 1792, provision was made that no "matter or clause not immediately relating to and necessary for raising revenue, be in any manner blended with or annexed to a bill for raising revenue"; and this has been continued in force ever since. Kentucky, 1799, provided that the senate "shall not introduce any new matter, under color of an amendment, which does not relate to raising a revenue," and renewed it in 1850. The language of this latter provision was followed by Louisiana in 1812 and in all subsequent constitutions, and by Maine in 1820. In other states the evil is either still untouched, or has been attempted to be remedied in one of the two modes above specified. The first method, by requiring single subjects for bills, introduced by New Jersey in 1844, has been imbedded in the state constitutions since the following years: Alabama, 1865; Arkansas, 1868; California, 1849; Colorado, 1876; Florida, 1868; Georgia, 1865; Illinois, (private bills and salaries) 1848, (all bills) 1870; Indiana, 1851; Iowa, 1846; Kansas, (Topeka constitution) 1855, (Lecompton) 1857, (Wyandotte) 1859; Kentucky, 1850; Minnesota, 1857; Missouri, 1865; Nebraska, 1866; Nevada, 1864; New Jersey, 1844; New York (private or local bills), 1846; Ohio, 1851; Oregon, 1857; Pennsylvania, 1864, (by amendment), 1873; South Carolina, 1865; Tennessee, 1870; Texas, 1845; Virginia, 1850; West Virginia, 1861; Wisconsin (private and local bills), 1848. In all these it is still in existence. The second method, the extension of the veto power to single clauses, is in force in the following states, having been introduced by the constitutions of the years named: Alabama, 1875; Arkansas, 1874; California, 1879; Colorado, 1876; Florida (amendment in), 1875; Georgia, 1865; Louisiana, 1879; Missouri, 1875; Nebraska, 1875; New Jersey (amendment in), 1875; New York (amendment in), 1874; Pennsylvania, 1873; Texas, 1866; West Virginia, 1872.—II. *In the Union.* The power of attaching riders to bills has never been taken away from the national legislature, though it has gradually, by increasing and unnecessary use, come to be looked upon as an illegitimate and possibly dangerous exercise of power. It would not be possible here to specify all the instances in which provisions in the nature of riders have been added: it is only intended to specify the cases in which the rider has attracted general attention as a possible precedent, or has provoked important opposition.—The first of these was the joining, by the senate in 1820, of the bill for the admission of Maine to the Missouri bill permitting slavery, so as to compel the house to take both or neither. In this case the two bills were finally separated. (See COMPROMISES, IV.)—In 1849 the territory acquired from Mexico was still unorganized, the house being determined to prohibit slavery therein, against the wish of the senate. (See ANNEXATIONS, IV.; WILMOT PROVISO; COMPROMISES, V.) In the senate, Feb. 20, while the civil and diplomatic appropriation bill, which the house had already passed, was under consideration, Walker, of Wisconsin, offered as an amendment a provision that the constitution and revenue laws be extended to the still unorganized territory, and that the president be authorized to enforce them; and this was adopted Feb. 26. Its object was to secure the introduction of slaves to the territory, under cover

* The date given by M'Culloch and Fonteyrand. The "Universal Biography" says the 11th of August of the same year, but M'Culloch and Fonteyrand must have known best.

of the constitution, though Webster showed conclusively that the constitution could not thus be made a territorial law. But he resisted the rider mainly on the score of prudence, acknowledging that it was parliamentary, and that he "could not say that, if you had a bill under consideration for abolishing flogging in the navy, you might not introduce an amendment declaring war with Great Britain." The house very ingeniously threw the onus back upon the senate, March 2. It did not reject the rider, but "concurred with the amendment" that the existing (Mexican) laws be continued in the territory until July 4, 1850, unless sooner superseded by organization. As the Mexican law forbade slavery, this would have fixed the status of the territory. After midnight of March 3, the adjournment day, the senate receded from its amendment, thus getting rid of the house amendment with it, and passed the appropriation bill without any rider. — The dispersion of the Kansas legislature in July, 1856, by federal troops, under the president's order (see KANSAS), was at once brought up in congress, where the new republican party controlled the house (see REPUBLICAN PARTY, I.), while the senate was democratic. When the army appropriation bill came up, the house added to it a rider forbidding the employment of federal troops for the enforcement of the territorial laws of Kansas, and directing the president to protect persons and property, to keep the peace, to disarm the territorial militia, to prevent them from attempting to enforce the territorial laws, and to recall United States arms distributed in the territory. The senate rejected the amendments; both houses adhered to their position; and the time fixed for adjournment, Aug. 18, came, leaving the army bill still unpassed. The president, by proclamation, at once called a special session for Aug. 21. The house again added its rider, and the senate again rejected it. Finally the house yielded, and passed the bill without the rider by the close vote of 101 to 98; and it became law Aug. 30. — The great volume of legislation required by the rebellion made this period prolific in riders. Thus, the validation of the president's acts and proclamations of 1861 (see HABEAS CORPUS), after failing as a separate bill, was added as a rider to an act to increase the pay of privates in the regular army, Aug. 6; and generally the words "and for other purposes" in the titles of bills become indicative of some hidden or open rider. None of these provoked special opposition, and they may be passed over. From the first appearance of the conflict of opinion between President Johnson and the majority in congress (see RECONSTRUCTION), it was evident that riders would play an important part. In the senate, May 2, 1866, a rider was attached to the postoffice appropriation bill, forbidding the payment of salaries to officers until their confirmation by the senate (see TENURE OF OFFICE); but this was subsequently reconsidered and rejected. During the next session the conflict became open, and in February, 1867, the army appropriation bill was passed with two important riders. The second section of the bill enacted that the orders of the president and secretary of war to the army should only be given through the general of the army (Gen. Grant); that the latter should not be relieved, removed or transferred from Washington without the previous approval of the senate; and that any officer who should transmit or obey orders, except through the general of the army, should be punishable by imprisonment for from two to twenty years. The sixth section ordered the immediate disbanding of the militia forces of the unreconstructed states. March 2, 1867, the president signed the bill, but protested against the riders, as attempts to deprive him of his functions as commander-in-chief, and ten states of their right to control their own militia, both of which were given by the constitution, not by congress. These sections were preliminary steps to the impeachment of Johnson. (See IMPEACHMENTS, VI.) — Jan. 13, 1868, while a bill to make five, instead of six, of the supreme court judges a quorum, a most important rider was added, providing that no decision against the constitutionality of a federal law should be valid without the concurrence of two-thirds of the judges therein. The senate did not consider it. — There was no further important party contest in congress on riders (but see AMNESTY) until 1872. June 7, three days before final adjournment, Senator Kellogg, of Louisiana, suddenly moved to add to the civil appropriation bill a general election law, authorizing the oversight and control of elections by federal supervisors, which the senate had already passed, but which the democratic minority in the house was opposing with a probability of success. There are no rules in the senate to limit debate, but in the case of appropriation bills, and "such amendments as directly relate to the appropriations," the senate minority had agreed to limit each senator to five minutes' debate. The democratic senators alleged that the introduction of this amendment was a breach of faith; but the republican majority decided it to be germane. Sumner, under this ruling, endeavored also to get in his supplementary civil rights bill (see that title), but the senate rejected it, and passed the amendment. Much the same objection was made in the house, but after several conferences the amendment was adopted. It amended an act of Feb. 28, 1871, by allowing the appointment of federal supervisors of election in any county or congressional district where ten citizens should request it from the federal circuit judge, with the proviso that the supervisors appointed under it should "have no power or authority to make arrests," only to witness the election, the counting of the votes, and the making of the returns. The bill was thus passed, under a suspension of the rules, by a vote of 102 to 79, and in the senate by a vote of 39 to 17. — Feb. 24, 1873, an amendment was moved to the legislative appropriation bill, increasing the salary of the president to $50,000; those of the vice-president, supreme court justices, secretaries

and speaker of the house to $10,000; and of the senators and representatives to $7,500 and traveling expenses. It passed both houses, and became law, March 3. The increase of salary to congressmen included the members of the congress which had voted it; and hence the increase, popularly known as "the salary grab," proved to be highly unpopular. (See SALARY GRAB.)—Feb. 25, 1865, an act, introduced by a democratic senator from Kentucky, became law. Originally it forbade, under penalties, the bringing of any troops to an election place in any state "unless it be necessary to repel the armed enemies of the United States," but the republican majority added thereto the words "or to keep the peace at the polls." In this form it became, in 1874, §§ 2002 and 5528 of the Revised Statutes. The general election law of May 30, 1870, amended Feb. 28, 1871, authorized the appointment, by federal circuit judges, of two supervisors of elections for congressmen, to personally count every ballot, but not, as above amended in 1872, to make arrests. Both of these provisions were disliked by the democrats, and they also complained of unfairness shown by clerks of federal courts in making up grand jury lists. During the session of 1876–7 the democratic majority in the house had passed the army appropriation bill with a rider forbidding the employment of the army in sustaining the reconstructed southern state governments. The senate refused to concur, and congress adjourned in March without passing the appropriation bill. The army was unpaid until, at the special session of Oct. 15, an army appropriation bill was passed without the rider. One section of the general election law allowed the marshal or his deputies, in case of resistance to arrest, to call in the *posse comitatus* to assist them; and in 1876 the attorney general decided that the federal troops might be summoned as a *posse*. In 1878 a rider was added to the army appropriation bill, forbidding the use of federal troops as a *posse*, except in cases where it was "expressly authorized by the constitution or by act of congress," and the bill was approved June 18, 1878. This initial success encouraged the democrats to attack the whole body of legislation above specified, in which was contained most of the legislation under which troops could still be employed. Their determination to do so was stimulated by the elections of 1878, which made it certain that the succeeding congress would be democratic in both branches. If the still republican senate should obstinately resist the riders, and force a special session after March, a concurrent house and senate would then be arrayed against the president alone, who had not hitherto had any effective support from his own party. (See HAYES, R. B.) The struggle began early in February, 1879. The house passed the army appropriation bill, with a rider re-enacting §§ 2002 and 5528, without the words "to keep the peace at the polls," and the legislative, executive and judicial appropriation bill, with riders repealing the essence of the general election law, forbidding the payment of any money to supervisors, etc., and changing the grand jury law so as to have the list arranged by members of both political parties. The senate struck out all the riders; the two houses disagreed; the bills failed to pass; and both parties "appealed to the country" on the final adjournment. March 4, President Hayes called a special session of the new congress for March 18. Its meeting was the signal for a political tournament of about two months, in which the democrats declared their purpose to wipe out the remnants of war legislation, and the republicans charged their opponents with a design to "starve the government to death," since they had failed to "shoot it to death." The principal results of the session were the partial success of the democrats, the renewed support of the president by his party, and the recognition of Garfield as an unusually able party leader. The army bill was first passed with its rider, and was vetoed, April 30, on the grounds that there was plenty of time to pass both political bills and appropriation bills, and that the junction of the two was an attempt to coerce the president, and possibly, in the future, the senate also, and to enable the house to dictate permanently whatever legislation it might see fit to attach to appropriation bills. The democratic majority was but eight in the senate, and seven in the house; so that the bill was not passed over the veto. Another army appropriation bill, omitting the original rider, and substituting another forbidding the use of any money for the transportation or subsistence of troops for service at the polls in any state, was passed toward the end of the session, and approved June 23. The original rider had first been passed as a separate bill, and vetoed May 12. The executive, legislative and judicial appropriation bill, with its riders, was then passed, and was vetoed May 29. June 10–14, two appropriation bills were passed: the first, for the executive and legislative expenses, without any riders, was approved June 21; the second, for the courts alone, with the riders which had caused the veto of the whole bill, was vetoed June 23, on the grounds that there were but two proper methods of overthrowing existing legislation, by repeal, or through the courts, and that the riders simply forbade the executive to execute laws yet unrepealed. July 1, congress adjourned, leaving the courts unprovided for. It was suggested that the president should continue calling special sessions until congress was willing to pass an appropriation bill for the courts; but this extreme, though legitimate, measure was not put in force. The courts and court officers went unpaid until the following session, when the struggle was renewed in a milder form. The democrats passed a judiciary bill, with a proviso that special deputy marshals should be selected from the different political parties, and should be of good moral character. This was also vetoed May 4, 1880, as a bad precedent of an indirect repeal of a law. The bill was then passed without an appropriation for special deputies.

The army appropriation bill of May 4, renewed the rider forbidding payment for transportation or subsistence of troops for service at the polls in any state.—See (I.) Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions*, 657, a summary of provisions as to veto power in the states, as they stood in 1872; the variations in this article are subsequent changes; (II.) see *Congressional Globe* and *Congressional Record*, under the several dates; 16 Benton's *Debates of Congress*, 306; 1 Greeley's *American Conflict*, 195; 2 Wilson's *Rise and Fall of the Slave Power*, 29, 505; and *Statutes at Large* and *Revised Statutes*, under the dates and sections named.

ALEXANDER JOHNSTON.

RIGHT OF INHERITANCE. (See INHERITANCE.)

RIGHT OF PETITION. (See PETITION, RIGHT OF.)

RIU KIU. The demands of practical politics in Asia are compelling the issue of a problem that has, especially since the opening of this century, been awaiting solution. The extension of European interests in the far east has had the tendency, not only to force China to define her relations with the nations of the west, but also with those on or near her borders. For many centuries the centre of culture to more than half of the largest, the most populous and the most varied continent of earth, China, has divided the world into two portions: the middle (China), and the foreign (all other nations). The outlying people were "barbarians," and all holding relations with her were reckoned as tributaries or vassals. The investiture bestowed upon each, and the actual reception, by the Chinese "Son of Heaven," of gifts which were considered as marks of homage from almost every country, from the Caspian sea to Japan, and from the Malay archipelago to the frozen *tundras* of Siberia, are recorded in the Chinese court annals. Even the embassies from Rome, India, Venice, and the modern kingdoms of Europe, were registered as "tribute bearers." China's form of the doctrine of the "Divine Right" to rule all nations, is expressed in the title of her emperors, Whang-Ti, Heavenly Dynasty, or Theocratic emperor. Western governments in Christendom have compelled a change in diplomatic language as regards themselves, but the tone of oriental mock-courtesy or real loyalty to the Chinese emperor is still very abject, however independent such countries as Annam or Corea may in actuality be. Almost alone of China's neighbors, Japan has asserted and maintained absolute political independence, though Siam is rapidly following her example. China, now pressed on all sides by European enterprise and ambition, finds that she must maintain her old claims, or suffer the presence of frontagers who, instead of manifesting the demeanor of childlike suppliants, bear the attitude of jealous defiance. Since she lost, by the diplomacy of Ignatieff in 1860, the Amoor region and maritime provinces touching the Pacific and Corea — a territory as large as France—she has firmly resisted all further encroachments. Wresting Ili from Russia, she further manifested her policy by warning off the Japanese from Formosa in 1876, by demanding Riu Kiu from Japan, by garrisoning Seoul with her soldiery after the Corean uprising in July, 1880, by military defense of her frontier against suspected Russian aggression, and by informing France of her determination to defend her vassal Tonquin against invasion, annexation or protectorate. The problem is further complicated, not only in the case of Riu Kiu, but in that of others, as in the Indo-Chinese peninsula, by the fact that these petty kingdoms have for centuries rendered homage and paid tribute to two countries: to the nearest and less powerful, and to supreme China—to the distant "Son of Heaven" and "Lord of Ten Thousand Chariots" in Peking. So long as the ordinary conditions of Asiatic statecraft were unvexed with modern and western ideas, this state of things could go on undisturbed. The entrance of Russians, French and British on the scene as neighbors, and extra-territorial residents, has complicated the problem. — Of Riu Kiū (Sleepy Dragon), a group of thirty-seven sugar and rice producing islands stretching like a long rope (okinawa) from Satsuma to Formosa, with a population of over 166,000 souls, we may say that it needs a Solomon to pronounce upon its parentage. Like a babe between two maternal claimants, it is in danger of the sword and of division. The Riu Kiu people are, in origin, language and dynasty, true Japanese, but being powerless between the two great rival empires, Japan and China, they have endeavored to keep the friendship of both by tribute and acknowledgment of submission to either. Thirty-six Chinese families from Fū-kien settled in the islands in A. D. 1372, and encouraged trade, friendship and relations of culture and submission to the Chinese court, which were not interrupted by the Japanese. Before this time and afterward, however, Riu Kiu was a feudal dependency of Satsuma, and was so dealt with by the Japanese shōguns, and the junk-load of gifts sent annually to China was permitted as merely "an exchange of neighborly courtesies." On account of their evident reluctance to fill their quota of war material, ordered by Hidéyoshi when about to invade Corea in 1592, the prince of Satsuma, in 1609, after the Corean war and civil trouble in Japan were over, made an expedition to Riu Kiu, and completely subdued the principality, sent the king Shonei as prisoner to Yedo, and after a thorough reformation of administration in the islands, the daimiōs of Satsuma were confirmed in their possession of Riu Kiu, keeping Shonei as hostage for three years, while the laws and customs of his dominions were being assimilated to those of Japan. Upon his accession to office, each prince of Riu Kiu took an oath of allegiance to the daimiō of Satsuma, and Japan treated Riu

Kiu as an integral portion of the empire. In time of famine, food was sent to relieve the starving, and indemnity was exacted from the Formosan pirates for depredations upon Riu Kiu sailors. Commodore M. C. Perry, in 1853, acted upon the principle that Riu Kiu was a dependency of Japan, and though modifying his view after a stay of some months in China, he finally made an agreement with the regent of Riu Kiu, which, however, contained no statement of the political status of the island kingdom. In 1872, after the abolition of feudalism in Japan, Riu Kiu was made a province (*han*), and the chief, Sho-tai, a governor (*han-wo*). In 1874, Riu Kiu was brought directly under control of the home department, and the custom of sending presents or tribute to China was forbidden. In the diplomatic correspondence between Peking and Tōkiō, relative to the Formosan affair in 1874, China distinctly recognized the Riu Kiuans (who had been killed by the Formosan savages) as Japanese subjects. The Chinese envoys to Japan in 1878 protested against the Japanese occupation of Riu Kiu and their interdict on tribute to China, demanding that the old *status quo* of the islands should be restored. Terashima, the mikado's minister (and now envoy at Washington), objecting to their offensive language, cut off further negotiation. On April 4, 1879, the Riu Kiu *han* (province) was abolished, and the okinawa *ken* (prefecture) established, while Sho-tai, the chief, was ordered to reside, like the former daimiōs, or feudal chiefs now retired, in Tōkiō. The discussion was now opened at Peking, but with little progress, until, in 1879, Prince Kung referred the matter to Gen. U. S. Grant, then visiting China and about to go to Japan. After his arrival in Tōkiō, and consideration of the evidence on both sides, Gen. Grant advised the withdrawal of previous dispatches and the appointment of plenipotentiary commissioners to settle the difficulty. The commission began its sittings in Peking, Aug. 15, 1880, and the negotiations continued during three months. On Oct. 21 the drafts of the treaty which was expected to end the controversy were ready for signature. It provided that the boundary line between the two empires should be drawn at about the twenty-fifth parallel of north latitude; that Yayé-yama and Miako islands should belong to China, but all northward should belong to Japan. The treaty, as agreed upon by the high commissioners, was to be signed within ten days; but after sixteen days had elapsed, the Tsung-li Yamen notified Mr. Shishido, the mikado's envoy, that by imperial order the treaty was to be submitted to the northern and southern superintendents of trade, and others, for consideration and further report. This amazing violation, by the Peking government, of the principles of international law and common courtesy, in remanding the solemn decisions of a plenipotentiary commission—to which, on the recommendation of an eminent American citizen, Japan had, in good faith and covenant with China, submitted her case—to other parties, is thus adjudged by the Hon. J. B. Angell, minister of the United States to China: "Even if they [the Chinese] have justice on their side, in opposing the seizure of the islands by Japan, they could not well contrive a better way to alienate the sympathy of all civilized nations from them in the assertion of their rights than by the course which, if we accept the statement of Mr. Shishido, they have now seen fit to take in their negotiations with Japan." On Jan. 20, 1881, nearly five months after the commission had finished its labors, and after repeated remonstrances, Mr. Shishido, the mikado's commissioner, left Peking, since which time the Japanese government have steadily refused to reopen the question with China. Whether by war, by diplomacy, or by arbitration, the solution of the long-standing problem of China's claim to sovereignty over pupil or neighbor nations seems probable, and may take place before the end of this century. Neither Japan, with her new sense of nationality, nor European nations in this age of liberty, are inclined to respect a claim that seems more antiquated and anachronistic as such a figment as the holy Roman empire and such a doctrine as the divine right of kings to reign settle below the world's horizon. — LITERATURE. M. C. Perry's *The Japan Expedition; Transactions of the Asiatic Society of Japan*, vol. i.; files of *The Japan Mail* and *Japan Gazette; The Chrysanthemum* (Yokohama) of March, 1883; *Diplomatic correspondence of the United States*, 1881, 1882.

WM. ELLIOT GRIFFIS.

RIVER AND HARBOR BILLS. (See INTERNAL IMPROVEMENTS.)

ROADS. (See TRANSPORTATION, MEANS OF.)

ROADS AND CANALS. (See INTERNAL IMPROVEMENTS.)

ROHMER'S DOCTRINE OF PARTIES. (See PARTIES, POLITICAL.)

ROMAN CATHOLIC CHURCH. The object of the present article is, in the first place, to present a condensed exposition of all those provisions of the constitution of the Catholic church which are of any importance for the political understanding of ecclesiastical questions, and then of those principles of that same constitution which have to do with the relation of the Catholic church to the state and to other confessions, etc.: the whole from the point of view, and according to the teaching, of the Catholic church itself.* — I. *Nature and Mission of the Church.* The Catholic church, according to its own dogmatic teaching, is the body or community of all those who are

* This article is intended neither as an argument for, nor as an attack upon, the Catholic church. It is a simple statement of its own doctrines, written by a deep thinker profoundly versed in its doctrines and laws. See note at the close of the article.—ED.

united in the faith in Jesus Christ, a community founded by Jesus Christ, the Son of God, to the end that, within its fold, the individual may work out his eternal salvation. To effect this his purpose, Christ—for the continuation of the functions which he performed during his earthly life, and for the application of the spiritual means of the sacraments bequeathed by him to this community—at the same time established his apostolate, charged with the task and endowed with the power of appointing successors who should, unto the end of time, labor toward the restoration willed by Christ, and purchased for them by his incarnation and death, viz., the restoration of all nations to the true faith, and effecting through that faith, their entrance into the kingdom of God. To preserve the true faith unaltered forever, God promised and sent the Holy Ghost, the divine Spirit, to the church, to remain with it throughout all time. The Catholic Church, founded by Christ, is the only true (*unica, una*) one; it is of direct divine institution, built on the apostles chosen by Christ himself, and on their successors, descended from them, in an uninterrupted series, by spiritual generation or ordination (*ecclesia apostolica*); it has been called to be universal (*catholica*) both in time and space, and to receive into its bosom all those who fulfill the conditions which Christ attached to entrance into his community; unto it is granted, through its instruments of grace, the power to make man the child of God, to help him to fulfill his religious destiny and to sanctify him (*ecclesia sancta*). But, to do this, the church must be everywhere recognizable, external and visible (*ecclesia externa, visibilis*). To this end it has received, in the fundamental features of it, a definite constitution, with the church's central point in the bishop of Rome, the successor to the priority conferred by Christ on Peter, that is to say, to the primacy among the apostles, and therefore, in the bishop of Rome as the visible vicar of Christ. Hence the church is an *ecclesia, catholica, apostolica Romana*. In order that the church may not err in matters pertaining to the faith, that is, in general, in its teaching, concerning all those doctrines on the acceptance of which membership in the Christian community depends (the dogmas of the church), or in those precepts the observance of which is a condition to the salvation of the individual (the fundamental doctrines of morals), it is, by the constant dwelling within it of the Holy Ghost, endowed with infallibility for all time (*ecclesia infallibilis*). Thus, the Catholic church represents itself, not merely as a *subjective* community of Christian believers, but also as an *objective* community, as the *only external visible* institution founded by Christ for the *realization of his kingdom*. Its foundation is the doctrine of faith and morals proclaimed by Christ himself, and preserved, first, in the recognized sacred books of the New Testament (Bible), which, according to the universal belief of the church, were written under divine inspiration, and secondly, in the oral tradition of the church. The church is, accordingly, the fulfillment of the promise made by God after the fall, the institution for which he prepared the way under the old dispensation; so that Christianity is not the abolition but the fulfillment of Judaism; and therefore the sacred books of the latter (the Old Testament) in as far as they do not exclusively relate to national, ceremonial and like affairs, preserve their authority in Christianity.—Hence the aim and object of the church is not the establishment of an earthly kingdom; it is not a kingdom of this world; its interests are not secular, but religious and spiritual; its mission is to restore harmony between the cravings of the sensitive faculty and the commands of God, to bring it to pass that the individual, through faith, and through the grace accorded by God to all, may *will* his own salvation, and with freedom, by works conformable to the faith, labor for his salvation. According to the teaching of the Catholic church, it is not mere faith in Christ that insures salvation, but faith in Christ, and works corresponding to that faith; a life in, and conformable to, the faith. Although, according to its dogmas, entrance into its communion is a condition to salvation (*extra ecclesiam nulla salus*), the attaching of the consequences which follow the non-fulfillment of that condition presupposes knowledge, and an act of the will refusing to enter it. Hence the church does not condemn those of a faith other than its own.—In this world, the church fulfills its task through the mediation of a visible institution, and through means, connected with visible symbols and forms; visible, because intended for men who, as visible, external beings, are bound to and can not escape such forms. Those of the church who have ended their earthly career, immediately enter into a state of perfection, of beatitude in the contemplation of God (church triumphant), or remain in a middle state of purification (purgatory), (the church suffering). These, together with the faithful in this world still working out their salvation in the earthly struggle (church militant), constitute the communion of saints (*communio sanctorum*); through this communion the merits of the saints may be applied to those on earth, and the prayers of the living avail those undergoing the purification of purgatory. Only the church on earth (the church militant) has anything to do with human law. It enters into the domain of law because of the action which it desires to and must exercise on men, even on all men, because of the external means it employs, and finally because of its compact, visible organization. But its mission, nevertheless, is not an earthly and human one; hence, by its very nature, it is not dependent on any power whatever, nor conditioned by any such power; the church *must* fulfill its mission, wherever and as soon as it has the means to fulfill it; because with the possibility to fulfill it comes its duty to fulfill it. As regards the individual Catholic, the external fulfillment of his duty consists in the life in the church, and according to the teachings of the church. And this supposes: participation in external divine worship (*cultus*);

participation in the means of grace, in each according to the circumstances of life (the sacraments); the fulfillment of the commands which the church teaches as directly divine, or which it proclaims itself by virtue of the power granted it (profession of the dogmas of the church, and observance of the precepts of morals). When the acts of individuals are external, they become subject to human law (*forum externum*); but when these acts are entirely internal, they belong to the domain of conscience (*forum internum*). — II. *Constitution and Administration of the Church.* 1. *Persons.* The constitution of the church, or of the society which constitutes the church, is that of a *societas inaequalis*, as it was called even in the middle ages. That society is divided into two different and separate classes: first, the clergy, the body which embraces all persons chosen to guide the church, to administer the means of grace left it, and to act as mediators of salvation to individuals; and secondly, the laymen, the people, the collective body of the faithful, subject to the guidance of the clergy. Sometimes the former are called the teaching, ruling or governing church, and the latter the learning or obeying church. The mark that distinguishes these classes each from the other, is ordination, bestowed on the clergy by a bishop, which is, as it were, an act of spiritual generation, and of itself confers the faculty (*facultas spiritualis*) of administering or dispensing the spiritual means of grace bequeathed to the church. There is a gradation in holy orders, according as this administration of the sacraments, or means of grace, by the very nature of that administration, supposes a power which does not reside in man as such, and which, therefore, can not be acquired or conferred without the indwelling capacity to confer it, in the person who confers it; or according as it may be exercised by purely human faculties. The priests (*presbyteri, sacerdotes*), through the sacrament of holy orders (the external sign consisting in the imposition of hands by the bishop, the invocation of the Holy Ghost, and anointment), receive the grace and especially the power of changing the bread and wine into the body and blood of Christ, and hence of performing the sacred function which is the central point of divine worship in the Catholic church. They are intrusted with the guidance of the life of the church in detail. Above the priests stand the bishops, as successors of the apostles, endowed with the plenitude of the priesthood, a plenitude which manifests itself in the spiritual power to grant admission into the ranks of the clergy, and especially into the priesthood and episcopate. The bishops become such by virtue of a special act called consecration, and are looked upon as the holders, necessarily and unconditionally called for the government of the church, of the fullness of power deposited in the church. From the bishops the other members of the clergy derive their powers, as well as the external right (called *jurisdictio* in the language of the church) of exercising the spiritual faculties which have been granted them. The episcopate is, therefore, the exclusive guide and ruler of the church, and this by virtue of its position in the church; its power is the ordinary *κατ' ἐξοχήν*, and hence is also called, by way of eminence, *jurisdictio ordinaria;* if any one else is invested with an analogous authority, it is only by way of fiction. The priestly and episcopal dignity is indelibly stamped on the individual; or, in theological language, it impresses on the soul a *character indelebilis*, so that the priest or the bishop may, indeed, be deprived of his right as such, but never of his purely spiritual power. Hence there always exists between them and laymen a profound spiritual ineffaceable difference. Below the priests, there are six other grades of the clergy (deacons, subdeacons, acolytes, exorcists, lectors, ostiaries), the members of which have no similar specific functions to perform, and to whom, on that account, the indelible character of the priesthood is not imputed. Their duties, in our day, in the church, are practically nothing; but in themselves these duties consist in taking care of the poor, attending the sick, and in discharging the humbler services in the church. Among the clergy are reckoned, moreover, all who have received the tonsure, and who are thus externally distinguished from laymen. The clergy are further divided into the *secular* clergy, and the *regular* clergy, belonging to the religious orders. The former embrace all who are subject only to the law applicable to the clergy, and, speaking relatively, to the law applicable to all the faithful in general; the latter include all those who live in accordance with a particular rule (*regula*, hence *clerus regularis*) obligatory upon them only by virtue of their own voluntary act. A person belonging to a religious or monastic body need not have received any of the degrees of holy orders, so that here the difference is not a practical one. — The seven degrees of holy orders are divided into the higher orders (priests, deacons and subdeacons) and minor orders. All of them confer certain rights and impose duties which it is not necessary to enumerate here. — At the summit of the episcopate, as head of the church, is the pope. The pope and the bishops are the necessary, independent rulers of the church. They represent the teaching, governing church. Their representation of the church takes place in a general council; such council can not, in the very nature of things, be always nor even frequently assembled. Hence, from the beginning, the guidance of the church by the episcopate was practically this: each bishop obtained (and obtains) a portion of the domain of the church, as his exclusive field of activity, within which he executes the mission of the church as teacher, priest and administrator of its laws. To the episcopal office, the only and fundamental one in the government of the church, there have in time been associated other authorities or bodies, the existence of which, not resting on any necessity, is a result of historical development, and consequently remains subject to that development in the future. — Hence

the constitutional and administrative organism of the church is the following: The territorial domain of the church is divided into dioceses. The occupant and ruler of each diocese or see is a bishop (*episcopus diœcesanus, ordinarius*). Several dioceses constitute an ecclesiastical province (*provincia ecclesiastica*) under a metropolitan, who, however, is only a judge of second resort, who is empowered to visit the dioceses of his suffragans, governed by clearly defined provisions, who has besides a few other powers, but whose office has by no means a complete intermediate degree of authority. In the early days of the church, several provinces constituted a patriarchate (Italy, the Roman; one at Constantinople, and one at Jerusalem, Antiochia and Alexandria respectively). The modern patriarchates, those just mentioned, those of Venice and Lisbon, and that of the Armenians and Maronites, are merely nominal, and without any juridical importance. — The union of the bishops with the pope is effected by the constant intercourse that naturally results from the ever-recurring need of papal acts and decisions for the several dioceses, and also by the duty of the ordinaries of presenting themselves from time to time before the pope, to give an account of the condition of their dioceses in everything that pertains to the church; by the sending out of papal legates; but, above all, by the oath of fidelity or oath of obedience, which every bishop takes to the pope at his consecration. Finally, the intercourse of the pope with the faithful (both ecclesiastics and laymen) affords him a means of obtaining information concerning the condition of the several churches, since every one is free, subject, of course, to rational rules, to communicate with the pope. — In the guidance and government of the dioceses the bishops are assisted, *so far as the entire diocese is concerned:* 1. By chapters (metropolitan chapters, cathedral chapters, etc.). These sprung by degrees from the clergy of the bishop's city, and particularly from the clergy of the bishop's church; from the sixth to the ninth century, they led a life in common (*vita communis*), after the pattern of monks, subject to a rule; later they assumed, more and more, the character of independent corporations, a character which they still retain. The bishop is required to obtain their consent to certain acts, and to seek their advice as to others; leaving these cases out of consideration, cases which are distinctly defined in the law of the church, the bishop is not bound by the chapters nor obliged to choose his assistants in the administration of his diocese from among them, although practically he does so everywhere. 2. The vicars general (*vicarii generales*), who were originally, particularly in Germany, appointed as a counterpoise to the excessive jurisdiction of the archdeacons, and who by degrees maintained their position as permanent assistants by reason of the great extent of the dioceses and the frequent absence of the bishops. 3. Suffragan bishops (*vicarii in pontificalibus*). These are real bishops, consecrated with a title to dioceses which formerly existed, but which are now in the hands of the infidels (in Asia and Africa). These bishops are appointed by the pope at the request of the bishop, and, as mandataries of the bishop, perform episcopal spiritual functions. They are given only to cardinal bishoprics, to great dioceses, and to those in which such suffragan bishops are traditional. 4. Officials, with the same historical development and position as the vicars general, but limited to the exercise of juridical authority.—In our days a formal tribunal for this purpose is usually appointed (with a president and at least four councilors), a tribunal which the bishop constitutes as he wishes. In like manner, there is generally appointed an official body for the administration of the diocese, under the presidency of the ordinary or of his vicar general.— *For the separate districts.* The dioceses are divided into archdeaneries, deaneries, and district vicariates, at the head of which, named by the bishop (also by the clergy of the diocese, and confirmed by the bishop), there is an arch-priest, dean and district vicar, to whom belongs the supervision of the clergy in their office, of their moral conduct, the administration of the property of the church, and, as a rule, the schools for the children of the people. The dean, etc., is required to visit his district every year, and conscientiously to report its condition and the state of its accounts, and to examine the parish books; he is the medium of communication of the bishop with the clergy, and of the addresses or petitions of the latter to the episcopal authorities. He has no jurisdiction, but only the right to make expostulations, remonstrances, etc. A district of this kind embraces an indefinite number of parishes (*parochiæ*), each governed by a parish priest (*parochus*). The parish priest, accordingly, is the most important helpmate of the bishop. The parish priest has, as assistants, vicars, chaplains, curates, etc., who are appointed and removed by the bishop. — 2. *Objects of the Church's Action.* It clearly follows, from what has been said, that the life of the individual, in its totality, is the proper object of the action of the church, inasmuch as the mission of the church consists in this: to remove all contradiction, in man, between his will and the commands of God, that is, to bring perfect harmony into all his actions. Its efforts, therefore, by no means aim at doing away with natural (national, political) relations or conditions, but only at bringing them into harmony with Christian conditions, that is, at raising the principles, ideas and maxims that move individuals and nations in their doings, to the height of Christian principles, ideas and maxims. Hence it strives not to remove or destroy the external, special, peculiar stamp given to individuals and nations by their character, land and climate; but only to concentrate them, in their final end, on the goal to which religion tends, that is, on the world beyond. This sufficiently explains why the church has endeavored to leave its impress, and actually has left it, on all nations, on their different classes and on their condition, changing and transforming them; why it has endeavored to banish, and, by

its influence, for the most part, has banished, from civil, penal, public and international law, every principle which was based on heathen views, or was in conflict with its own principles, or which stood as an external obstacle in the way of the full development of its doctrine. It is intelligible, that the church endeavored to exert, and actually exerted, a direct influence here, because it considered that in this manner it could most fittingly secure the actual operation and enforcement of Christian principles. Thus, during the middle ages, we see an infinity of objects drawn into its domain, with which, at a first glance, it would seem to have nothing to do. Men, in our day, are accustomed to look upon all this as a transcending of power, as evidence of the usurpation of the clergy, and the ambition of popes; they forget, that in looking at it through the spectacles of the nineteenth century they are judging not historically, but only critically. Denied it can not be, that all civilized nations have been educated by the Catholic church; that through it a Christian foundation was given to the state, and a new civilization introduced into all the departments of social life and of the life of the law. How deeply the necessity of the position the church assumed here, was rooted in the circumstances of the time and in the mission of the church and the state, in those ages, is sufficiently evinced by the fact, that this action of the church met with almost no opposition. All resistance before the sixteenth century was directed only against certain matters of detail. But, although the practical action of the church still may extend, or historically has extended, into every sphere, it can not be ignored that its *direct* action, so far as its end and mission are concerned, has not so broad an aim now, and that consequently no place in things non-essential belongs to it, that none such is necessary or can appear necessary to it, and that it has no right to such a place. Rather can the direct, immediate and ever-legitimate aim of the church be this and this only: man in his moral and religious relations. If the church here attains its object, harmony will of itself follow. Nothing, therefore, would be more foolish than for the clergy of the Catholic church to long for the recovery of worldly rights, honors and titles, as did the Jews for the flesh pots of Egypt. If the clergy be truly spiritual, and not worldly, if they keep in view, not only in the pulpit, but in their own body, alone and in connection with others, the honor of God, the salvation of their neighbor, and, finally, their own supreme end and esteem; if they only do all this, honor, and, what is of paramount importance, their own greatest efficiency for the elevation of society, will be better secured than if human laws prescribed that any homage should be paid them. — Hence, what immediately and necessarily comes within the province of the church is, in the first place, the preaching of the divine word, that is, instruction in the Christian religion. Its founder has imposed on it the imperative duty to preach the word, and, therefore, given it the right to do so. It may, indeed, for a time be prevented, by circumstances beyond its control, from exercising that right, but it can never, in principle, abandon it, nor require any external recognition of it. This task of the church is called the *potestas magisterii*. To it belongs the religious instruction of its members, whether imparted in higher institutions of learning or in public schools, since it would be inconsistent to want the church, and at the same time to question its exclusive right of instruction in the faith. If there be no doubt in this matter, there is a doubt as to how far the influence of the church in the public schools should extend. No one will assert that the public schools have simply the duty to equip the child with knowledge. They are also called upon to educate and to train it, in the proper sense of the word; but education without religious principles is a radically vicious one. It is likewise manifest, that, since the majority of young people, on leaving the schools, cease accumulating fresh stores of knowledge, what they have acquired at school remains with most men the basis of their actions through life. But from this it clearly follows that the church, in respect of the public schools, can not confine itself to the task of merely imparting religious instruction, but must claim and have a considerable influence in the business of education in general.* The means employed by the church in the exercise of its functions as teacher, are religious instruction to the youth at school (teaching of the catechism), in the church (Sunday school teaching), sermons, instruction by pastoral letters, etc., and, finally, by books. — When, through religious teaching, the soil has been prepared for a Christian life, the individual in the Catholic church is kept forever mindful of his duties by the means left by Christ, for the sanctification of the different situations in life. The power to administer these means is the *potestas ordinis*. The means are the seven sacraments (external symbols), instituted by Christ, to which is attached an inward grace; through one of which (baptism) man is introduced into the church after birth; through another of which he is strengthened for the service of God by the Holy Ghost (confirmation); rescued from his lapse into sin, the consequence of human frailty, by a third (penance); by a fourth, the eucharist, he partakes of the body and blood of the incarnate God. By matrimony, a fifth, he is sanctified and strengthened for the natural alliance of the family. By holy orders, the sixth, those called thereto are endowed with the gifts necessary for a particular spiritual alliance with the church. Finally, by extreme unction, on his death bed, the Catholic is prepared for his exit from this world. In a word, in all the situations

* We have here translated the German *Volksschulen* by *public schools*. In writing the article Dr. v. Schulte certainly did not have in view the public schools of the United States, in particular. The *Volksschule* is a school intended for the people. It seems certain that what Dr. v. Schulte says of the attitude of the Catholic church toward the *Volksschule* is true of its attitude toward the public schools of the United States.—Ed.

of life the Catholic is guided by the loving hand of his mother, the church. Besides the sacraments, hereto belong also the whole external divine worship (worship and liturgy), and what is connected with it (sacramentals, ceremonies, etc.). — The exercise of these two powers, the *potestas magisterii* and the *potestas ordinis*, requires a settled order of things. The establishment and development of the latter, on the basis of the fundamental principles given by Christ, given with the church itself, as well as its enforcement, constitute the third power of the church, the *potestas jurisdictionis*, or government, in the proper sense of the term. This triple power, in its totality, resides in the episcopate, the bishops. The *potestas jurisdictionis*, from the very nature of the case, is chiefly that activity of the church which is externally apparent, and, for that reason, most capable of juridical development, and which in fact has a part in that development. In the exercise of this power the church enters the domain of law, and comes in contact with states, individuals and religious bodies separated from it. The principal departments of this jurisdiction are the legislation and administration of the church, particularly the creation and filling of ecclesiastical offices, the supervision of the administration of the clergy, the exercise of the judicial authority of the church over the clergy and laity, and the administration of the property of the church. — 3. *Legal Rules for Ecclesiastic Administration.* The ecclesiastical law is the sum total of the principles according to which the church lives and acts in its internal and external relations. Its sources are, in the first place, the positive divine precepts contained in the New Testament, which are, however, as a matter of course, but few, because Christ gave only the broad outlines of the constitution of the church, the development of which, as indeed the development of all law, is the work of time. In the first centuries of the church the customary law, resting for the most part on traditions handed down from the time of the apostles, was the most abundant source of the law of the church, yet one which subsequently receded before other sources, but which, at the same time—because it is the criterion in accordance with which all rules are established (rules required by special circumstances, and which are therefore gradually developed), that traditional customary law, of which we are speaking—is of great importance, exists even at the present day, and continues to modify many laws of the church. It now finds expression in the *vigens ecclesiæ disciplina*, which in many points varies considerably from the state of things supposed by the written law, which latter must take into account circumstances and the times. There are, besides, the *canones*, that is, the decrees of the synods, and the papal constitutions. — III. *Relations of the Catholic Church to Non-Christians.* The church, as has been shown, maintains that membership in the Christian church is a fundamental condition to the attainment of the salvation of the soul. From this it deduces the right and duty of announcing the gospel to non-Christians, and of receiving them into its fold. This activity of the church is designated by the word *mission.* A congregation in Rome, bearing the name *S. Congregatio de Propaganda Fide*, looks after the execution of this task. To this end the congregation has an institution, in which most of the Asiatic and other languages are taught, and large revenues for the support of missionaries. To this congregation, under the guidance of the pope, are subject all countries, in which the church is either not tolerated at all, or in which it has not yet been able to attain the full development of its legal organization. Such countries are called *terræ missionis*, in contradistinction to countries which are ruled by the common law of the church and by the regular hierarchy, and which are *terræ sedis apostolicæ.* The system of church government in missionary countries must, from the very nature of the case, be dictated more by prudence (the circumstances of place, time, climate, political constitution, the stage of civilization of the people) than by the strict letter of the law. As means of conversion, instruction *only* is admitted; all compulsion, etc., is excluded. The violent conversion of certain German tribes (the Saxons), by Charlemagne, that of the Jews in Spain, and other and similar conversions, did not proceed from the church, although a few individual bishops may perhaps have approved of them. Such conversions are sufficiently explained by the views held in those times, which knew only Christian society (the ecclesiastico-political), and when states considered it a matter of duty to convert all non-Christians, even against their will. But from the point of view of the church, only man's free will can call for admittance into the church. — It was an altogether different matter, when in many countries, during the middle ages, the Jews were ordered by the popes, at certain seasons of the year, to listen to Christian sermons, that they might become acquainted with Christianity. This was considered legitimate, because the duty of taking care that the truth should not remain hidden from the Jews was acknowledged. The Jews were tolerated and protected by the popes and bishops more than by any others, so that, relatively speaking, there are now more Jews living in countries formerly Catholic, and particularly in countries ruled by dignitaries of the church, than in others. But non-Christians, because they have not received baptism, stand in no relation to the church. For the same reason they are not subject to the laws of the church, nor can they, as such, be judged by the church. But the church, nevertheless, considers non-Christians bound by the laws which it calls divine, because engraved on the heart of every man. When, accordingly, there is question in its forum of the rightfulness of any act, the church does not decide it by its positive laws, but by the dictates of the *jus divinum;* for instance, it considers the marriage of non-Christians indissoluble. The matrimonial impediments created by the divine law (as, for in-

stance, the impediments between those in the ascending and descending lines, between brothers and sisters, etc.) the church regards as binding on non-Christians. With regard to the admission of grown-up non-Christians to her fold, the church maintains that religious conviction only is necessary, but not any definite age or further requirements. Since all compulsion must be regarded as illegitimate, it is not permitted by the Catholic church to baptize the children of non-Christians, as for instance, those of Jewish parentage, against the will of their parents, but it insists that a baptized child shall receive a Christian education. — Dating from the early centuries of the Christian era, and from the middle ages, there still exist a number of laws which forbid the intercourse of Catholics with non-Christians, or which restrict such intercourse to the absolutely necessary; but which forbid, above all, certain kinds of familiar intercourse with such persons (as the service as house maids, man servants, nurses, etc.), and which further absolutely forbid such intercourse with the Jews. Prohibitions of this kind existed until recent times in a few states (in Austria until the summer of 1859, but they were not enforced), and they still exist in several Italian states, in Spain, etc. The reason of such prohibitions, dating from early times, was the danger to the faith which that intercourse necessarily involved, so long as the Christian religion had not attained to full recognition, and so long as paganism had not entirely disappeared. With the Christian state this reason ceased to exist, when in the Neo-Latin, Germanic and Slavonic states the heathen religion was no longer tolerated. As reasons for the maintenance and renewal of these prohibitions in case of the Jews, may be alleged the embarrassing situations in which servants might be placed, the danger that they might become indifferent to their religion, particularly when not kept to the observance of it, or that they should be compelled to hear it ridiculed, etc. The civil condition of the Jews does not concern the church. For, although the state in many of its laws relating to the emancipation of the Jews places itself in contradiction with the principles of the Christian state, this implies no injury to the church so long as such laws do not affect the development of the church, and so long as the Christian foundations of states receive no injury from them. For I consider that the state has indeed the power but not the right to put itself in such contradiction.* Yet it implies no injury to the church that the state does not impose any legal restrictions on intercourse with Jews, the church having always tolerated such intercourse, and considered it unavoidable. On the other hand, the Catholic church can not be forbidden to employ suitable means to prevent her children from being exposed to unnecessary danger to their faith, and hence can not be prohibited to warn them against the familiar intercourse referred to above. I am, however, of opinion, that we ought to regard the ecclesiastical laws which punish this intercourse with censures (ecclesiastical punishments) as abrogated by a *desuetudo generalis* (general disuse), by reason of the altered circumstances of the times, as well as because of the modern development of the state.— IV. *Relation of the Catholic Church toward the Greek, Protestant and other Christian Sects.* It follows from what has been said, that the Catholic church considers itself as *the* church, and consequently as the only church founded by Christ; that it maintains its doctrine to be *the Christian* doctrine, and every deviation from it as *error;* that its fundamental constitution, according to its dogma, is the one which was given by Christ to his church, and that the non-recognition of the latter and of the historically developed powers of the church implies unlawful opposition to Christ and to his church. Since the church not only exacts an inward, but also an external, visible acceptance of Christianity, any deviation from its teachings, or non-recognition of it, not only bears the character of a sin, but is the subversion of the legal order of things, and hence has the character of a crime. From the nature of the case, it is impossible to admit a will in opposition to the church, knowing it to be the only true church. For this reason the church looks upon the voluntary rejection of its doctrine as the crime of *heresy* (from αἱρεῖν, to choose), that is, the non-acceptance of its entire dogma, and on the rejection of the constitution of the church (especially of the primacy of the bishop of Rome) as the crime of *schism*, and punishes the same by exclusion from the church; and prescribes to the Christian state the obligation on its part to take action against such crimes. Such is the view that was maintained in all Christian states, after the pagan religion had been prohibited in the Roman empire, until the sixteenth century; in Catholic countries this view continued to be taken by the Italian states until the revolution of 1859, and by Spain and Portugal; in non-Catholic states, by Russia, practically; by Sweden, as to the abandonment of the Lutheran faith; and it is well known, that England retained the same view in part as regards the Anglican church. But in Germany this view was changed after the Passau decree of the states of the empire (1552), that of Augsburg (1555), and the peace of Westphalia (1648). Owing to the events of the sixteenth century, the effects of which were confirmed by the laws of the empire above referred to, there arose a condition of things which had for consequence not only the individual freedom of belonging to any one of the three Christian confessions (Catholic, Lutheran and Reformed), but which also brought about the complete political equality of Catholics and of the Catholic church on the one hand, and of the Protestants and the Protestant church on the other,

* In our opinion, Christianity is not only the basis but the living element of our civilization; yet the *legal* foundation of the state does not by any means rest on Christianity. The state has not grown *out of* the church, nor upon the church, but is completely independent of the latter and of her dogmas.—BLUNTSCHLI.

and even the individual freedom of Christians, to not belong to any Christian confession. At the same time, by the peace of Westphalia and the establishment of the normal year, 1624, a definite limit was put to the external jurisdiction of both the Catholic and Protestant church over foreign yet kindred religious bodies in the separate territories of the empire. In consequence of events since 1808, all jurisdiction of the kind has generally ceased to exist in Germany. — In this way was developed the equality of individuals and confessions. As a consequence of this, the rule of the canon law has naturally ceased to exist in respect to Germany, to France, England, Holland, Belgium, the United States, etc.; because it is impossible to regard as criminals persons who are born and educated in a Christian religious community, tolerated by the state, on an equal footing with, or even with greater privileges than, the Catholic body.* The church, therefore, regards dissenters from her teaching only as erring, as *hæretici materiales*, as they are called in the language of the church. For this reason also the penal laws of the church, as well as the validity of older prohibitions, respecting the intercourse of Catholics with heretics, have ceased to have any force. What is said here of heretics applies also to the non-united Greek church and its adherents. That this is practically so, and that this view has been maintained by the popes, is well known to every one acquainted with the government of the Catholic church. Herewith has also ceased the external jurisdiction of the Catholic church over Protestants and non-united Greeks. But so far as persons who secede from the Catholic church to the Greek, or to any other Christian confession or sect, are concerned, the Catholic church maintains, even externally, its own dogmatic view, which is, the notion of criminal schism, and of heresy, and the applicability of the laws of the church above referred to. The external application of these laws is naturally limited to the infliction of censures (excommunication), for the reason that the employment of other and temporal punishments, which were formerly always inflicted by the state, has now been abandoned. Practically these ecclesiastical penalties play no part, except when an individual wishes to return to the church which he had abandoned. Thus, although Protestants and members of the Greek church are no longer, as such, subject to the external jurisdiction of the Catholic church, still the view of the Catholic church concerning its own domain remains the same. By baptism, every one, from the church's own point of view, becomes a member of the society founded by Christ, that is, of the Catholic church, and is subject to its regulations, whether they rest on the divine law or on the positive laws of the church, enacted by virtue of the constitution of the church, and of the power bequeathed to it by Christ. Hence, when, in the church's forum, there is question of an act done, it does not apply those principles which non-Catholics regard as controlling the case, but its own. Practically this is of importance only as regards marriage, and the questions resulting therefrom in the several spheres of church life. For instance: the marriage of a Protestant separated from his wife, during the lifetime of the latter, is regarded by the Catholic church as void; and a son, the offspring of such a marriage, could not, without dispensation, be admitted to holy orders, *propter irregularitatem e defectu natalium*. It obviously follows from what has been said, that as regards Greeks and Protestants, in non-Catholic countries, the church must look upon the task it has to perform as a missionary one. And so it is in reality. — For the admission of dissenters to the church, which, from the point of view of the laws of the Catholic church, is only a return to it, the absolute inadmissibility, in accordance with the above exposition, because of the circumstances of our times and of the obsoleteness of the older laws of the church, of all compulsion, or the employment of any means but instruction, must be considered as settled. — The clergy of the Catholic church are under no obligation to exercise the functions of their office for the benefit of persons of a belief different from their own. In practice this can be asked of them only as to baptism, marriage and burial, because their other functions can not be performed in favor of persons not Catholic. As a matter of course, the church has no objection to the baptism, by a priest, of children of Protestants, at the request of the parents. In regard to matrimony, the church *forbids* the marriage of a Catholic to a non-Catholic, without, however, attaching to such marriage any definite, external, ecclesiastical penalty, but it does not permit the marriage of a Catholic to a non-Christian, on account of the matrimonial impediment of difference of religion. The present state of things in this regard, resting on modern papal constitutions, is to the effect that a mixed marriage may be allowed when it is promised that the education of the children shall be in the Catholic religion, and when the non-Catholic party promises not to disturb the other in the exercise of his or her religion.† In such a case, that is, in the case of a mixed marriage, a dispensation is granted, and the nuptial ceremony of the Catholic church is allowed to be performed. But if the guarantees above referred to are not given, the Catholic priest grants only his so-called passive assistance in the nuptial ceremony. The Catholic priest may also attend the burial of non-Catholic

* Bluntschli here inserts a note to the effect that the state introduced religious freedom into the world. The remark is certainly a correct one. The principle of liberty of conscience forced itself into the world through blood, we might almost say, spite of church and state authorities, as a means "not to determine rights, but to repress violence and terminate quarrels."—Ed.

† There are those who consider this provision in conflict with the principle of the equal rights of confessions or creeds, and of freedom of conscience. But is not the member of a recognized Christian denomination, the statutes of which he freely accepts, bound by them?

Christians, in his priestly character, but only with the omission of all ceremonies, which, by their very nature, can be performed only over deceased members of the church. But there is no duty to perform such ceremonies, on the part of the Catholic priest, as that would manifestly imply unqualified compulsion, in view of the fact that purely political considerations do not demand ecclesiastical burial. For this same reason the state can not compel the church to officiate at the burial of nominal Catholics, whom the law of the church deprives of this benefit, or to accord them Christian burial. Catholic cemeteries, *campi sancti*, are considered as things ecclesiastical. Secession from the Catholic church, and going over to another confession, the Catholic church necessarily regards as apostasy and crime. Hence its law admits of no mode of leaving the Catholic church. The Catholic church makes admission to its fold dependent only on the knowledge of its doctrine, on the free will of the individual, uncontaminated by impure motives (as far as can be ascertained, for it is unable to examine hearts), and on the fulfillment of its precepts. When these conditions exist, it can not but admit the individual. But on this very account the church does not require for admission to its fold any definite age, any more than it does the consent of parents, guardians or of married people, to the change of the faith of either; because the conviction of the truth is an entirely individual matter, which, by reason of its consequences to the individual, can not depend on the pleasure of a second or third party. As regards the religious education of Catholic children, the Catholic church exacts unconditionally their education in accordance with its doctrines, and does not admit of any exception of whatever kind to this rule; a matter which has frequently been made a subject of reproach to it, but which manifestly is the natural consequence of its principles and convictions. The political point of view is here a different one from that of the church. — V. *Relation of the Church to the State.* It is impossible to enter here into the historical and philosophical exposition of this relation, or to support the views here developed by historical proofs. All we are concerned with at present is to describe the relation of the Catholic church from the point of view of *principle*, taking into consideration, at the same time, the principles proclaimed by the Catholic church itself. All the decrees and tenets which constitute the sources of ecclesiastical law on the relation of church and state, are, from the standpoint of principle, just as little prescriptive as the decrees of secular laws. For all such decrees and tenets did not proceed from the whole church; they have not the character of dogmas, but sprung from the circumstances of the times in which they originated, and in which they all find their sufficient justification and necessary explanation. To make these tenets of the middle ages, or the general condition of those ages, an absolute standard for all time, is an absurdity which neither has a rational basis nor is even of any advantage to the church itself, but which, on the contrary, arouses a host of enemies against it, and thereby causes no little damage. The principles which result from Catholic teaching and from the development of its law, and which have no reference to special conditions, are these: the church is a power independent of the state, and self-dependent; its domain is a spiritual one, and therefore different from the political domain; it rests on divine institution; and hence, as to the powers bequeathed to it, and as to the means granted it for the fulfillment of its mission in the world, it is not dependent on any earthly power and requires no political commission. It is, therefore, subject to no state. It is not *of* the world but *in* the world, to lead mankind to eternal salvation. The Catholic church as the *one* church, the mystic visible body of Christ, the community of all Christian believers spread throughout all lands, is not the subject of the action or influence of any state, and is not, because it is the mystic, visible body of Christ, bound to obey the laws of any state. The Catholic church knows no limits, no nation, but only humanity united in the faith. But the worldly position and the worldly relation of individuals do not, therefore, cease to exist. Christ did not prescribe to his church the attainment of its end in any new way by the creation of artificial social relations previously unknown to the world, or of new political institutions or constitutions. The church's means for the reaching of its end are purely spiritual, moral and religious. Hence, the mission of the church is decidedly not a political one. That through the acceptance of Christianity, all social, and hence all political, relations should be gradually transformed as they actually were, was not the aim of Christianity, but the indirect result of its action, because through its influence humanity itself was renovated in a moral way. It therefore follows that the church in different countries does not and can not require that the people should abandon their political and social relations or circumstances, but, on the contrary, that individuals, each in the position in which Providence has placed him, should fulfill his duty, and, like a true Christian, whether as a citizen or official or soldier, as father or mother, as son or daughter, etc., merit heaven. Religious duties should not interfere with *human* duties, whether civil or political, and there should arise no conflict between civil and church duties. The task of the Christian state consists in the attainment of this end. — From what has been said, it follows, in the first place, that the church accepts the political order as resting on the divine will, and that the authorities of the state rule by divine right. All, accordingly, are bound to obey the latter. But it follows, too, that no definite form of political authority or of political constitution, no single political system, can be regarded as the one specially instituted by God, but that the church recognizes the actual lawfully existing political authority of a state as the one divinely established. Not the church, but international law and history,

must decide when any definite political authority can be said to exist *by right;* in other words, that decision lies outside the jurisdiction of the church. It is therefore perfectly true that the Catholic church as such is cosmopolite, and knows no special country; but it is wrong, on this account, to deny to Catholics individually, from the pope to the layman, the right of, or the capacity for, patriotism. Differences of political opinion and deep attachment to home, country and nation, are as natural to Catholics as to any others.— Thus, the church is not divided into state churches. History shows that there is nothing more crippling or deadening to the inward life and action of the church than a condition in which it becomes the instrument of state administration, even when it happens that it is the predominant religion in that state. Nor is the Catholic church a state within the state. This is not possible from the very nature of its existence in most states, and of its constitution, which is the same in all states, the centre of which (its constitution), even in the interest of all states having Catholic population, should not be subject to a state foreign to any other states. It is, however, no contradiction to what has been said, that the church partakes in the sufferings and joys of every individual state, in so far as its members belong politically to such state. — Within its own domain the church demands freedom of movement and autonomy, just as in the present day does every private individual, every community, every society, and every confession. The Catholic church can not on principle lay claim to privileges or rights of a secular or political nature; the loss of the old ones it possessed was, therefore, in principle no violation of right. But it can not be denied that the practical settlement of the relation of church and state, especially in Europe, is beset with great difficulties, because our age has broken with history in respect to the development of the political domain, and because the church and the state, in most European countries, have a too intimate and historical connection to render it possible soon to find the right solution in the conflict of opposing parties, one of which desires to retain the condition of things historically developed, another of which finds the right solution in the absolute dechristianization of the state, and a third in the freedom of the church within its own sphere, the like freedom of the state within its sphere, and in the action in common of both on a common ground. There are still other parties which do not well know what they want.* (For the proper solution of the question of the relation of church and state, see CHURCH AND STATE, in Vol. I. of this work.—ED.) SCHULTE.

ROTATION IN OFFICE. (See CIVIL SERVICE REFORM.)

RULES. (See PARLIAMENTARY LAW.)

* The above article (somewhat shortened here by the omission of matter relating exclusively to Germany) was written by a distinguished Catholic teacher of ecclesiastical law, John Frederick von Schulte, the author of a great number of works on the law of the Catholic church. It was written for the larger edition of Bluntschli and Brater's *Staatswörterbuch*. After the promulgation of the decree of the infallibility of the pope by the Vatican council, Dr. von Schulte, with Dr. Döllinger and other learned Catholic divines and laymen, formed themselves into the body known as the "Old Catholics," a party which rejected the doctrine of papal infallibility as subversive of the ancient constitution of the church, as the absorption of the church by the pope, and as contrary to the doctrine *Quod semper, quod ubique, quod ab omnibus*. This is not the place to discuss whether the decree of papal infallibility changed the constitution of the Catholic church. What concerns us most in this work is to lay before its readers the meaning of that dogma, as understood by the best informed in the church itself—a meaning, which, therefore, may be considered the meaning of the Church. We give it in the words of probably the most eminent and learned of Catholic dignitaries, one whose name has long been familiar to Protestants and Catholics as well as to disbelievers both in Protestantism and in the Roman church. He says: "The Vatican definition, which comes to us in the shape of the pope's encyclical bull called the *Pastor Æternus*, declares that 'the pope has that same infallibility which the church has': * to determine, therefore, what is meant by the infallibility of the pope, we must turn first to consider the infallibility of the church. And again, to determine the character of the church's infallibility, we must consider what is the characteristic of Christianity, considered as a revelation of God's will. — Our Divine Master might have communicated to us heavenly truths without telling us that they came from him, as it is commonly thought he has done in the case of heathen nations; but he willed the gospel to be a revelation acknowledged and authenticated, to be public, fixed and permanent; and, accordingly, as Catholics hold, he framed a society of men to be its home, its instrument and its guarantee. The rulers of that association are the legal trustees, so to say, of the sacred truths which he spoke to the apostles by word of mouth. As he was leaving them, he gave them their great commission, and bade them 'teach' their converts all over the earth, 'to observe all things whatever he had commanded them'; and then he added, 'Lo, I am with you always, even to the end of the world.' Here, first, he told them to 'teach' his revealed truth; next, 'to the consummation of all things'; thirdly, for their encouragement, he said that he would be with them 'all days,' all along, on every emergency or occasion, until that consummation. They had a duty put upon them of teaching their Master's words, a duty which they could not fulfill in the perfection which fidelity required, without his help; therefore came his promise to be with them in their performance of it. Nor did that promise of supernatural help end with the apostles personally, for he adds, 'to the consummation of the world,' implying that the apostles would have successors, and engaging that he would be with those successors as he had been with them. — The same safeguard of the revelation, viz., an authoritative, permanent tradition of teaching, is insisted on by an informant of equal authority with St. Matthew, but altogether independent of him: I mean St. Paul. He calls the church 'the pillar and ground of the truth'; and he bids his convert Timothy, when he had become a ruler in that church, to 'take heed unto his doctrine,' to 'keep the deposit' of the faith, and to 'commit' the things which he had heard from himself 'to faithful men who should be fit to teach others.' — This is how Catholics understand the Scripture record, nor does it appear how it can otherwise be understood; but, when we have got as far as this, and look back, we find that we have by implication made profession of a further doctrine. For, if the church, initiated by the apostles and continued in their successors, has been set up for the direct object of protecting, preserving and declaring the revelation, and that by means of the guardianship and providence of its Divine Author, we are led on to perceive that, in asserting this, we are in other words asserting, that, so far as the revealed message is concerned, the church is infallible; for

* Romanum Pontificem ea infallibilitate pollere, qua divinus Redemptor Ecclesiam suam in definienda doctrina de fide vel moribus instructam esse voluit.

RUSH, Richard, was born at Philadelphia, Aug. 29, 1780, and died there July 30, 1859. He was graduated at Princeton in 1797, was admitted to the bar in 1800, and became attorney general of Pennsylvania in 1811, and attorney general of the U. S. in 1814. He was minister to Great Britain, 1817–25, and secretary of state under John Quincy Adams. In 1828 he was the candidate of the Adams republicans for vice-president. (See WHIG PARTY, I.) He was minister to France, 1847–56. See his *Residence at the Court of London*, and *Court and Government of Louis Philippe*. A. J.

what is meant by infallibility in teaching but that the teacher in his teaching is secured from error? and how can fallible man be thus secured except by a supernatural infallible guidance? And what can have been the object of the words, 'I am with you all along to the end,' but to give thereby an answer by anticipation to the spontaneous, silent alarm of the feeble company of fishermen and laborers, to whom they were addressed, on their finding themselves laden with superhuman duties and responsibilities? — Such then being, in its simple outline, the infallibility of the church, such too will be the pope's infallibility, as the Vatican fathers have defined it. And if we find that by means of this outline we are able to fill out in all important respects the idea of a council's infallibility, we shall thereby be ascertaining in detail what was defined in 1870 about the infallibility of the pope.— 1. The church has the office of teaching, and the matter of that teaching is the body of doctrine which the apostles left behind them as her perpetual possession. If a question arises as to what the apostolic doctrine is on a particular point, she has infallibility promised to her to enable her to answer correctly. And, as by the teaching of the church is understood, not the teaching of this or that bishop, but their united voice, and a council is the form the church must take, in order that all men may recognize that in fact she is teaching on any point in dispute, so in like manner the pope must come before us in some special form or posture, if he is to be understood to be exercising his teaching office, and that form is called *ex cathedra*. This term is most appropriate, as being on one occasion used by our Lord himself. When the Jewish doctors taught, they placed themselves in Moses' seat, and spoke *ex cathedra;* and then, as he tells us, they were to be obeyed by their people, and that, whatever were their private lives or characters. 'The Scribes and Pharisees,' he says, 'are seated on the chair of Moses: all things therefore whatsoever they shall say to you, observe and do; but according to their works do you not, for they say and do not.' — 2. The forms by which a general council is identified as representing the church herself, are too clear to need drawing out; but what is to be that moral *cathedra*, or teaching chair, in which the pope sits, when he is to be recognized as in the exercise of his infallible teaching? The new definition answers this question. He speaks *ex cathedra*, or infallibly, when he speaks, first, as the universal teacher; secondly, in the name and with the authority of the apostles; thirdly, on a point of faith or morals; fourthly, with the purpose of binding every member of the church to accept and believe his decision. — 3. These conditions of course contract the range of his infallibility most materially. Hence Billuart, speaking of the pope, says, 'Neither in conversation, nor in discussion, nor in interpreting Scripture or the fathers, nor in consulting, nor in giving his reasons for the point which he has defined, nor in answering letters, nor in private deliberations, supposing he is setting forth his own opinion, is the pope infallible.' (t. ii., p. 110.)* And for this simple reason, because, on these various occasions of speaking his mind, he is not in the chair of the universal doctor. — 4. Nor is this all; the greater part of Billuart's negatives refer to the pope's utterances when he is out of the *cathedra Petri*, but even when he is in it his words do not necessarily proceed from his infallibility. He has no wider prerogative than a council, and of a council Perrone says, 'Councils are not infallible in the reasons by which they are led, or on which they rely, in making their definition, nor in matters which relate to persons, nor to physical matters which have no necessary connection with dogma.' (*Præl. Theol.*, t. ii., p. 492.) Thus, if a council has condemned a work of Origen or Theodoret, it did not in so condemning go beyond the work itself; it did not touch the persons of either. Since this holds of a council, it also holds in the case of the pope; therefore, supposing a pope has quoted the so-called works of the Areopagite as if really genuine, there is no call on us to believe him; nor again, when he condemned Galileo's Copernicanism, unless the earth's immobility has a 'necessary connection with some dogmatic truth,' which the present bearing of the holy see toward that philosophy virtually denies. — 5. Nor is a council infallible even in the prefaces and introductions to its definitions. There are theologians of name, as Tournely and Amort,† who contend that even those most instructive *capitula* passed in the Tridentine council, from which the canons with anathemas are drawn up, are not portions of the church's infallible teaching; and the parallel introductions prefixed to the Vatican anathemas have an authority not greater nor less than that of those capitula. — 6. Such passages, however, as these are too closely connected with the definitions themselves, not to be what is sometimes called, by a *catachresis*, 'proximum fidei'; still, on the other hand, it is true also, that, in those circumstances and surroundings of formal definitions, which I have been speaking of, whether of a council or a pope, there may be not only no exercise of an infallible voice, but actual error. Thus, in the third council, a passage of an heretical author was quoted in defense of the doctrine defined, under the belief he was Pope Julius, and narratives not trustworthy are introduced into the seventh. This remark and several before it, will become intelligible if we consider that neither pope nor council are on a level with the apostles. To the apostles the whole revelation was given, by the church it is transmitted; no simply new truth has been given to us since St. John's death; the one office of the church is to guard 'that noble deposit' of truth, as St. Paul speaks to Timothy, which the apostles bequeathed to her, in its fulness and integrity. Hence the infallibility of the apostles was of a far more positive and wide character than that needed by and granted to the church. We call it, in the case of the apostles, inspiration; in the case of the church, *assistentia*. Of course there is a sense of the word 'inspiration' in which it is common to all members of the church, and therefore especially to its bishops, and still more directly to its rulers, when solemnly called together in council after much prayer throughout Christendom, and in a frame of mind especially serious and earnest by reason of the work they have in hand. The Paraclete certainly is ever with them, and more effectively in a council, as being 'in Spiritu Sancto congregata'; but I speak of the special and promised aid necessary for their fidelity to apostolic teaching; and, in order to secure this fidelity, no inward gift of infallibility is needed, such as the apostles had, no direct suggestion of divine truth, but simply an external guardianship, keeping them off from error (as a man's guardian angel, without enabling him to walk, might, on a night journey, keep him from pitfalls in his way), a guardianship saving them, as far as their ultimate decisions are concerned, from the effects of their inherent infirmities, from any chance of extravagance, of confusion of thought, of collision with former decisions, or with Scripture, which in seasons of excitement might reasonably be feared. 'Never,' says Perrone, 'have Catholics taught that the gift of infallibility is given by God to the church after the manner of inspiration.' (t. ii., p. 253.) Again: '[Human] media of arriving at the truth are excluded neither by a council's nor by a pope's infallibility, for God has promised it, not by way of an infused' or habitual 'gift, but by the way of *assistentia*.' (Ibid., p. 541.) But since the process of defining truth is human, it is open to the chance of error; what Providence has guaranteed is only this, that there should be no error in the final step, in the resulting definition or dogma. — 7. Accordingly, all that a council, and all that the pope, is infallible in, is the direct answer to the special question which he

* And so Fessler: "The pope is not infallible as a man, or a theologian, or a priest, or a bishop, or a temporal prince, or a judge, or a legislator, or in his political views, or even in his government of the church." (Introd.)

† Vide Amort, Dem. Cr., pp. 205–6. This applies to the Unam Sanctam. Vide Fessler.

RUSSIA. This empire comprises three distinct states: Russia, Poland, and the grand duchy of Finland. Its area, according to the imperial almanac of 1872, is 19,152,725 square kilometres, divided as follows: Russia in Europe, 4,390,829 square kilometres; Poland, 123,738; Finland, 350,541; the lieutenancy of the Caucasus, 407,597; Siberia, 11,425,715; and Central Asia, 2,454,305. — The population in 1867 amounted to 81,745,307, as follows: Russia in Europe and Poland, 69,364,541; Finland, 1,843,253; the lieutenancy of the Caucasus, 4,583,640; Siberia, 3,327,627; and Cen-

happens to be considering; his prerogative does not extend beyond a power, when in his *cathedra*, of giving that very answer truly. 'Nothing,' says Perrone, 'but the *objects* of dogmatic definitions of councils are immutable, for in these are councils infallible, not in their *reasons*,' etc. (Ibid.) — 8. This rule is so strictly to be observed that, though dogmatic statements are found from time to time in a pope's apostolic letters, etc., yet they are not accounted to be exercises of his infallibility if they are said only *obiter*—by the way, and without direct intention to define. A striking instance of this *sine qua non* condition is afforded by Nicholas I., who, in a letter to the Bulgarians, spoke as if baptism were valid, when administered simply in our Lord's name, without distinct mention of the Three Persons; but he is not teaching and speaking *ex cathedra*, because no question on this matter was in any sense the occasion of his writing. The question asked of him was concerning the *minister* of baptism, viz., whether a Jew or Pagan could validly baptize; in answering in the affirmative, he added *obiter*, as a private doctor, says Bellarmine, 'that the baptism was valid, whether administered in the name of the Three Persons or in the name of Christ only.' (*de Rom. Pont.*, iv., 12.) — 9. Another limitation is given in Pope Pius' own conditions set down in the *Pastor Æternus*, for the exercise of infallibility, viz., the proposition defined will be without any claim to be considered binding on the belief of Catholics, unless it is referable to the apostolic *depositum*, through the channel either of Scripture or tradition; and, though the pope is the judge whether it is so referable or not, yet the necessity of his professing to abide by this reference is in itself a certain limitation of his dogmatic action. A Protestant will object, indeed, that, after his distinctly asserting that the immaculate conception and the papal infallibility are in Scripture and tradition, this safeguard against erroneous definitions is not worth much, nor do I say that it is one of the most effective; but anyhow, in consequence of it, no pope, any more than a council, could, for instance, introduce Ignatius' Epistles into the canon of Scripture; and as to his dogmatic condemnation of particular books, which, of course, are foreign to the *depositum*, I would say, that, as to their false doctrine, there can be no difficulty in condemning that by means of that apostolic deposit; nor surely in his condemning the very wording in which they convey it, when the subject is carefully considered. For the pope's condemning the language, for instance, of Jansenius is a parallel act to the church's receiving the word 'consubstantial,' and if a council and the pope were not infallible so far in their judgment of language, neither the pope nor council could draw up a dogmatic definition at all, for the right exercise of words is involved in the right exercise of thought. — 10. And in like manner, as regards the precepts concerning moral duties, it is not in every such precept that the pope is infallible. As a definition of faith must be drawn from the apostolic *depositum* of doctrine, in order that it may be considered an exercise of infallibility, whether in the pope or a council, so too a precept of morals, if it is to be accepted as dogmatic, must be drawn from the moral law, that primary revelation to us from God. That is, in the first place, it must relate to things in themselves good or evil. If the pope prescribed lying or revenge, his command would simply go for nothing, as if he had not issued it, because he has no power over the moral law. If he forbade his flock to eat any but vegetable food, or to dress in a particular fashion (questions of decency or modesty not coming into the question), he would in like manner be going beyond his province, because such a rule does not relate to a matter in itself good or bad. If he gave a precept all over the world for the adoption of lotteries instead of tithes or offerings, certainly it would be very hard to prove that he was contradicting the moral law, or ruling a practice to be in itself good which was in itself evil. There are few persons but would allow that it is at least doubtful whether lotteries are abstractedly evil, and in a doubtful matter the pope is to be believed and obeyed. However, there are other conditions besides this necessary for the exercise of papal infallibility in moral subjects: for instance, his definition must relate to things necessary for salvation. No one would so speak of lotteries, or of a particular dress, or of a particular kind of food; such precepts, then, did he make them, would be simply external to the range of his prerogative. And again, his infallibility in consequence is not called into exercise, unless he speaks to the whole world; for, if his precepts, in order to be dogmatic, must enjoin what is necessary to salvation, they must be necessary for all men. Accordingly, orders which issue from him for the observance of particular countries, or political or religious classes, have no claim to be the utterances of his infallibility. If he enjoins upon the hierarchy of Ireland to withstand mixed education, this is no exercise of his infallibility. It may be added that the field of morals contains so little that is unknown and unexplored, in contrast with revelation and doctrinal fact, which form the domain of faith, that it is difficult to say what portions of moral teaching in the course of 1800 years actually have proceeded from the pope, or from the church, or where to look for such. Nearly all that either oracle has done in this respect, has been to condemn such propositions as in a moral point of view are false, or dangerous, or rash; and these condemnations, besides being such as in fact will be found to command the assent of most men as soon as heard, do not necessarily go so far as to present any positive statements for universal acceptance. — 11. With the mention of condemned propositions I am brought to another and large consideration, which is one of the best illustrations that I can give of that principle of minimizing, so necessary, as I think, for a wise and cautious theology; at the same time I can not insist upon it in the connection into which I am going to introduce it, without submitting myself to the correction of divines more learned than I can pretend to be myself. The infallibility, whether of the church or of the pope, acts principally or solely in two channels, in direct statements of truth, and in the condemnation of error. The former takes the shape of doctrinal definitions, the latter stigmatizes propositions as heretical, next to heresy, erroneous, and the like. In each case the church, as guided by her Divine Master, has made provision for weighing as lightly as possible on the faith and conscience of her children. As to the condemnation of propositions, all she tells us is, that the thesis condemned when taken as a whole, or, again, when viewed in its context, is heretical, or blasphemous, or impious, or whatever other epithet she affixes to it. We have only to trust her so far as to allow ourselves to be warned against the thesis, or the work containing it. Theologians employ themselves in determining what precisely it is that is condemned in that thesis or treatise; and doubtless in most cases they do so with success; but that determination is not *de fide;* all that is of faith is, that there is in that thesis itself, which is noted, heresy or error, or other peccant matter, as the case may be, such that the censure is a peremptory command to theologians, preachers, students and all other whom it concerns, to keep clear of it. But so light is this obligation, that instances frequently occur, when it is successfully maintained by some new writer, that the pope's act does not imply what it has seemed to imply, and questions which seemed to be closed, are, after a course of years, reopened. In discussions such as these, there is a real exercise of private judgment, and an allowable one; the act of faith, which can not be superseded or trifled with, being, I repeat, the unreserved acceptance that the thesis in question is heretical, or erroneous in faith, etc., as the pope or the church has spoken of it. In these cases, which in a true sense may be called the pope's *negative* enunciations, the opportunity of a legitimate minimizing lies in the intensely concrete character of the matters condemned; in his affirmative enunciations a like opportunity is afforded by their being more or less abstract. Indeed, excepting such as relate to

tral Asia, 2,626,246. The increase in the population can only be estimated on absolute bases since 1835; the following are the figures given by M. Schnitzler (*Empire des Tzars*): 1835, 59,000,000; 1851, 69,000,000; 1860, 75,000,000. The 81,000,000 of 1867, distributed over the whole surface, gives only 4.2 inhabitants to the square kilometre. The most populous part is Poland, nineteen inhabitants to the square kilometre, while in Siberia there is only one inhabitant per 3.8 square kilometres. — The empire embraces nine distinct races: 1, the Slaves, who are the most numerous and who in-

persons, that is, to the trinity in unity, the blessed virgin, the saints, and the like, all the dogmas of pope or of council are but general, and so far, in consequence, admit of exceptions in their actual application, these exceptions being determined either by other authoritative utterances, or by the scrutinizing vigilance, acuteness and subtlety of the *Schola Theologorum*. — One of the most remarkable instances of what I am insisting on is found in a dogma, which no Catholic can ever think of disputing, viz., that 'out of the church, and out of the faith, is no salvation.' Not to go to Scripture, it is the doctrine of St. Ignatius, St. Irenæus, St. Cyprian in the first three centuries, as of St. Augustine and his contemporaries in the fourth and fifth. It can never be other than an elementary truth of Christianity; and the present pope has proclaimed it, as all popes, doctors and bishops before him. But that truth has two aspects, according as the force of the negative falls upon the 'church' or upon the 'salvation.' The main sense is, that there is no other communion or so-called church, but the Catholic, in which are stored the promises, the sacraments, and other means of salvation; the other and derived sense is, that no one can be saved who is not in that one and only church. But it does not follow, because there is no church but one which has the evangelical gifts and privileges to bestow, that therefore no one can be saved without the intervention of that one church. Anglicans quite understand this distinction; for, on the one hand, their article says, 'they are to be had accursed (*anathematizandi*) that presume to say, that every man shall be saved *by* (in) the law or sect which he professeth, so that he be diligent to frame his life according to that law and the light of nature;' while, on the other hand, they speak of and hold the doctrine of the 'uncovenanted mercies of God.' The latter doctrine in its Catholic form is the doctrine of invincible ignorance—or, that it is possible to belong to the soul of the church without belonging to the body; and, at the end of 1800 years, it has been formally and authoritatively put forward by the present pope (the first pope, I suppose, who has done so), on the very same occasion on which he has repeated the fundamental principle of exclusive salvation itself. It is to the purpose here to quote his words; they occur in the course of his encyclical addressed to the bishops of Italy, under date of Aug. 10, 1863: 'We and you know, that those who lie under invincible ignorance as regards our most holy religion, and who, diligently observing the natural law and its precepts, which are engraven by God on the hearts of all, and prepared to obey God, lead a good and upright life, are able, by the operation of the power of divine light and grace, to obtain eternal life.'* Who would at first sight gather from the wording of so forcible a universal, that an exception to its operation, such as this, so distinct, and, for what we know, so very wide, was consistent with holding it? Another instance of a similar kind is the general acceptance in the Latin church, since the time of St. Augustine, of the doctrine of absolute predestination, as instanced in the teaching of other great saints beside him, such as St. Fulgentius, St. Prosper, St. Gregory, St. Thomas and St. Buonaventure. Yet in the last centuries a great explanation and modification of this doctrine has been effected by the efforts of the Jesuit school, which have issued in the reception of a distinction between predestination to grace and predestination to glory; and a consequent admission of the principle that, though our own works do not avail for bringing us into a state of salvation on earth, they do avail, when in that state of salvation or grace, for our attainment of eternal glory in heaven. Two saints of late centuries, St. Francis de Sales and St. Alfonso, seem to have professed this less rigid opinion, which is now the more common doctrine of the day. Another instance is supplied by the papal decisions concerning usury. Pope Clement V., in the council of Vienne, declares, 'If any one shall have fallen into the error of pertinaciously presuming to affirm that usury is no sin, we determine that he is to be punished as a heretic.' However, in the year 1831, the Sacred *Pœnitentiaria* answered an inquiry on the subject, to the effect that the holy see suspended its decision on the point, and that a confessor who allowed of usury was not to be disturbed, 'non esse inquietandum.' Here again a double aspect seems to have been realized of the idea intended by the word *usury*. To show how natural this process of partial and gradually developed teaching is, we may refer to the apparent contradiction of Bellarmine, who says 'the pope, whether he can err or not, is to be obeyed by all the faithful,' (*Rom. Pont.*, iv., 2), yet, as I have quoted him above, sets down (ii., 29) cases in which he is not to be obeyed. An illustration may be given in political history in the discussions which took place years ago as to the force of the sovereign's coronation oath to uphold the Established church. The words were large and general, and seemed to preclude any act on his part to the prejudice of the Establishment; but lawyers succeeded at length in making a distinction between the legislative and executive action of the crown which is now generally accepted. These instances, out of many similar, are sufficient to show what caution is be observed, on the part of private and unauthorized persons, in imposing upon the consciences of others any interpretation of dogmatic enunciations which is beyond the legitimate sense of the words, inconsistent with the principle that all general rules have exceptions, and unrecognized by the theological *Schola*.—12. From these various considerations it follows, that papal and synodal definitions, obligatory on our faith, are of rare occurrence; and this is confessed by all sober theologians. Father O'Reilly, for instance, of Dublin, one of the first theologians of the day, says: 'The papal infallibility is comparatively seldom brought into action. I am very far from denying that the vicar of Christ is largely assisted by God in the fulfilment of his sublime office, that he receives great light and strength to do well the great work intrusted to him and imposed on him, that he is continually guided from above in the government of the Catholic church. But this is not the meaning of infallibility. * * What is the use of dragging in the infallibility in connection with papal acts with which it has nothing to do? Papal acts, which are very good and very holy, and entitled to all respect and obedience, acts in which the pontiff is commonly not mistaken, but in which he could be mistaken and still remain infallible in the only sense in which he has been declared to be so.' ('The Irish Monthly,' vol. ii., No. 10, 1874.)† This great authority goes on to disclaim any desire to minimize, but there is, I hope, no real difference between us here. He, I am sure, would sanction me in my repugnance to impose upon the faith of others more than what the church distinctly claims of them: and I should follow him in thinking it a more scriptural, Christian, dutiful, happy frame of mind, to be easy, than to be difficult, of belief. I have already spoken of that uncatholic spirit, which starts with a grudging faith in the word of the church, and determines to hold nothing but what it is, as if by demonstration, compelled to believe. To be a true Catholic a man must have a generous loyalty toward ecclesiastical authority, and accept what is taught him with what is called the *pietas fidei*, and only such a tone of mind has a claim, and it certainly has a claim, to be met and to be handled with a wise and gentle *minimism*. Still the fact remains, that there has been of late years a fierce and intolerant temper abroad, which scorns and virtually tramples on the little ones of Christ. — I end with an extract from the pastoral of the Swiss bishops, a pastoral which has received the pope's approbation: 'It in no way depends upon the caprice of the

* The pope speaks more forcibly still in an earlier allocution. After mentioning invincible ignorance, he adds: "Quis tantum sibi arroget, ut hujusmodi ignorantiæ designare limites queat, juxta populorum, regionum, ingeniorum, aliarumque rerum tam multarum rationem et varietatem!" (Dec. 9, 1854.)

† Vide Fessler also; and I believe Father Perrone says the same.

habit the centre of Russia; 2, the Lettes or Lithuanians; 3, the Finns, who inhabit the north of Russia and Siberia; 4, the Germans of Livonia, Esthonia and Courland; 5, the Turks, who inhabit the southeast; 6, the Caucasians; 7, the Jews; 8, the Mongols, or Tartars; 9, the Mandchous of Siberia.* — I. *Social and Political Condition.*

pope, or upon his good pleasure, to make such and such a doctrine the object of a dogmatic definition. He is tied up and limited to the divine revelation, and to the truths which that revelation contains. He is tied up and limited by the creeds already in existence, and by the preceding definitions of the church. He is tied up and limited by the divine law, and by the constitution of the church. Lastly, he is tied up and limited by that doctrine, divinely revealed, which affirms that alongside religious society there is civil society, that alongside the ecclesiastical hierarchy, there is the power of temporal magistrates, invested in their own domain with a full sovereignty, and to whom we owe obedience in conscience, and respect in all things morally permitted, and belonging to the domain of civil society.'" — JOHN HENRY CARDINAL NEWMAN.

* The Russian empire comprises one-seventh of the territorial part of the globe, and about one twenty-sixth part of its entire surface. Owing to the vast extent of the empire, and its social condition, no surveys that can lay claim to accuracy have yet been made, and the area is obtained in greater part from estimates. There has been, likewise, no general census of the population, but various enumerations, made by the government during the years 1870 to 1873, mainly undertaken for purposes of finance or war, serve to furnish an approximately correct return of the numbers of the people. The density of population of European Russia is considerably greater than that of the Asiatic part of the empire. Russia in Europe has, on the average, thirty-four individuals to the square mile, while Asiatic Russia has barely more than a single individual to the square mile. — By articles forty-two and fifty-nine of the treaty of Berlin, signed July 13, 1878, Russia added to its vast territories the province of Bessarabia, taken from Roumania, together with the districts of Ardahan, Kars and Batoum, in Asia Minor, detached from the Turkish empire. Bessarabia has an estimated area of 3,720 English square miles, with a population of 140,000. According to the most reliable estimates, the newly acquired district in Asia Minor, formed, provisionally, into the government of Kars, embraces an area of 5,670 English square miles, with a total population of 600,644, comprising 417,602 Mohammedans and 183,042 Christians. — In 1881 most of Kuldja was restored to China, leaving Russia only 5,500 square miles and 26,000 inhabitants. To the above have also to be added the trans-Caspian territory, 123,250 square miles, 275,000 inhabitants, and Fergana, 28,040 square miles, 800,000 inhabitants. More recent enumerations give the population of Poland (1872) as 6,528,017; Finland (1879), 2,028,021; Caucasus (1873-6, inclusive of additions), 5,391,744; Siberia (1873), 3,440,362; and the whole of Central Asia, 4,401,876. — According to official returns of births and deaths for the years 1867-70, the population progresses at an average increase of 781,000 a year; a percentage which, supposing the inhabitants always to multiply at the same rate, would double the population in fifty-eight years. — The vast majority of the population of Russia are devoted to agricultural occupations, and dwell in villages, spread thinly over the vast area of the empire. According to local enumerations made at various periods, there are but seventeen towns containing more than 50,000 inhabitants. The list is as follows:

St. Petersburg (1881)	861,900	Kasan	78,602
Moscow (1871)	611,970	Kief (1874)	127,251
Warsaw (1878)	336,703	Nicolaief (1875)	82,805
Odessa (1873)	184,819	Tiflis (1876)	104,024
Kichenef (Bessarabia)	103,998	Kharkof (1879)	101,175
Riga (1881)	160,000	Tula	58,150
Saratof	93,218	Berditchef	52,786
Tashkend (1879)	81,951	Samara	51,947
Vilna	79,265		

In the larger towns a considerable proportion of the trading and industrial population are either aliens, or of foreign extraction. — The population of Russia proper is composed of three groups: Great Russians, or Veliko-Russ; Little Russians, or Malo-Russ; and White Russians, or Bélo-Russ. The first, numbering 35,000,000, all belonging to the Slavonian race, occupy the central provinces; the second, numbering about 11,000,000, compose the bulk of the population of Poltava, Kharkof, Chernigof, Kief, Volhynia, Podolsk, Ekaterinoslaf, and the Taurida; the White Russians, about 3,000,000, inhabit the provinces of Monilef, Minsk, Vitebsk and Grodno. Besides these three groups of Russians proper, there is a great variety of national elements in the general population of the Russian empire. — Since the emancipation act of 1861 the cultivable lands of Russia proper in Europe have been approximately distributed as follows:

	Per cent.
Town lands, about	0.4
Crown lands, about	34.6
Lands attached to mines	3.5
Lands held by peasants: 1, crown peasants, 15.6 per cent.; 2, former serfs, 5.0 "	20.6
Lands held by landed gentry and nobility	19.7
Lands held by other proprietors, or not surveyed	20.4

It will be seen, that about one-third of the cultivable land in Russia proper is held by the state; one-fifth by landed proprietors; and one-fifth by the peasantry. — F. M.

The sovereign, as his title of emperor and autocrat of all the Russias indicates, is invested with a power without limit or control; not only is he supreme chief and legislator, but it is even only under his authority and by virtue of his delegation that the synod, charged with governing the national church, acts. In a vast country composed, like Russia, of heterogeneous elements more or less behind the times, this autocracy serves to give them the necessary cohesion, and, when it falls to a sovereign who is animated by love of the public welfare, may accelerate the progress of civilization; thus it allowed the emperor Alexander II. to bring about reforms and to found new institutions which are destined to be the glory of his reign. — The monarchy is hereditary in the males, in the order of primogeniture. When there is no male branch, the princess who is the nearest relation of the last sovereign, succeeds him; the others are called to the throne only in case she leaves no direct heir. (Family law of 1797.) The emperor has the power to provide for the case of his leaving, at his death, an heir who is a minor, and to appoint a regent and a guardian. If he dies without having taken this measure, the regency devolves on the empress dowager or on the nearest agnate, to the exclusion of the father-in-law or mother-in-law of the new sovereign, and the regent has to form a council of regency of six members. The sovereign attains his majority at sixteen years of age; the other princes of the family at eighteen. Their wives are not qualified to share their rank, and the children which they bear can not be called to the throne, unless they belong to a sovereign house and profess the orthodox Greek religion. — The dotation of the crown is fixed by the emperor. It consists of imperial appanages and of a civil list. — *Nobility.* There is a nobility of birth and a nobility of service. Peter the Great subordinated the first to the second, and classed by ranks the civil and military functions. There are fourteen classes, as follows: 1, chancellor of the empire, field marshal, admiral general, privy councilor of the first class; 2,

general-in-chief, admiral, privy councilor of the second class; 3, lieutenant general, vice-admiral, privy councilor; 4, major general, rear admiral, councilor of state of the first class; 5, councilor of state. The next four classes include the colonels, lieutenant colonels, majors, staff captains, and some civil functionaries. In the last five are ranged the inferior officers, with certain functionaries. Nobility is hereditary in the first five classes, and personal only in the next four; the functionaries of the last five classes become personal nobles by advancement. Every noble owes a personal service to the state, under penalty of forfeiture of nobility, if three generations pass without this condition being fulfilled. The titles are those of prince, count and baron. There were, in 1867, 591,266 hereditary nobles and 327,764 personal nobles. By a manifesto of April 2, 1801, no noble can, without a regular trial and sentence, be deprived of nobility, honor, life or property. A noble can be tried only by a tribunal composed of nobles, and if the sentence is loss of nobility, honor or life, it must be confirmed by the senate and by the sovereign. The nobles are exempted from all corporal punishment, if only non-commissioned officers or soldiers. If they are deprived of their property, it goes to the nearest heir. Their houses are exempt from all quartering of soldiers. In each government the nobles possessing at least 300 *déciatines* of land (328 hectares) or a house worth 15,000 roubles (60,000 francs), or else who are included in the first five classes, have the right to assemble in the chief town every three years. Those who do not fulfill these conditions, meet in each district to elect delegates to the assembly of the government. This assembly elects a marshal and district marshals, charged with watching over the interests of the nobility and representing it at the central administration. The same assembly elects the judges and assessors of the tribunals, as well as the chief of police of each district; it attends to the distribution of the taxes and deliberates as to the interests of the province. It also exercises a disciplinary power over the members of the nobility; it examines the titles, judges the nobles who are accused of dissipating their fortune, and places them under guardianship if occasion requires. The nominations of functionaries are submitted to the approval of the emperor or of the governor according to the importance of the function. — *Bourgeoisie.* The bourgeoisie, established by a statute of April 24, 1785, is divided into six classes: 1, owners of immovable property; 2, members of guilds; 3, domiciled foreign merchants; 4, notable bourgeois (see below); 5, artisans, members of trade corporations; 6, small tradesmen, small manufacturers, lesser employés, etc. A manifesto of 1832 established a *notable* bourgeoisie, for life or hereditary. The first can be conferred upon former students of universities who have obtained a certificate of having made good progress in studies, and upon artisans furnished with a diploma from the academy of fine arts. The hereditary bourgeoisie may be obtained by merchants fulfilling certain conditions, doctors of a Russian university, pupils of the academy of fine arts furnished with a diploma, and foreign savants, artists, merchants or workers of industry after ten years' residence in the country. The sons of personal nobles are notable bourgeois by right of birth. The senate examines the titles and delivers the diplomas. It may confer notable bourgeoisie for life upon foreign savants, artists, merchants or manufacturers. —*Peasants.* The inhabitants of the rural districts form nine-tenths of the total population; they are distributed through about 300,000 villages or hamlets, and are subject to a poll tax. In 1861, when serfdom was abolished, the peasants of the domains of the state and of the imperial appanages, to the number of 25,000,000, were already almost all freed, and there were 23,000,000 others attached to the soil. These latter owed their respective lords three days' labor a week; the other four days were at their disposal to cultivate a lot of land the products of which were given to them to supply the wants of themselves and their families. They could not change their residence without permission from their lord. The latter could sell them or mortgage them for so much per head, with the piece of land to which they were attached: he had over them the authority of a father; he could impose a profession upon them, permit or forbid them to marry, and inflict corporal punishments, death excepted, upon them. The serfs of a domain formed, under the guardianship of the lord, a rural commune, administered by an assembly composed of heads of families and by a chief called *staroste*, whom they elected from among their own number. It was to the commune that the land was granted by the lord, and it was charged with dividing it among the families according to the number of able-bodied workmen they contained, and, consequently, according to the amount of days' labor they could furnish. Where the land did not furnish enough to support the peasants, the lord rented it and gave up his right to enforced labor. Besides the serfs employed in the cultivation of the land, there were those who were attached, as domestics, to the service of the lord, and others whom he could authorize, in consideration of a sum paid, called *obrok*, to carry on some trade, either in the domain or elsewhere. In return for the revenue which the work of the serfs procured for him, the lord was bound to protect them and to help them in case of need; he was subject, therefore, to the expense and trouble of administration which this obligation involved, and he was responsible for the payment of the taxes. — The number of owners of serfs was estimated at 103,195, of whom 3,700 possessed no land. (See the statistical work of M. Troïnizki.) The 103,195 owners were divided as follows: 42,978 possessing from 1 to 21 male serfs, in all, 339,586 serfs; 36,194, from 21 to 100 male serfs, 1,697,914; 20,165, from 101 to 500 male serfs, 3,974,629; 2,462, from 501 to 1,000 male serfs, 1,597,691; 1,396, possessing 1,001 male serfs and more; in

all, 3,074,033. Thus, among the small proprietors, the one who possessed twenty serfs derived from them, at eight roubles per head, only 640 francs a year, to which were added the products of the land. A large proprietor received, for 1,000 serfs, 82,000 francs. The number of those who possessed from 20,000 to 50,000 was very small. In 1850, 44,166 estates, with 7,107,184 serfs, were mortgaged in the banks for 425,503,061 roubles, 1,500,000,000 francs. (See the work of M. Schnitzler.) — The law, in freeing the serfs, regulated: 1, their rights and those of the former proprietors; 2, the means of existence of the freedmen; 3, the conditions by which they could become proprietors of the lands which they cultivated. The lords were freed from their duties of guardianship. They preserved their rights of property in the lands which belonged to them, but on condition of allowing the peasants, by the payment of a sum fixed by the law, to enjoy the pieces of ground which they occupied and also a quantity of land which varied according to its productive quality. These lands were intended to furnish the peasants with a living, and to place them in a position to fulfill the obligations which were imposed upon them for their redemption from serfdom. — It was not to the peasants but to the commune that these lands were granted. They belong to it in perpetuity, to be exploited in common according to immemorial custom or in separate lots. This second method is only the exception; it can be substituted for exploitation in common only with the consent of two-thirds of the inhabitants of the commune and of the proprietor. — The commune is charged with indemnifying the proprietor either with labor or in money, as the parties choose; moreover, it is responsible to the treasury for the payment of the taxes. From this double responsibility proceeds the right of using force against peasants who do not fulfill their obligations. Besides the ordinary proceedings, the commune has the right to hire out a man in arrears or some one of his family for outside work, in the same district or in a neighboring district, and the wages paid for his work must be given to the commune. Those who do not fulfill their obligations, through obstinacy, idleness, or in consequence of intemperance, can be hired out in other governments, provided the decision of the communal assembly be confirmed by the justice of the peace. In case the land is enjoyed in lots, the responsibility is personal, and may lead to expulsion from the commune and the sale of the lots granted. When it is arranged that the indemnity due the proprietor is to be paid in forced labor, such labor is limited to two days a week for both men and women. The dues are eight to twelve roubles for each grantee. The peasants who were subjected to the *corvée* have the right to pay money instead, without the proprietor being able to constrain them thereto. — The pieces of ground occupied by the peasants must be granted to them in full ownership as soon as they demand it; the price of sale is fixed by law. As for the lands the enjoyment of which had to be allowed them, the proprietors are at liberty to consent to the sale, or to refuse it and to hold to the stipulations fixing the *corvée* or the dues. When the sale has taken place, and the purchasers, whether peasants or the commune, can not pay the price, the government intervenes; it capitalizes the dues at 6 per cent., and gives the sum to the proprietor, half in special certificates, issued in the name of the latter at 5½ per cent., and not negotiable at the Bourse, and half in bonds payable to the bearer at 5 per cent., and negotiable like the Russian public stocks; 20 per cent. of the capital is retained to cover the expenses of collection, arrears and worthless debts. If the sale is made with the consent of the peasants, the 20 per cent. must be paid by them; in the contrary case, it is charged to the proprietor; and, if the state institutions of credit hold a mortgage upon the property, the sum is taken out of the price of sale. The purchasers discharge their indebtedness to the state by paying, for forty-nine years, an annuity of 6 per cent., of which 5 represents the interest and 1 the amortizement. As long as the peasants are indebted either to the proprietor, if they have treated directly with him, or to the state, if it has paid for them the price of redemption, they can not leave the commune without the consent of the proprietor and of the commune, and without justifying by depositing in the communal treasury a sum equal to the dues or fine capitalized at 6 per cent. — According to the official returns, the acts and transactions of redemption amounted to 79,599 on Jan. 1, 1873; 21,201 were concluded privately. The peasants who had become proprietors of the lands they cultivated, numbered 6,858,334, the extent of these lands was 21,120,152 *déciatines* (23,088,550 hectares), and the sums lent by the state amounted to 630,467,115 roubles. Of the sum of 41,222,629 roubles, which the peasants had to pay in 1872, there remained in arrears only 316,604 roubles. As in certain districts the amount fixed for reimbursement evidently exceeded the resources of the debtors, the government reduced their annual payments. The serfs called *dvorovyé*, attached to the service of the lords, or authorized by them to practice a trade in consideration of the payment of the *obrok*, were freed at the expiration of two years. — The government, wishing to be informed of the changes produced by the emancipation, charged a commission to institute an inquiry, the results of which were published in 1873. The condition of the peasants has sensibly improved, both materially and morally, in the northwest, with the exception of the marshy districts of Pinsk and the banks of the Pripet. In the south, well-being increased without any advance in morality. No improvement has been produced in Little Russia. In the rest of the empire, the increase of well-being is scarcely apparent, and the intellectual and moral faculties are as little developed as before. Finally, in Great Russia the consumption of brandy has considerably increased. Exploitation in common continues to prevail; the

peasant is bound to the commune as long as he has not paid the price of redemption, and, in the meanwhile, he has scarcely effected anything but to exchange the guardianship of the lord for that of the commune. Now it would appear that there was little to boast of in the communal administration and in the administration of justice. Their burdens have increased; the communes expending much more than formerly, their taxes have reached (1874) a total of 30,000,000 roubles; the provincial taxes have increased in a similar manner; the state taxes have not diminished, and both weigh almost exclusively upon the peasants. Therefore the commission recommended new reforms to bring emancipation to a good result. (For the effects produced upon agriculture and upon the condition of the proprietors, see IX. *Resources.*) — In Poland the serfs numbered about 3,700,000. By virtue of four ukases of 1864, they acquired the ownership of the lands and buildings of which they had the usufruct, in consideration of *corvées*, prestations and dues of all kinds. All these charges, those which were arbitrary or exceptional being deducted, were converted into a land tax, and they served as a basis for the indemnity which was paid to the proprietors in bonds bearing 4 per cent. interest, and redeemable by an annual drawing by lot. — II. *Administration.* Below the emperor, to whom belongs the plenitude of executive power, the highest administrative authority is the council of the empire. The matters within its jurisdiction are the discussion and drawing up of legislative acts, the interpretation of the laws in case the tribunals do not catch the true sense of them, the establishment of the budget, new measures in the administration of the finances, the examination of the annual accounts rendered by the ministers, the solution of litigious questions relative to the administration or expropriation for public utility, finally, the political affairs upon which the council is consulted by the emperor. The ministers have a seat in the council, by right; the other members are unlimited as to number; the emperor chooses them as he pleases, and gives the presidency to one of the first personages of the state. The president is assisted by a secretary of the empire, an intermediary between the emperor and the council, and charged with the preparatory labors and the recording of the deliberations, copying the records of them, etc. — Another great body of state is the directing senate, which was established in 1718, and reorganized in 1802. It is at once a supreme court of appeal, judging in the last resort, with the exception of appeals to the emperor, in all civil and criminal matters, a supreme administrative tribunal, and a high political court in special cases. It is charged, besides, with seeing to the execution of the laws; it has the right to demand account of their management of all the functionaries, including the ministers; it watches over the collection of the taxes and the employment of public funds; it has the care of the archives; it appoints to a great number of offices; it orders all measures necessary to the maintenance of order, subject to the right, which belongs to the emperor, of annulling these decisions; finally, it is charged with promulgating the acts emanating from the emperor. — The senate is divided into ten departments, of which five sit at St. Petersburg, three at Moscow, and two at Warsaw. In connection with each department there is a high imperial procurator, who has the right of control over the deliberations, and whose signature is necessary for a judgment to be executory. The senators are appointed by the emperor. — The ministries date only from 1802. They are twelve in number, namely: 1, the ministry of the imperial court, which includes the imperial orders, the appanages, the revenues of the emperor, the ceremonial, the imperial theatres and other establishments dependent on the crown; 2, the minister of war; 3, of foreign affairs; 4, of the navy; 5, of the interior; 6, of public instruction; 7, of postoffices and telegraphs; 8, of the finances, comprising the mines and salt works, the metallurgic factories, manufactures and domestic commerce; 9, of the domains of the state, comprising the inspection of farming, the direction of the agricultural schools and of the model farms, and the forests; 10, of justice, including the corps of surveyors, the schools of surveying, and the law school; 11, of the means of communication and public edifices; 12, of the control charged with the examination of civil and military accounts. The emperor has his own chancellery, which is charged, among other duties, with the publication of the laws, with political police, and the establishments of charity and instruction placed under the direction of the empress. To the same chancellery is attached the commission of requests or petitions. — *Territorial Administration.* Poland and the grand duchy of Finland each form a separate government. In the first, affairs are directed by a lieutenant of the emperor, assisted by a council of government. Under his presidency sits a deliberative assembly, called a council of state, and composed of fifteen permanent members and seven temporary members, appointed by the emperor. Finland is administered by a governor general, assisted by a senate, the members of which are appointed by the emperor. The legislative power belongs to the diet, composed of deputies of the nobility, of the Lutheran clergy, of the inhabitants of cities, and of peasants. The presidency belongs to the president of the nobility, who is appointed by the emperor. The decisions have the force of law only with the imperial approval. The rest of the empire is divided into fifty-eight governments, three city territories (Odessa, Taganrog and Kertch-Jénikalé), two countries (of the Cossacks of the Don and of the Tchernomorie), eleven oblasthes (provinces not as yet regularly organized), and three districts in the country of the Kirghises. — The six governments of the region of the Caucasus are placed under the direction of a lieutenant of the emperor. — Ten governors general, established at St. Petersburg, Moscow, Odessa, Kief, Riga,

Wilna, Orenburg, Tobolsk and Irkoutsk, have under their orders the civil and military heads of the governments comprised in their circumscription. Each civil governor is assisted by a council composed of three titular members and of one or more assessors. With this council, which is purely consultative, sit a government attorney and two deputies, charged with defending the interests of the crown and watching over the execution of the laws. At St. Petersburg the city and the suburbs are separated, since 1873, from the provincial government, and fall within the jurisdiction of a prefecture. — The governments are subdivided into districts, which are administered by a court composed of a president and two assessors elected by the nobility, of two other assessors elected by the inhabitants of the country, and of a substitute of the procurator of the government. This court serves, besides, as a tribunal of the first resort for the district. — Each government has, as a deliberating body, the assembly of the nobility, of which mention was made above, and provincial, government and district assemblies, created by a law of Jan. 13, 1864. Each government assembly is composed of delegates of the district assemblies. Moreover, in the governments which embrace imperial appanages, or domains of the state, the chiefs of the councils of administration of these appanages and domains are members by right of the provincial assemblies. The members of each district assembly are elected by three categories of electors, which assemble and act separately: these are, 1, the proprietors (nobles or not); 2, the inhabitants of cities; and 3, the inhabitants of rural communes. They must all be fully twenty-five years of age. To be an elector as proprietor, it is necessary to possess, outside of the cities, from 200 to 800 *déciatines* of land, or of immovable property, having at least a value of 1,500 roubles, or to carry on an industrial establishment doing a business of at least 6,000 roubles yearly, or to be a permanent holder of determinate church property. The electors may be represented by mandatories of their choice, but the holders of church property are always obliged to be represented. Small proprietors, who have not the required number of *déciatines*, can join together, so as to reach (two or more uniting) the electoral property qualification, and appoint a mandatory to represent them. The inhabitants of cities must, to be electors, produce a merchant's license, or possess an industrial establishment doing an annual business of at least 6,000 roubles, or immovable property worth from 500 to 3,000 roubles, according to the amount of the city's population. As for the rural communes, their representatives are appointed by electors, which the district assembly itself chooses. Minors, absentees and women can delegate their right to vote to a mandatory. The members of the assemblies are elected for three years, and receive no remuneration. The government assemblies come together once a year for twenty days, and the district assemblies for ten days. Each of these assemblies is presided over by the marshal of the nobility. Their duties comprise: 1, the administration of the property, capital and revenues of the province; 2, the construction and maintenance of buildings belonging to the province, and of roads which are in its charge; 3, measures useful for the welfare of the population; 4, measures of public assistance, the administration of charitable institutions and the construction of churches; 5, the administration of mutual insurance companies established in the province; 6, measures proper to develop commerce and industry therein; 7, measures concerning popular instruction, public health and prisons; 8, measures to be taken against epidemics and the ravages of noxious animals; 9, the distribution of certain state taxes, the voting and distribution of local taxes, and the application of the product of these taxes to the expenses of the government and the district; 10, the choice of members of the permanent executive commission, which sits in the absence of the assembly. The government commission is composed of a president, and of two to six members, elected for three years, who receive a salary fixed by the assembly. The district commissions are composed of two or three members. The presidents must be confirmed by the minister of the interior. This organization is not yet applied to all the governments; in some of them the anterior system is retained for various reasons. — *Municipal Administration.* Each city has its municipal body, composed of the *golova* (mayor), deputies, and a deliberative assembly. All the members of the municipal body are elected by an assembly, composed: 1, of owners of immovable property paying a tax to the city; 2, of proprietors and directors of commercial and industrial establishments; 3, of all persons domiciled in the city for at least two years, and able to prove that they pay a tax to the city. The duties of the municipal body include, besides the management of municipal affairs, the maintenance of order, the taking of measures of public safety and health, making regulations concerning the ports, markets, exchanges and institutions of credit; the organization of charitable establishments and hospitals, the foundation of libraries, museums and theatres, and measures suited to develop public instruction, commerce and local industry. A council of six members, elected in the municipal body, performs the functions of a police court, of a chamber of commerce and a tribunal of commerce, taking cognizance of litigation among the inhabitants. — *Rural Communes.* The rural commune is, as before the emancipation of the serfs, an association of peasants exploiting a fixed territory. The great seignioral and private estates are outside of the communes and within the jurisdiction of the provincial administration. The cities are likewise classed apart. The heads of families form an assembly which elects the *staroste*, chief of the commune, as well as his various functionaries, the treasurer and collector of taxes, the trustee of the school or schools, the delegate to the reserve warehouses of wheat, the hospital inspect-

or, the rural guard, the forest guard, and the scribe. The assembly draws up the budget of the commune, fixes the taxes necessary for the payment of expenses, and regulates the apportionment of the taxes due the state. If the enjoyment of the land is in common, as is most frequently the case, the assembly divides the lots among the families; if it is in individual lots, the division is limited to the lots which are not in process of cultivation. The assembly gives their dismissal to peasants who wish to live elsewhere, on their fulfilling the prescribed conditions; it decides as to the admission and settlement of new heads of families; it gives guardians to minors, and authorizes family divisions; finally, it sits as a police court and deals out penalties, from the simplest fine to the expulsion of peasants judged "harmful or vicious" from the commune. The decisions are made by the absolute majority, except in certain cases in which a two-thirds vote is required: for example, the substitution of individual enjoyment of the land for enjoyment in common, the renewing of the lots, and exclusion from the commune. In the rural communes in which the dues are paid in money and in labor, the inhabitants subject to the *obrok* and those subject to the *corvée* may form separate assemblies. — The *staroste* is the president of the assembly, and sees to the execution of its decisions. He takes all simple police measures; he pays into the proper hands the taxes and the payments for redemption; he controls the employment of the communal funds; finally, he is the representative of the commune in the *volosth* (see below), and with the authorities of the district, the province and the state. — Above the commune is the *volosth* or canton, which includes many communes belonging to the same district, or comprises only a single commune when the population is large enough. The administration of the *volosth* is composed of a chief called *starchina*, of two or three assistants, of an assembly of delegates of the communes (one to every ten families), and of a council in conjunction with the *starchina*, to assist him in his functions, and composed of his assistants, the *starostes* of the communes of the *volosth*, and collectors of the taxes. The assembly comes together in the most central or the most important village; it regulates the common interests of the *volosth*, decrees the measures of public assistance, controls the accounts, and fixes the taxes and the dues. The duties of the *starchina* are similar to those of the *staroste*, but of a higher degree. He decides, in the last resort, on cases of simple offenses against the police regulations. To be eligible to the office of *starchina*, *staroste*, assistant, collector of taxes, or as a member of the *council of regency*, it is necessary to be at least twenty-five years of age. The term of office is three years; office can not be refused unless one can prove that he is sixty years old or has serious infirmities, or unless he has already filled it. Substitutes are appointed to avoid the occurrence of vacancies. — III. *Religion*. The population of Russia in Europe, in 1874, was divided, as regards religion, as follows: Orthodox Greeks, 53,169,019; Dissenters (*raskolniks*), 926,681; United Greeks, 229,260; Gregorian Armenians, 37,136; Roman Catholics, 7,209,464; Protestants, 2,565,354; Israelites, 2,612,019; Mohammedans, 2,359,372; Pagans, 255,975. The inhabitants of the grand duchy of Finland (1,843,253) are nearly all Lutherans. For Asia, the almanac of the empire gives the following figures: Orthodox Greeks, 4,986,917; Dissenters (*raskolniks*), 166,985; Gregorian Armenians, 560,684; Roman Catholics, 54,106; Protestants, 16,337; Israelites, 34,857; Mohammedans, 3,267,650; Pagans, Guebres, Shamanists, 295,734. The orthodox Greek religion is the religion of the state; but other creeds, as well as the Pagans, enjoy an equal liberty. — The national church is governed by a college called the very holy synod, under the authority of the emperor and by virtue of his delegation. Peter the Great established this college in 1721, and at the same time sanctioned the laws which govern the church. The synod is composed of titular members and of assistant members; the first, to the number of eight or nine, are the principal prelates of the empire, metropolitans, archbishops or archimandrites; the second are prelates who leave in turn their dioceses or monasteries to attend the sessions, as well as three laymen, one of whom is a high agent invested with powers by the emperor, and the two others functionaries by whom he is assisted. The first metropolitans and the exarch of Grousia are members by right and for life; the others are appointed by the emperor for a certain time. The acts emanating from the holy synod are valid only on condition of their receiving the imperial approval. The candidates for ecclesiastical offices are presented by the holy synod for appointment by the emperor, who can displace or remove a priest whom he judges unworthy of his office. But he does not decide in matters of faith; in case of disagreement upon a question of doctrine, he refers the matter either to the holy synod or to a special synod. — The dioceses number fifty-two; they comprised, in 1872, 38,809 churches and 3,534 chapels. In each diocese is a consistory, subordinate to the holy synod. These consistories preside over the acts of the civil state, watch over the exercise of worship, the police of the churches, the conduct of members of the clergy, and decide in all matters ecclesiastical. — The metropolitans receive 3,000 roubles at most, the archbishops 2,500, the bishops 2,000, and the coadjutors 500. The salary of the curates does not reach 100 roubles; but they receive fees; in the country, they have a house, from twenty to forty *déciatines* of land, and wood is furnished them gratuitously. The churches receive legacies and possess property in most of the dioceses. — The clergy is divided into secular or white, and into regular or black. The latter are forbidden to marry; they live in monasteries, and from among them the prelates are chosen. The nobles, therefore, who embrace an ecclesiastical career, enter the ranks of the black clergy. The white clergy are recruited almost entirely from among the sons of *popes*, or

curates; they must be married before ordination, and they generally take their wives from the families of priests, so that this clergy forms a veritable caste. The secular clergy was composed, in 1872, of 1,160 archpriests, 36,440 priests, 13,250 deacons, and 56,886 curates. The convents numbered 532, of which 383 were for men and 149 for women. They contained 5,810 monks and 3,280 nuns, with 5,617 lay brothers and 11,358 lay sisters. Each monk receives an annual pension of from twelve to fifteen roubles; the nuns are not paid anything except in exceptional cases; most of them live on alms and the product of their labor. — Missionaries are established in Siberia and in the region of the Volga, to labor for the conversion of the Pagans and Mohammedans. (See CHURCH, GREEK.)* — IV. *Justice.* The organization and administration of justice commenced, during the reign of Nicholas I., to receive improvements, which were continued and completed during the reign of Alexander II. In 1833 Nicholas I. had collected, arranged and published, under the name of *svod*, 36,000 civil and criminal laws made by his predecessors; he promulgated in 1845 a penal code, and in 1846 a criminal code. Alexander II. regulated the judicial organization and criminal and civil practice. The judicial power is entirely separate from the other two; it is exercised by the tribunals of the *volosth*, the police courts of the cities, the justices of the peace, the assemblies of justices of the peace, the district tribunals, the courts of justice, and the senate in its quality of supreme court of appeal. The tribunals of the *volosth* are composed, according to the population, of from four to twelve judges, elected by the assembly and taken from that body. Their functions are gratuitous. They take cognizance of controversies among peasants, unless another person is interested therein; in this latter case the affair is referred to the ordinary court. Judgment is not given until after an effort at conciliation has been made; the decisions are then final and without appeal. Moreover, the peasants are authorized, when there is no crime or misdemeanor in question, and when the interests of minors are not engaged in a controversy, to refer it to a third person. This arbitration is executory, after it has been recorded in a register deposited with the *council of regency* of the *volosth*, and it can not be appealed from. — The justices of the peace exercise three orders of functions: 1, a power of conciliation; 2, extra-judicial functions, such as the placing and removal of seals, etc.; 3, judicial functions. They take cognizance of personal matters and cases involving personal property, without appeal, up to the value of thirty roubles, and with the privilege of appeal up to the value of fifty roubles. In real estate cases they have no jurisdiction; they can only pronounce the re-establishment in their rights of proprietors dispossessed six months before at the most. In criminal cases the limit of their jurisdiction is determined by the punishment to be inflicted; reprimand, remonstrance, a fine of thirty roubles at the most, detention for three months, or imprisonment for a year at most. An appeal is not allowed when the penalty does not exceed three days' detention or five roubles' fine. Appeals are brought before the assemblies of justices of the peace, except recourse is had to the court of cassation. — Each district tribunal is divided into two sections, one civil and the other criminal. The proceedings are public. When the penalty inflicted carries with it loss of civil rights, and there is no question of a crime against the faith or against the state, nor of a press offense, the tribunal is assisted by juries selected from among persons of all classes, and their verdict is subject only to be reversed by the court of cassation. Press matters are brought before the court of justice of the government. In case of a crime against the state, the court of justice that tries it is assisted by the marshal of the nobility of the government, by a marshal of the district, and by a *golova* or *staroste.* — Civil procedure is oral. The assistance of advocates or barristers, optional before the justices of the peace, is obligatory before the superior courts. The advocates or barristers are subject to the disciplinary power of a syndical chamber. — Connected with each tribunal and each court there is an imperial attorney, with one or more substitutes; and to each department of the court of appeals there is attached a superior procurator. — In 1863, Alexander II. modified the system of corporal and correctional punishments, and abolished the use of the knout, as well as that of rods or sticks. The punishment of the *plète*, a whip composed of several twisted straps, remains. The death penalty is reserved for military justice and for cases of an

* The prohibition of celibacy in the Greek church is carried to such an extent that no priest can perform any spiritual function before he is married, nor after he becomes a widower; and as, by the rules of the church, he is not allowed to remarry, the death of his wife occasions the cessation of his clerical functions. A priest may, however, on the death of his wife, enter into a convent, and enjoy the privilege of becoming eligible to be a dignitary of the church. There are in Russia nearly 500 cathedrals and about 29,000 churches attached to the established faith, the latter employing (1883) about 70,000 secular or parochial clergymen. The Russian church formerly possessed immense wealth, but it was partly confiscated by Peter I. and partly by Catherine II. The latter sovereign appropriated the whole movable property of the church for the use of the state, assigning, in compensation, pensions to the chief ecclesiastical dignitaries. But, with the exception of a few benefices in St. Petersburg, Moscow, and other principal cities, the stipends of the clergy, even when increased by the offerings of the people, and by the fees on occasions of births, marriages and funerals, are scarcely adequate to provide for their subsistence. The total number of the established clergy, of all ranks and orders, is stated (1883) at 254,000. — No member of the Russo-Greek church is permitted to renounce his creed; and when a marriage takes place between one of its members and a person belonging to another faith, the children must all be brought up in the established church. — The number of members of the principal creeds in European Russia was returned as below for 1879:

Orthodox Greek Catholics	63,865,000
United Greeks and Armenians	55,000
Roman Catholics	8,300,000
Protestants	2,950,000
Jews	3,000,000
Mohammedans	2,600,000
Pagans	26,000

—*F. M.*

attempt against the state or against the person of the sovereign. But condemnation to forced labor in the mines is fully equivalent to the last punishment, and simple transportation to Siberia, which is always preceded by corporal punishment, is extremely rigorous. Only the women and the sick are transported in wagons or by train; the men have to make the journey on foot, loaded down with chains. Some are condemned to temporary deportation to a fortress for a year at least, others to transportation to a penal colony, and others to transportation with forced labor, temporary or perpetual. Forced labor "in perpetuity" can not exceed, except in case of a second offense, twenty years; after this period the condemned is set at liberty, and placed, if he can be utilized, among the colonists of Siberia. The number of exiles in 1874 was about 100,000. — V. *Public Instruction.* Public instruction commenced only in 1863 to be organized according to a studied plan and one comprising the different kinds of instruction. There are now nine universities established at St. Petersburg, Moscow, Kharkof, Kasan, Dorpat, Kief, Warsaw, Odessa and Helsingfors. There were about 6,800 students and 600 free attendants on the lectures in 1874. The best attended courses are law and medicine. 2,400 students are admitted gratuitously. Each university is administered by a rector and a council over which he presides. The rector and the members of the council are elected for four years by the professors. There are, besides, the imperial institute of history and philosophy, established at St. Petersburg in 1867; the Lazareff institute, for instruction in the oriental languages; the two academies of agriculture and forestry of Warsaw and Pétrovskoé; a law school; a school of engineering; three medical schools, at St. Petersburg, Moscow and Wilna; three veterinary schools, at Kharkof, Dorpat and Warsaw; and an institute of technology at St. Petersburg. — In 1872 the state established commercial and industrial schools. There were, the same year, 128 gymnasia and 28 progymnasia, in which Latin and Greek were taught; the number of pupils was 42,791. The expenses amounted to 4,467,644 roubles, of which 3,215,887 were charged to the state, 513,534 to the provinces and cities, and 738,223 to the pupils. For girls, there were 54 gymnasia, 108 progymnasia, and 24 other schools. The pupils numbered 23,400. — Superior primary instruction is given in the district schools, and elementary primary instruction in the parish and village schools. The number of the latter is estimated at 24,000, and the number of pupils at 870,000. The state established, in 1872, ten normal primary schools, which brought the number of these institutions up to twenty-five. Grants are voted annually by the provincial assemblies for the establishment and maintenance of primary and normal schools, and to these grants are added the private contributions, which, from 1865 to 1871, amounted to the sum of 1,183,540 roubles. Every one feels that the emancipation of the serfs has rendered the spread of primary instruction still more urgent. * — VI. *Army and Navy.* The organization of the army and of military service was reformed by a ukase of Jan. 1, 1874. "The service," it is said in this act, "weighed exclusively upon the bourgeois class and the peasants, and a large part of the Russian subjects were freed from a duty equally sacred to all. This system does not answer the military exigencies of the age. Contemporaneous events have proven that the strength of states does not consist alone in the numerical value of the army, but principally in its intellectual and moral qualities, which only reach their highest degree of development when the defense of the fatherland becomes the common work of the nation; when all, without distinction of rank and class, unite for the accomplishment of this sacred task." — In accordance with these principles, the emperor sanctioned a number of laws in 224 articles, the principal provisions of which are as follows: The male population, without distinction of class, shall be subject to military service. The paying of a sum of money to escape the service, and substitution, are hereby forbidden. The armed force of the empire shall be composed of a standing army and a militia; the latter shall be called into service only in extraordinary circumstances in time of war. The standing army shall consist: 1, of the active army, recruited by levies of men throughout all the empire; 2, of the reserve, which serves to complete the effective force of the troops, and is composed of men sent on leave till the end of their term of service; 3, of Cossack troops; 4, of troops formed of foreigners. The naval army is composed of the fleet and of its reserve; the number of men necessary to complete the effective force of the army and the fleet is fixed by law each year. — Entrance into the service is determined by a drawing of lots. The individuals whose numbers do not call them into the active service are enrolled in the militia. Each year the young men who have attained the age of twenty years by the first of January, are liable to service. For the marine

* Under the ministry of public instruction, Russia is divided into eleven educational districts, each presided over by a curator. The nine universities, in 1876, were attended by 6,250 students. In 1876 there were 24,456 primary schools, with 1,019,488 pupils; in 1877 there were sixty-eight normal schools, with 4,596 pupils; while the various secondary establishments—lyceums, gymnasiums, district schools, etc.—had 88,400 pupils. In the budget for the year 1882, a sum of 18,030,867 roubles was set down for public education. — The mass of the population of Russia is as yet without education. In 1860 only two out of every hundred recruits levied for the army were able to read and write, but the proportion had largely increased in 1870, when eleven out of every hundred were found to be possessed of these elements of knowledge. In the grand duchy of Finland, which has a system of public instruction separate from that of the rest of the empire, education is all but universal, the whole of the inhabitants being able at least to read, if not to write. The empire, Finland excepted, is divided, as above stated, into educational districts, each of which has a number of lyceums, at which the young men intended to fill civil offices are mostly instructed, besides gymnasiums, high schools and elementary schools, varying according to area and population. The eleven districts are those of St. Petersburg, Moscow, Kharkof, Kasan, Dorpat, Kief, Odessa, Wilna, Warsaw, Caucasus and Orenburg. — F. M.

the young men best fitted for that service are chosen. In the land army the term of service is fifteen years, six in active service and nine in the reserve. In the marine the term is ten years, seven of active service, and three in the reserve. In war time all the men remain in active service as long as the needs of the state demand it. The soldiers and marines can be sent into the reserve before their term of active service expires. The men of the reserve are subject to the ordinary laws, and enjoy the rights peculiar to their station. When they are called into active service, in case of war, their families are supported by the city or rural corporations, in which they are domiciled. Soldiers incapable of continuing in service and deprived of resources, receive from the treasury three roubles a month, or are placed in the hospitals. The militia comprises the men who do not form part of the standing army, but who are capable of bearing arms, from the age when they are liable to be conscripted up to forty years completed.— Besides the exemptions for bodily defects or for family reasons, reprieves are granted as follows: 1, two years, at the most, for individuals who personally manage their landed property or who direct the commercial or industrial establishments belonging to them, excepting dealers in strong liquors; 2, from two to seven years, to pupils of various ecclesiastical, collegiate or artistic establishments, divided into five classes. Moreover, the term of active service is reduced, according to circumstances, to four years, three years, and even to six months, and that of the reserve to eleven years, in favor of young men who have graduated at certain establishments of public instruction. Members of the Christian clergy only are completely exempt. Young men who have the rank of doctor of medicine or of licentiate in the veterinary art or in pharmacy, or who are pensioners of the academy of fine arts sent to a foreign land, or who are professors in establishments of public instruction, are enrolled at once in the reserve for fifteen years. There are also certain temporary exemptions in the fleet, and reductions of service from one to two years in certain cases.— Volunteers are received into the land army, on their proving: 1, that they are at least seventeen years of age; 2, that they are minors, and that their parents or guardians have consented to their enlistment; 3, that they have passed an examination in the complete course of studies in an establishment of public instruction, or a special examination determined by the ministers of war and of public instruction. They serve for three months, if they have passed the examination in an establishment of the first class; for six months, if in an establishment of the second class; and for two years, if they have only passed the special examination. At the expiration of these terms they are allowed, in time of peace, if they are not officers, to remain in the active service or to pass into the militia, where they are kept for nine years. Volunteers admitted into the guard or into the cavalry must support themselves at their own expense; in the other troops they are supported by the state. In the navy the special examination is appropriate for that service; volunteers are held for two years' active service and five years in the reserve. — The annual contingent is divided among the provinces by the minister of war; then that of each province is divided among the subdivisions by a recruiting board. In each district or city a committee is charged with drawing up the lists of names, subject to the drawing by lot, with visiting the young men, and deciding upon their admission or exemption. The provincial assembly controls the operations, examines the complaints, and decides upon or refers them to superior authority. — The ukase does not apply to Cossacks and the other population whose military obligations are determined by special provisions. — The regular army presented, on a peace footing, Jan. 1, 1872, an effective force of 760,000 men, of which 28,000 were officers of all ranks, and 732,000 non-commissioned officers and soldiers, forming 82 battalions of infantry and 281 squadrons of cavalry. The 732,000 non-commissioned officers and soldiers were thus divided: infantry, 572,400; cavalry, 61,700; artillery, 80,500; engineer corps, 17,400. To these figures must be added 560,000 men on leave, who could be called for in case of war. —The naval forces were composed, in 1870, of 216 vessels of all classes, 194 of which were steamships, and 22 sailing vessels, carrying 1,464 pieces of ordnance. There were eight iron-clad frigates, three bomb-protected batteries, thirteen iron-clad batteries, five ships, twelve frigates, and fifteen corvettes. The effective force of the military marine was 75 admirals, vice-admirals and rear admirals, 2,340 officers, and 20,986 marines and sailors. There are two admiralties, one at St. Petersburg for the fleet of the Baltic, and one at Nicolaïef for the fleet of the Black sea. The principal dock yards are in these two cities, and at Okhta, Cronstadt, Kherson and Archangel. A great arsenal is established at Kolpina, near St. Petersburg.* — VII. *Finances.* Peter the Great, according to historians, had, to meet all his enterprises, a revenue of only 5,000,000 roubles, with tributes in kind, and the expenses were proportioned to the receipts. Both increased after his reign, but the expenses chiefly. Catherine II., having exhausted all other expedients, had recourse to a paper currency, which, in 1817, amounted to 210,000,000 roubles. To reduce it, recourse was had to internal loans; then, this recourse not being sufficient, in 1820, foreign loans were nego-

* The following was the composition of the regular Russian army in 1882:

	Peace Footing.	War Footing.
Battalions	1,045	1,766
Squadrons	404	412
Guns	1,562	3,772
Horses	94,789	252,056

The nominal strength of the various divisions of the Russian

tiated. In 1847, the debt bearing interest reached the sum of 815,000,000, with 184,000,000 of paper money in circulation; and in 1860, in consequence of the increase in the military expenses and the construction of the first railways, the amount of the debt was more than doubled. But the emperor brought about improvements in the management of the finances; he wished to have a regular budget, and for the first time that of 1863 was given to the public. This was, according to L. Faucher's expression, a veritable revolution. According to the financial accounts, the ordinary receipts in the years 1864 and 1871, in roubles, were as follows:

ITEMS.	1864.	1871.
Direct taxes	85,760,000	94,470,000
Licenses	9,680,000	12,280,000
Indirect taxes:		
Liquors	127,800,000	149,780,000
Salt	9,830,000	12,680,000
Tobacco	4,010,000	8,390,000
Beet-root sugar	580,000	3,480,000
Customs	35,670,000	47,380,000
Stamps	5,490,000	7,590,000
Registration	2,530,000	5,170,000
Passports, maritime duties and tolls	5,280,000	6,110,000
Regalian rights:		
Mines	2,500,000	3,780,000
Coinage	2,500,000	4,080,000
Postoffice	7,700,000	9,700,000
Telegraphs	1,980,000	3,980,000
Domains of the state	53,280,000	35,010,000
Miscellaneous receipts	38,250,000	54,060,000
Revenue of Transcaucasus	3,450,000	5,240,000

The only diminution is in connection with the domains of the state, and is a result of the eman-

army, according to the returns of the ministry of war, was as follows in 1882:

ARMS.	Peace Footing.	War Footing.
1. Regular army:		
Infantry	695,617	1,915,709
Cavalry	85,860	94,466
Artillery	108,610	210,772
Engineers	20,624	43,352
Total	840,711	2,264,298
2. Irregular army:		
Infantry	6,500	8,510
Cavalry	34,196	142,400
Artillery	2,912	12,650
Total	43,608	163,560
General total	884,319	2,427,858

To this has to be added the staff, gendarmerie, militia (raised only in time of war), etc., which would raise the war forces to a total of 2,783,305 men. — By the law of Dec. 18, 1878, which came into force Jan. 1, 1881, personal military service is declared obligatory in Finland. The Finnish troops form nine battalions of riflemen, each with eighteen officers and 505 men, and number in all 4,883. — Among the irregular troops of Russia the most important are the Cossacks. The country of the Don Cossacks contains from 600,000 to 700,000 inhabitants. By imperial decree, dated April 29, 1875, every Cossack of the Don, from fifteen to sixty years of age, is bound to render military service. No substitution is allowed, nor payment of money in lieu of service. Exemption from military service is granted, however, at all times, to the Christian clergy, and, in times of peace, to physicians and veterinary surgeons, apothecaries, and teachers in public schools. The regular military force consists of fifty-four cavalry regiments, each numbering 1,044 men, making a total of 56,376. The number of Cossacks is computed as follows:

COSSACKS.	Heads.	In Military Service.
On the Black sea	125,000	18,000
Great Russian Cossacks on the Caucasian line	150,000	18,000
Don Cossacks	440,000	66,000
Ural Cossacks	50,000	8,000
Orenburg Cossacks	60,000	10,000
Siberian Cossacks	50,000	9,000
Total	875,000	129,000

The military organization of the Cossacks is in eight districts, called *woissko*. Each woissko furnishes a certain number of regiments, fully armed and equipped, and undergoing constant military exercise, so as to be prepared to enter the field, on being summoned, in the course of ten days. The two larger districts are the woissko of Kuban, which has the privilege of furnishing a squadron of picked men for an imperial escort in time of war, and the second the woissko of Terak, which furnishes a like escort in time of peace. — The Cossacks are a race of free men; neither serfage nor any other dependence upon the land has existed among them. The entire territory belongs to the Cossack commune, and every individual has an equal right to the use of the land, together with the pastures, hunting grounds and fisheries. The Cossacks pay no taxes to the government, but, in lieu of this, they are bound to perform military service. They are divided into three classes: viz., 1, the minors, or *malolet-niye*, up to their sixteenth year; 2, those on actual service, the *sluzhiliye*, for a period of twenty-five years, therefore until their forty-second year; 3, those released from service, the *otstavniye*, who remain for five years, or until their forty-seventh year, in the reserve, after which period they are regarded as wholly released from service and invalided. Every Cossack is obliged to equip, clothe and arm himself at his own expense, and to keep his horse. While on service beyond the frontiers of his own country, he receives rations of food and provender, and a small amount of pay. The artillery and train are at the charge of the government. Instead of imposing taxes on the Don Cossacks, the Russian government pays them an annual tribute, varying in peace and war, together with grants to be distributed among the widows and orphans of those who have fallen in battle. Besides the regular Cossacks, there are, on the Orenburg and Siberian lines, the Bashkir Cossacks, numbering some 200,000 men. — The Russian navy (1883) consists of two great divisions, the fleet of the Baltic, and that of the Black sea. Each of these two fleets is again subdivided into sections, of which three are in or near the Baltic, and two in or near the Black sea. The divisions, like the English, carry the white, blue and red flag, an arrangement originating with the Dutch, but without the rank of the admirals being connected with the color of the flag. — At the end of the year 1880 the strength of the various divisions of the Russian navy was returned officially as follows: 1, the Baltic fleet, consisting of one hundred and thirty-seven men-of-war, comprising twenty-seven armor-clad ships, forty-four unarmored steamers, and sixty-six transports; 2, the Black sea fleet, consisting of thirty-one men-of-war, comprising three armor-clad ships, twenty-five unarmored steamers, and three transports; 3, the Caspian sea fleet, consisting of eleven unarmored steamers and eight transports; 4, the Siberian fleet, consisting of fifteen unarmored steamers and twenty-one transports. The total comprises 223 men-of-war, all steamers, armed with 561 guns, with engines aggregating 188,120 horse power. — The iron-clad fleet of war of Russia, comprising thirty ships, twenty-eight in the Baltic and two in the Black sea, was made up, at the end of 1880, of the following classes of ships: 1st class, three mastless turret ships, 12 and 14 inch armor thickness; 2d class, nine sea-

cipation of the peasants. If the expenses of collection and the anticipated deficit in receipts are deducted, viz., 42,000,000 for 1864 and 52,000,000 for 1871, we find, for the first of these years, a total of 304,246,000, and for the second a total of 487,966,000. But as the budget of Poland has been joined to that of the empire, 30,000,000 must be added to the first of the two totals, and by adding them we find an increase in the receipts, of 153,720,000 roubles, without any increase in taxes except upon liquors. The following table shows the ordinary expenditure for the years named, in roubles:

ITEMS.	1864.	1871.
Public debt	59,630,000	85,060,000
Grand body or corps of the state	1,200,000	2,450,000
Clergy	5,340,000	9,220,000
Imperial household	7,750,000	10,900,000
Foreign affairs	2,090,000	2,470,000
War	119,950,000	150,250,000
Navy	21,680,000	21,140,000
Domains of the empire	9,120,000	9,630,000
Interior	23,490,000	42,460,000
Public instruction	6,340,000	10,810,000
Means of communication	25,160,000	34,920,000
Justice	6,480,000	10,700,000
General control of the empire	320,000	1,910,000
The stud	590,000	640,000
Expenses of Poland	.....	1,310,000
Administration of the Caucasus	3,610,000	6,600,000

Deducting the expenses of Poland, we have for 1864 a total of 351,346,000 roubles, and for 1871 a total of 498,422,000 roubles, consequently an increase which is not the result alone of the increase in the debt and the military expenses, but also of the improvements made in the different services.—The expenditure of 1864, compared with the receipts, presents a deficit of 47,000,000; in 1871 we find 10,000,000 deficit, but we shall see, further on, that the debt had increased.—The expenses connected with the construction of railways and of certain ports, are paid separately from a special fund raised by means of loans. The budget of 1874 was thus fixed: receipts from all sources, 539,851,656 roubles; expenses, 536,683,836 roubles.—The debt is divided into the public debt properly speaking, or consolidated debt, the floating debt, and the paper currency. The consolidated debt is composed of loans effected at different periods since 1798, at different rates and under different forms, some domestic and some foreign; some to be liquidated or redeemable at a fixed time, others at no determinate period; lastly, some to reduce the paper currency, others to cover the deficits, and others to pay the expense of the construction of railways or of advances for the redemption of serfs. In 1863, this debt amounted to 759,000,000 roubles, and, Jan. 1, 1872, to 966,000,000. It had, therefore, increased 207,000,000. Moreover, the debt of Poland having been charged to the treasury, in 1869, and this debt amounting to 92,000,000 in 1872, the debt of Russia was therefore increased to 1,058,000,000. The floating debt is composed of treasury bonds, of fifty roubles each. It amounted, in 1863, to 189,000,000 roubles; from 1866 to 1872 it remained fixed at 216,000,000. The paper currency consists of credit notes put into forced circulation by the bank of Russia. They do not bear interest, and are not guaranteed by a metallic reserve, like the other credit notes issued by the same bank for its own operations. In 1863, after 118,000,000 roubles had been retired from circulation or burned, there remained 643,000,000. In 1872 there were 724,000,000, and adding the notes issued to replace those of the former institutions of credit to which the bank of Russia succeeded in 1860, the circulation amounted to 959,000,000. As to the debt arising from the redemption of the serfs, the advances made by the treasury amounted, from 1861 to Jan. 1, 1871, to the sum of 559,931,289 roubles, out of which 251,500,000 were retained for the mortgage debts of the former owners.*—VIII. *Means of Communication.* When Peter the Great tried to remedy the enormous greatness of the distances which separated and still separate the groups of habitations, it was by means of interior waters, seas, lakes, streams and rivers that he undertook to create means of communication. He commenced the junction of the Volga with the basin of the Neva and that of the Dwina of the north, by a system of navigation which was continued by his successors; and is

going cruisers, 4 to 6 inch armor; 3d class, sixteen vessels for coast defense, 4 to 4½ inch armor; 4th class, two circular monitors, 11 and 18 inch armor.—The imperial navy was commanded, in 1880, by 17 admirals, 32 vice-admirals, 31 rear admirals, 201 first-class captains, 98 second-class captains, 308 captain lieutenants, 443 lieutenants, and 129 midshipmen of the special corps attached to the navy. The navigation detachment contained, at the same date, five generals and 508 staff officers; the naval artillery, four generals and 197 staff officers; and the naval engineers, six generals and 139 staff officers.—F. M.

* The public revenue of the empire is derived to the extent of two-thirds from direct and indirect taxes, while nearly two-thirds of the total expenditure is for the army and navy, and interest on the public debt. There are annual budget estimates published by the government, and also, since 1866, accounts of the actual receipts and disbursements of the state, which, entering into minute details, can not be issued till after the lapse of a number of years.—The following table gives the total actual revenue and expenditure of the imperial government, in roubles, for each of the years 1875-81:

YEARS.	Revenue.	Expenditure.
1875	532,806,209	529,050,496
1876	584,791,290	534,705,129
1877	587,784,596	587,776,074
1878	625,972,735	600,510,612
1879	661,954,192	641,924,957
1880	651,016,663	694,505,313
1881	651,754,009	762,398,887

The expenditure 1876-81 is exclusive of the large expenses incurred during the war with Turkey, which in 1876 amounted to about 51,000,000 roubles, in 1877 to over 429,000,000, in 1878 to 408,000,000, in 1879 to 198,000,000, and in 1880 to about 59,000,000. It should also be remembered, that, during the last five years, the actual value of the rouble has only been about two English shillings.—The following table shows the principal sources of revenue and the chief branches of ex-

composed to-day of three branches, measuring, altogether, 3,460 kilometres, 553 of which are of canal. This system unites the Caspian sea with the Baltic and the White sea. In the west the Baltic is placed in communication with the Black sea by three lines of navigation, composed, one of the western Dwina, and the canals of the Beresina and the Dnieper; the second of the Chara, a tributary of the Niemen, and of the Pripet, a tributary of the Dnieper; the third, of the Vistula, the Boug and the Pripet. The south does not fare so well, the Caspian sea has no direct communi-

penditure of the government in roubles, according to the budget estimates for 1882:

Sources of Revenue.

1. Ordinary revenue:	
Direct taxes	128,291,700
Indirect taxes	390,087,940
Mint, mines, post and telegraphs	26,188,328
State domains	42,562,287
Miscellaneous receipts	49,158,117
Revenue of Transcaucasia	9,834,548
Total ordinary revenue	656,717,870
2. "Recéttes d'ordre"	22,165,068
3. Extraordinary receipts	83,121,574
Total revenue	762,004,512

Branches of Expenditure.

1. Ordinary expenditure:	
Interest and sinking fund of the national debt	191,776,287
Imperial chancery	1,650,230
Holy synod	10,300,800
Ministry of the imperial house	8,954,000
Ministry of foreign affairs	3,686,185
Ministry of war	183,489,042
Ministry of the navy	27,507,721
Ministry of finance	78,430,477
Ministry of the imperial domains	19,344,882
Ministry of the interior	65,120,548
Ministry of public instruction	18,030,867
Ministry of public works and railways	16,072,905
Ministry of justice	14,780,362
Department of general control	2,367,225
Civil administration of the Transcaucasus	7,252,291
Various	931,329
Total ordinary expenditure	658,595,151
2. Anticipated deficits in receipts	8,500,000
3. "Dépenses d'ordre"	22,165,068
4. Extraordinary expenses	72,744,293
Total expenditure	762,004,512

It is expected that the actual revenue will show a deficit of 4,500,000 roubles. The budget estimates for 1883 balance the revenue and expenditure at 778,505,423 roubles, or £111,215,060. — In the budget estimates for the year 1882, the total amount, in roubles, required for interest on the public debt and sinking fund, was divided as follows:

Foreign loans:	
Terminable	23,481,601
Perpetual	23,486,172
Internal terminable loans:	
Debt to sundry departments	125,837
4 per cent. bank bills (metallic)	4,500,000
5 per cent. bank bills	13,450,000
First and second lottery loans	13,285,000
First and second oriental loans	44,000,000
Treasury bills	9,331,200
Polish obligations	1,890,000
Debt on Polish "Feuilles de liquidation"	3,184,123
Internal perpetual loans	10,117,646
Interest and sinking fund on consolidated bills issued for construction of railways, etc.	51,924,708
Total	198,776,287

— The finances of Russia, almost since the beginning of the century, exhibit large annual deficits, caused partly by an enormous expenditure for war, and partly by the construction of reproductive works, such as railways. But the war expenditure was by far the greatest cause of the deficits. — According to official returns, issued in 1881, the total war outlay incurred by Russia during the four years 1876 to 1880, amounted to 1,075,396,653 roubles, or £153,628,093. — To cover a series of annual deficits, and, at the same time, to procure the capital for the construction of a net-work of railways throughout the empire, a number of foreign loans were raised during the thirty-two years from 1850 to 1882. The most important of them were, first, a loan of £5,500,000, issued in 1850, to meet the expenditure for the railway from St. Petersburg to Moscow; secondly, a loan of £12,000,000, issued in 1859; thirdly, a loan of £8,000,000, issued in 1860; and fourthly, a loan of £15,000,000, issued in 1862, the latter three contracted partly for the covering of financial deficits and partly for the construction of railways. The subsequent foreign loans were: one for £2,600,000, issued in 1863, and two for £6,000,000 each issued respectively in 1864 and 1866. The next was a foreign loan of £15,000,000, brought out in September, 1872, and the second raised in December, 1873. The following table gives the year of issue, nominal capital, interest per cent., and price of issue, of the foreign loans of Russia, fifteen in number—including early liabilities dating back to 1822—contracted up to 1882:

YEAR OF ISSUE.	Nominal Capital.	Interest.	Price of Issue.
	£	Per Cent.	Pr. Cent.
1822	6,400,000	5	77
1850	5,500,000	4½	93
1859	12,000,000	3	68
1860	8,000,000	4½	92
1862	15,000,000	5	94
1863	2,600,000	5	85
1864	6,000,000	5	86
1866	6,000,000	4	61
1867-9	23,110,000	4	61-3
1870	12,000,000	5	80
1871	12,000,000	5	81
1872	15,000,000	5	89½
1873	15,000,000	5	90
1874	1,480 000	5½	87½
1875	15,000.000	5½	87½
1877	15,000,000	5½	85
1880	24,000,000	4	75
1882	8,900,000	3	55
Total.	203,990,000		

Not included in the above list are several loans for railways, guaranteed by the imperial government. The earlier of the foreign loans of Russia have become largely reduced at present, through the operation of sinking funds. Of the 1822 loan, issued by Messrs. Rothschild, more than one-half had been repaid at the end of 1875; of the 1850 loan, contracted for by Baring Brothers, the outstanding sum was £2,950,000; of the 1859 loan, issued by Thomson, Bonar & Co., the amount was £5,100,000; and of the 1860 loan, issued by Baring Brothers, it was £6,600,000 at the same date. But the repayments of the subsequent loans, through sinking funds, were comparatively small. — The entire public debt of Russia, interior and foreign, was estimated to amount to 2,450,000,000 roubles, or £350,000,000, on Sept. 1, 1878, the total including an internal loan of 210,000,000 roubles, or £30,000,000, issued in 1877, soon after the commencement of the war against Turkey, and another internal loan, called "the second eastern loan," to the amount of 300,000,000 roubles, or £42,857,142, issued in August, 1878. On Jan. 1, 1880, the total debt had increased to 4,480,812,699 roubles, or £640,116,099. — Included in the debt here enumerated is a very large quantity of paper money, with forced currency. According to official reports, the total amount of bank notes in circulation on Jan. 1, 1876, was 797,313,480 roubles, or £113,901,925. There were new issues of paper money to a very large amount during the years 1876-9. The total debt represented by paper money of forced currency, was estimated at 1,500,000,000 roubles, or upward of £210,000,000, in January, 1880. — The destruction of public credit, through an unlimited issue of paper money, is, as remarked above, of old standing. In the reign of Catherine II., the first attempt, on a large scale, was made to cover the annual deficits by a very liberal supply of paper roubles, the sum total of which at the death of the empress, 1796, amounted

cation with the Black sea, and the basin of the sea of Azof is entirely isolated. There are in all 30,337 kilometres of natural navigable lines, connected by 1,381 kilometres of canals. There are navigation and steam-towage companies upon the Volga, the Neva, the Dnieper and the Vistula. But the rivers are only open usually six months in the year in the north, and eight to nine months in the south, and the cold closes the canals even longer. The transports are subject to a tax of a quarter of 1 per cent. of the value declared; this tax is applied to the maintenance of navigation works. According to the official *Vremennik* of 1866, the quantities of merchandise carried by water in that year were:

	Poods.
Basin of the Volga	170,258,765
Basin of the Neva	145,750,265
Basin of the Dnieper	20,354,041
Basin of the Duna	8,257,734
Basin of the Dwina	6,952,839
Basin of the Niemen	3,748,440
Total	355,322,084

— *Highways.* The roads practicable in all seasons date only from 1816. They were in 1867, in Russia in Europe, only 8,416 kilometres in length. The post roads had, in 1874, an extent of 94,000 kilometres. Transportation is possible on wheels during four months of the summer, and on runners over the snow during four months of the winter. There are not more than 200 days in the year when communication is easy; but in proportion as the roads are insufficient, horses, cattle and fodder are procurable at a small price, so that grain and the products of the mines are carried considerable distances for a less price than that of transportation in more favored climates. The principal highways are those from St. Petersburg to the Chinese frontier, by way of Irkoutsk (6,616 kilometres), from St. Petersburg to the Prussian frontier, via Warsaw (1,178 kilometres) and via Tilsit (816 kilometres), and from St. Petersburg to Abo (618 kilometres).— *Railways.* The first was that from St. Petersburg to Tsarskoé-Sélo, which is only twenty-six kilometres long; it was built by the state and finished in 1835. The state commenced in 1842 the railroad from St. Petersburg to Moscow, 648 kilometres long, and opened it in 1851. Since 1856, the undertakings of new lines have been granted to private individuals, and in 1858 the state gave up the management of those under its control. The railroads in running order Jan. 1, 1872, represented a total length of 14,008 kilometres; the lines in course of construction had 1,454 kilometres. (See note at the end of IX.)—IX. *Resources.*— *Agriculture.* Russia, from the agricultural point of view, has one hundred and seventy-five millions of hectares in arable lands and meadows, one hundred and eighty-eight millions in forests, fifty-seven millions in steppes which can be utilized as pasturage, and eighty millions in non-productive lands. Of the first one hundred and seventy-five millions, ninety-eight, situated between the fifty-first and fifty-fourth degrees of latitude to the west, and between the fifty-seventh and fifty-fourth to the east, constitute the region called the region of the black earth, and which is especially productive. In Finland the extent devoted to rural economy is estimated at thirty-one millions of hectares, and in Poland at ten and a half millions. — The progress of agriculture is trammeled by various unfavorable circumstances: the lack of capital, the lack of hands, absenteeism, and, above all, communism applied to the lands. Labor, besides, because of the climate, is suspended during seven months of the year, and extremely hurried during four others; which greatly restricts cultivation. Serfdom has disappeared, but ignorance and carelessness continue. A very great number of proprietors, whose property was weighed down with mortgages, found themselves greatly impoverished when the *corvées* failed them. The laborers, whom it was necessary to employ and pay, have shown, it is said, in general, little zeal and even little good faith in the execution of their engagements. Moreover, they did not have the knowledge which less rude methods demanded. Some proprietors have tried to farm out their lands, but good farmers are only found in the southwest. The proprietors are contented, under these circumstances, with small rents on long leases, and the rent is double for leases by the year. In a great part of the empire the proprietors have been compelled to divide up their estates and lease them by the year in small lots; cultivation has not been improved thereby. Another system consists in having the work done by contract with the implements of the cultivator; sometimes the seeds are furnished by the proprietor, sometimes by the cultivator, and the latter is paid either in money, or by the grant of a piece of land. Finally, in the south the metayer system exists.— Live-stock does not receive the care necessary to insure its increase and improvement. Little attention is paid to the development of artificial prairies. Manure is not much used, and the low price of meat on the premises does not encourage production. Hence cattle, in the twenty years from

to 200,000,000. During the subsequent wars with France and Turkey, new emissions of paper followed, with the consequence that in 1815 the notes had fallen to 418, that is, one silver rouble was worth four roubles eighteen kopecks in paper. Great efforts were now made by the government to improve this state of things, by withdrawing a portion of the paper from circulation. After ten years of improved financial management, there remained, however, still 600,000,000 of notes, circulating at the rate of three paper roubles to one silver rouble. As a final remedy, the imperial government withdrew, in 1843, the whole of the old paper money, introducing, in its stead, a new form of bank notes, with forced currency. By these and other means, particularly the establishment, in 1859, of a state bank, the bank of Russia, under the control of the minister of finance, the nominal value of the paper money was considerably raised, with a prospect of the resumption of specie payments in the course of a number of years.—The grand duchy of Finland had a revenue of 32,320,714 marcs, or £1,292,828, and an expenditure of 35,131,146 marcs, or £1,405,245, in 1882. Its total debt on Jan. 1, 1882, amounted to 61,422,865 marcs, or £2,456,914. In December, 1882, Finland contracted an additional loan of £810,000 at 4 per cent., for forty-two years. The special budgets of Poland ceased in 1867, on the final incorporation of the kingdom with Russia.—F. M.

1851 to 1871, increased only by 640,000 head, of ordinary quality The increase is larger among sheep and hogs; but horses have diminished from 16,155,000 to 15,540,000. — Two-thirds of the forests belong to the crown. Those belonging to individuals had already suffered much by bad management, when the emancipation of the serfs necessitated considerable clearing. A great number of proprietors were forced to sell wood to procure the means they needed; taxes, besides, are often very heavy in comparison with the revenue, and it is difficult to prevent theft and incendiarism. The consumption of wood is enormous; the annual exploitation of it is estimated at 135,000,000 roubles.—*Industry.* For the seven or eight months during which work in the field is suspended, the peasants carry on various industries in their villages; such as, weaving of cloth, oil pressing, wood work, the manufacture of tar, turpentine and potash, the making of mats, drying and salting of fish, preparation of glue and caviar, tanning, horse-hair work, charcoal burning, basket work, working of quarries, and the manufacture of woolen stuffs. The sheep-skin pelisses give occupation to entire villages. In one place, furniture is made; in another, pictures are painted; in a third, boots and shoes are manufactured. Some families do filigree work; thousands of hands make lace. One village is devoted to iron foundries; another to locksmiths' work or cutlery. There are turners, fullers, and boat and raft makers. — The gold mines have been worked since 1814. The product amounted to 22,000 kilogrammes in 1841, and since then it has varied from 23,000 to 24,000 kilogrammes. The iron mines are abundant; but the working of them is difficult, because of their distance from inhabited places and the lack of means of communication. The yield of the copper mines is estimated at 51,000 metric quintals. There are four coal basins in course of exploitation; the product has considerably increased of late; it amounted, in 1871, to 880,000 tons. The salt mines, the salt marshes and the salt works give 4,687,000 metric quintals. Many of the provinces, because of the distances, are obliged to procure their provisions from abroad. There are numerous naphtha and petroleum wells, whose product (1874) is 100,000 metric quintals. — Of all the industries, the most lucrative is that of spirits; the manufacture is estimated at 300,000,000 roubles. According to an abstract prepared in 1868, the consumption in Russia in Europe was then more than 107,000,000 hectolitres, and it has increased since that time. — The manufacture of beet-root sugar has diminished; the number of sugar factories was 427 in 1860, but fell, in 1872, to 233. Honey is preferred in consumption, hence apiculture has greatly increased. — The cotton factories had, in 1867, 1,600,000 spindles, a great number of which were worked day and night. They used 46,000,000 kilogrammes of cotton, and spun only to No. 50. The weaving employs 12,000 looms, run by machinery, and seven or eight times as many run by hand. Red and blue calicoes of good quality are manufactured. The spinning and weaving of flax and hemp are not sufficient for the consumption, especially of the upper classes. At Moscow are manufactured rich silk stuffs, worked and embroidered with gold and silver, for priests' vestments. The white embroideries of the Caucasus are highly praised. Tanning remains backward, but Morocco leather manufacture is renowned. Nijni-Novgorod manufactures beautiful cutlery of excellent steel from the mines of the Oural. The jewelry and gold and silver work are of the best, both in design and execution. — *Commerce.* The domestic commerce of Russia is five or six times greater than its foreign commerce. The two principal commercial seats are Moscow and Warsaw. After these two cities come those in which fairs are held, notably Nijni-Novgorod, the principal one, in which the merchandise sold amounted to 128,000,000 roubles. M. Schnitzler estimates the whole of the domestic commerce at 6,000,000,000 francs. The merchants are divided into three classes: 1, the members of the three guilds; 2, the persons engaged in industry with certificates or licenses; 3, the tradesmen of the villages. The members of the first guild must have a capital of 15,000 roubles at least; the declaration which they make as to the amount of their capital serves as a basis for the credit which the banks open to them. They can carry on wholesale commerce, banking, insurance business, and equip merchant vessels. The same rights are conferred upon the members of the second guild, except that they can not obtain from abroad merchandise worth more than 90,000 roubles, nor carry on banking or insurance business. Their capital must be at least 6,000 roubles. Those of the third guild must have a capital of 2,400 roubles at least; they can carry on retail commerce, keep inns, and have transport boats and weaving looms. Failure, with aggravating circumstances, involves expulsion. The total of the members of the three guilds was 200,760 in 1874, and their capital was estimated at 2,400,000,000 francs. — The certificates or licenses issued annually, to the number of about 190,000, give those who obtain them the right to carry on small industries or commerce on a very small scale. In the villages the peasants may, without paying any tax, sell objects of customary consumption. — The following is the amount of the commercial movement in the years mentioned, in roubles:

YEARS.	Imports.	Exports.	Total.
1869	339,860,000	270,690,000	610,550,000
1870	332,330,000	375,110,000	707,440,000
1871	367,920,000	379,330,000	747,250,000

Russia in Asia is included in these results for a total movement of 28,880,000 roubles in 1870, and of 24,880,000 in 1871. — Considering the movement of precious metals, since 1861, by itself, we find, at that time, an importation of seven millions, which fell off gradually to two in 1866, rose to thirty-

three millions in 1867, and to thirty-nine in 1868; then diminished again to two millions in 1869 and 1870, and rose to seven in 1871. The exportation, which was fifteen millions in 1861, rose to thirty-seven in 1862 and to sixty-seven in 1863; then it fell to fourteen in 1867, and to five in 1868, to rise again to fifteen in 1869 and to seventeen in 1871. — The maritime commerce is about two-thirds of the land commerce. From 1863 to 1867 it amounted, without Finland, to an average of 266,000,000 roubles in Europe, and to 11,000,000 in Asia. There were, in 1869, 2,532 sailing vessels and 114 steamships; 753 sea-going ships and 1,898 coasting vessels. — The principal article of exportation consists of cereals. This trade commenced to be developed in 1817; it is subject to great fluctuations; sometimes grain forms 30 per cent. of the total exports, and sometimes only 6 per cent. In 1839 the greatest quantity was exported; it represented 332,000,000 roubles. The ten years previous to 1867 gave an average of 58,000,000. In 1870 the exportation was 163,000,000, and 183,000,000 in 1871. Next comes flax, 49,000,000 roubles in 1871; linseed, 28,000,000; wool, 7,000,000; tallow, which decreased from 12,000,000 before 1867 to 4,600,000 in 1871; wood, which increased from 6,500,000 before 1867, to 14,000,000 in 1871; hemp, 12,000,000; hogs' bristles, 9,000,000; hides, 2,000,000; live stock, 6,000,000; unmanufactured metals, 1,800,000 in 1870 and 1,200,000 in 1871; oleaginous seeds, 3,400,000. — The principal article of importation is raw cotton. Before 1867 the average of ten years was 18,000,000 roubles; in 1870, 31,000,000 was imported, and in 1871, 48,000,000. Unmanufactured metals also increased from 4,500,000 roubles before 1867, to 17,000,000 in 1868, 30,000,000 in 1870, and 31,000,000 in 1871. Machinery, from an average of 8,000,000 before 1868, rose to 25,000,000 in 1870. An increase has also taken place in the following: metal works, 18,000,000 in 1871; tea, 20,000,000; paints, 16,000,000; oils, 12,000,000; wines and liquors, 11,000,000, (three-fourths coming from France); wool, 13,000,000; woolen fabrics, 10,000,000; fruits, 8,000,000; spun cotton, 8,000,000; coffee, chemical products, plants and seeds, 5,000,000; silk textile fabrics, 5,000,000; fish, 4,000,000. — The different countries participated (1874) in the foreign commerce of Russia in the following proportions: Great Britain, 160,000,000 roubles in 1866, 269,000,000 in 1871; Prussia, 98,000,000 in 1866, 203,000,000 in 1871; France, 46,000,000 in 1871; Austria, 30,000,000; Hanseatic cities, 22,000,000; Turkey, 21,000,000; The Netherlands, 20,000,000; Italy, 18,000,000; the United States, 17,000,000; Belgium, 14,000,000; China, 10,000,000.* (See NIHILISM, ORIENTAL QUESTION.) L. SMITH.

S

SAINT-SIMONISM. (See SOCIALISM.)

SALARY GRAB (IN U. S. HISTORY), the popular name for the general increase of federal salaries in 1873. — The constitution provides that "the senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States"; that the president "shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them"; and that the judges of all federal courts "shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office." The act of March 3, 1873, provided that, on and after March 4, 1873 (the beginning of President Grant's second term), the salary of the president should be $50,000 a year, of the chief justice $10,500, of the vice-president, cabinet officers, associate justices, and speaker of the house, $10,000, and of senators, representatives and delegates in congress, $7,500; and that the salaries of employés of both houses should be increased in various proportions. The salaries named had previously been as follows: president, $25,000; chief justice, $8,500; other officers, $8,000; and senators, representatives and delegates, $5,000. Although the act was in other respects to go into force "on and after March 4, 1873," the members of the congress which passed it were to be included in the increased salary, so that the act, as to them, was retroactive for the

* The commerce of Russia with foreign countries is officially divided into trade with Europe, and trade with Asia: the former being subdivided into trade through the Baltic ports, through the White sea ports, through the southern ports, and over the European land frontier. The immense extent of the empire, and its ever-changing limits eastward, make it difficult to obtain exact returns of the aggregate amount of its foreign commerce, which must be partly estimated. According to official statements, the total value of imports in the five years 1876–80 averaged, in round numbers, 455,000,000 roubles, or £65,000,000, while the value of the exports during the same period averaged 476,000,000 roubles, or £66,000,000 per annum. The four principal articles of import during the period were raw cotton, iron and other unwrought metals, tea, and machinery of all kinds, while the staple articles of export were grain and other agricultural produce. — The two principal countries trading with Russia (1883) are Great Britain and Germany. Of the imports, about 40 per cent. annually came from Germany, and 20 per cent. from Great Britain; and of the exports 35 per cent. went to Great Britain, and 20 per cent. to Germany, on the average of the five years 1876–80. — The commercial navy of Russia consisted, at the end of the year 1879, of 2,568 sea-going vessels, of an aggregate burden of 261,231 ship last, or 522,462 tons. The total comprised 925 ships engaged in trading to foreign countries, and 1,780 coasting vessels, many of them belonging to Greeks, sailing under the Russian flag. Not included in the return were 389 trading steamers on the rivers and lakes

two years just closing. This was the essence of the "salary grab," which excited so much popular indignation that many of the members were moved to repay their increase to the treasury. The act was repealed, as to all except the president and the justices, by act of Jan. 20, 1874, and salaries reverted to the former standard. The increase of the salaries of the president and justices was retained. — The acts to ascertain and fix the compensation of members of congress have been as follows: The act of Sept. 22, 1789, fixed the salaries of senators and representatives at $6 per day, and $6 for every twenty miles of travel, until March 4, 1795, after which date senators were to receive $7 per day, and $7 for every twenty miles of travel. The act of March 10, 1796, fixed the salaries of both senators and representatives at the rate fixed in 1789. The act of March 19, 1816, increased this salary to $1,500 per annum for "this and every future congress." This "salary grab" excited so much popular feeling that it was repealed by act of Feb. 6, 1817. The act of Jan. 22, 1818, fixed the salary at $8 per day, and $8 for every twenty miles of travel, dating the increase back to March 3, 1817. The act of Aug. 16, 1856, increased the salary to $3,000 per annum, and mileage as before, and enacted further, that "this law shall apply to the present congress." In all these ascertainments of salary, the speaker's salary had been double that of the other members. The act of July 28, 1866, increased the salary of members to $5,000 per annum, and that of the speaker to $8,000. All these increases had been retroactive, and it is probable that the criticism on the increase of 1873 came mainly from the lavish generosity of congress in increasing so many salaries, heightened by the unfortunate fact that the congressional increase alone was retroactive. — See 1 *Stat. at Large*, 70, 448 (for acts of Sept. 22, 1789, and March 10, 1796); 3 *Stat. at Large*, 257, 345, 404 (acts of March 19, 1816, Feb. 6, 1817, and Jan. 22, 1818); 11 *Stat. at Large*, 48 (act of Aug.

of the empire, very nearly two-thirds of this number being on the river Volga and its affluents. — The internal commerce of the empire, as well as its foreign trade, has been greatly extended by the establishment, in recent years, of a comprehensive net-work of railways. The latest official returns state, that on July 1, 1880, the total length of the railways of Russia in Europe, open for traffic, amounted to 22,057 versts, or 14,145 English miles. At the same date 1,110 miles more of lines were in course of construction. The progress of railway construction in Russia is shown succinctly in the following table, which gives the length of lines opened at successive periods:

YEARS.	Versts.	English Miles.
1858 to 1865	3,578	2,285
1866 to 1870	6,514	4,343
1871 to 1875	7,606	5,071
1876 to 1878	2,719	1,812
Total	20,417	13,611

On the proposition of the minister of public works, the emperor sanctioned, in June, 1875, the extension of the then existing system by 6,500 versts, or 4,333 English miles, which, added to the 2,500 versts, or 1,666 English miles, previously sanctioned, raised the total to 9,000 versts, or 6,000 English miles. The new net-work is divided into four classes, according to different degrees of urgency, and the first of these classes will include the Siberian railway and the seven projected lines in the coal basin of the Don; 2,600 versts, or 1,734 English miles, are assigned to this class, at the head of which has been placed the immense Siberian line, reported as "most urgent" by a special commission on railways summoned in 1870. It is from a station on this line, probably Tinmen, that the Central Asian line to Tashkend is to take its rise, the continuation of the Orenburg line in that direction having been condemned as impracticable, owing to the inhospitable nature of the country it would have to traverse. The importance of the seven lines for the coal fields of the south is great, as the new railways will traverse this field in every direction, and connect it on one side with the Black sea and the sea of Azof, and on the other with the existing trunk lines of the empire. — In 1880-81 a railway for military purposes was constructed from Mikhailovsk, on the southeast shore of the Caspian, to Kizil Arvat, and a tramway thence to Beurma, near Bami, about 200 miles in all; within 100 miles of Askabad, and 260 of Sarakhs, on the northwest frontier of Afghanistan. — On Jan. 1, 1879, there were forty-five railway companies existing in the empire. Of this number ten had constructed their lines altogether without government assistance; while the remaining thirty-five were guaranteed, fifteen to the full amount of their capital, and the other twenty only to a partial extent. The entire sum guaranteed in 1874 by the state, in the shape of interest and repayment of capital, amounted to 51,177,627 roubles, or £7,311,089. In the year 1878 the sum of 14 592,172 roubles, or £2,084,596, being 78 52 per cent. of the sum total, was paid out of the exchequer to the railway companies. The charters granted to railway companies are for the most part terminable after between seventy-five and eighty-five years; but some small companies have charters only for thirty-seven years. The following table shows the gross receipts, the working expenses and the net receipts, in roubles, of the Russian railways during each of the eleven years 1869-79:

YEARS.	Gross Receipts.	Working Expenses.	Net Receipts
1869	65,272,518	35,469,953	29,802 565
1870	78,820,633	46,719,992	32,100,642
1871	95,075,742	60,386,666	34,689,076
1872	102,645,916	66,081,549	36,564,367
1873	123,696,908	72,948,948	51,447,960
1874	141,632,640	89,124,000	52,508,640
1875	142,004,655	92,941,455	49,063,200
1876	147,896,236	100,267,449	47,128,787
1877	193,223,874	121,494,777	71,729,097
1878	211,905,758	133,120,261	78,785,497
1879	212,771,418	151,175,558	61,595,860

It appears from official returns referring to the end of the year 1878, that at that date the capital of all the railway companies amounted to 1,450,988,196 roubles, or £207,184,088. The capital consisted of £135,446,153 in bonds, and £71,737,875 in shares. No less than £92,101,350 of the bonds and £9,055,750 of the shares were held by the government itself; 48.8 per cent. of the whole railway property of the country was therefore held by the government. — The postoffice in the year 1880 conveyed 128,817,612 letters and post cards, 8,960,721 wrappers and parcels, and 88,168,700 newspapers. There were 4,458 postoffices in the empire in 1880. The total receipts of the general post in the year 1880 did not cover the expenditure. — The length of telegraph lines in Russia, in 1880, was 59,000 English miles, and the length of wire 134,000 English miles. Of the total system, about seven-eighths was the property of the state. There were at the same date 2,838 telegraph offices, 1,185 belonging to the state, and the remainder to private companies. The total number of telegrams carried in 1880 was 7,298,429, comprising 5,768,255 inland dispatches, and the rest on international service. The receipts of the telegraph office, which were £1,226,762 in 1878, have shown, in recent years, a small annual surplus, which is, by imperial decree, always devoted to the extension of the telegraphic system.—F. M.

16, 1862); 14 *Stat. at Large* (act of July 28, 1866); 17 *Stat. at Large*, 486 (act of March 3, 1873); and 18 *Stat. at Large*, 4 (act of Jan. 20, 1874).

ALEXANDER JOHNSTON.

SAN DOMINGO. The republic of San Domingo (*Republica Dominicana*), founded in 1844, is governed under a constitution bearing date Nov. 18, 1844, reproclaimed, with changes, Nov. 14, 1865, after a revolution which expelled the troops of Spain, who held possession of the country for the two previous years. By the terms of the constitution, the legislative power of the republic is vested in a national congress of two houses, called the *consejo conservador*, and the *tribunado*, the first consisting of twelve, and the second of fifteen members. The members of both houses are chosen in indirect election, with restricted suffrage, for the term of four years. But the powers of the national congress only embrace the general affairs of the republic; and the individual states, five in number, have separate legislatures. — The executive authority is vested in a president, chosen in indirect election for the term of four years. Constant insurrections have allowed very few presidents to serve the full term of office. The administrative affairs of the republic are in charge of a ministry appointed by the president, with the approval of the *consejo conservador*. The ministry is composed of the heads of the departments of the interior and police, finance, justice, war and marine, and foreign affairs. — The financial estimates of the republic for the year 1882 set down the revenue as $1,500,000, or £300,000, with an expenditure to the same amount. The branches of expenditure were as follows:

Interior and police	$ 253,514
Foreign affairs	146,483
Justice, etc.	255,832
Finance, etc.	144,108
War and marine	437,823
Extraordinary expenses	102,177
Balance	160,000
Total	$1,500,000

The revenue for 1883 is estimated at $1,750,000, mainly derived from customs duties, which average 40 per cent., while a large part of the annual expenditure is for the maintenance of a standing army. Besides a large internal debt, of unknown amount, San Domingo has a foreign debt, contracted at the London stock exchange in 1869. The debt, to the nominal amount of £757,700 at 6 per cent., was issued at the price of 80; but it was stated officially that the government had actually received only between $190,000 and $250,000 from the contractors for the loan. ("Report of the Select Committee on Loans to Foreign States," 1875.) It is officially stated that the government is now (January, 1883) engaged in ascertaining the amount of the debt, and a commission has been appointed for the purpose. — The area of San Domingo, which embraces the eastern portion of the island of Hayti (the western division forming the republic of Hayti), is estimated at 18,045 English square miles, with a population, in 1880, of 300,000 inhabitants, or sixteen to the square mile. — The republic is divided into the five provinces, or states, mutually independent, of San Domingo, Azna de Compostela, Santa Cruz del Seybo, Santiago de los Caballeros, and Concepcion de la Vega, besides four maritime districts. The population, like that of the neighboring Hayti, is composed mainly of negroes and mulattoes, but the whites, or European-descended inhabitants, are comparatively numerous, and, owing to their influence, the Spanish language is the prevailing dialect. The capital of the republic is the city of San Domingo, founded in 1494, at the mouth of the river Ozama, with 10,000 inhabitants. — The commerce of the republic is small, owing in part to customs duties of a prohibitory character. The principal articles of export are lignum vitæ, logwood, coffee and sugar. Cocoa is also cultivated. In 1881 the value of the imports amounted to £352,263, and of the exports to £338,215, the foreign commerce being shared by the ports of San Domingo and Puerta Plata. The commerce of the republic is mainly with the United States and Great Britain. — The country is stated to be making rapid progress. A railway is being constructed between Samaná and Santiago, embracing the whole of the rich provinces in the northern portion of the republic, and another line will soon be made between Barahona and the salt mountain of "Cerro de Sal." Large sugar plantations and factories are stated to be now in full work in the southern and western parts of the republic, and a large factory for concrete owned by an English company. — The bay of Samaná, on the northeast coast of San Domingo, one of the greatest natural harbors in the world, thirty miles long and ten miles broad, was ceded, with the surrounding country, to a company formed in the United States, by a treaty signed by the president of the republic, Jan. 10, 1873. Under another decree, passed March 25, 1874, the rights of the company were confiscated, on the ground of non-payment of a stipulated annual rent. — BIBLIOGRAPHY. Samuel Hazard, *Santo Domingo, Past and Present: with a glance at Haiti*, London, 1878; W. Jordan, *Geschichte der Insel Haiti*, Leipzig, 1849; D. B. Randolph Keim, *Santo Domingo: Pen Pictures and Leaves of Travel*, Philadelphia, 1871; Antonio Monte y Tejada, *Historia de Santo Domingo, desde su Descubrimiento hasta nuestros dias*, Habana, 1853.

F. M.

— In 1869 a movement took shape for the annexation of San Domingo to the United States. Much of the impelling force of the movement undoubtedly lay in the selfish interests of various American citizens in San Domingo, in their loans to the republic, their claims against it, and their unproductive grants from it; but a further incentive was the naval importance of the bay of Samaná, as a coaling station for United States vessels, and a commanding position for the Mona passage, the eastern avenue to the gulf of Mexico. In July,

1869, Gen. Babcock was sent to San Domingo by President Grant; and, on his favorable report, a treaty for the annexation of the republic was made, Nov. 29, 1869, with a convention for the lease of the bay and peninsula of Samaná to the United States. The treaty was ratified by popular vote in San Domingo; but in the United States it met instant opposition. A new article was added to the treaty, May 14, 1870, in order to remove some of the reasons for opposition, and President Grant, in a special message of May 31, urged the ratification of the whole treaty. He believed that it would maintain the Monroe doctrine, prevent the acquisition of Samaná by a European power, build up our lost merchant marine, abolish slavery at once in Cuba and Porto Rico, and ultimately in Brazil, support a population of 10,000,000 in luxury, and pay off the foreign debt of the United States. Nevertheless, the senate rejected the treaty, June 30. — In his annual message of Dec. 5, 1870, President Grant proposed that congress should authorize a commission to negotiate an annexation treaty with San Domingo, and reiterated his former arguments in favor of the project. Congress went with the president far enough to pass a resolution, Jan. 12, 1871, authorizing the appointment of a commission to examine into the condition of San Domingo, but added the proviso "that nothing in these resolutions contained shall be held, understood or construed as committing congress to the policy of annexing the territory of the said republic of Dominica." The commissioners, B. F. Wade, Andrew D. White and S. G. Howe, visited San Domingo in January - March, 1871, and made an exhaustive and rather favorable report. They specially reported that they could find no trace of the corrupt grants of land to United States officials which had been declared by common report to be the real moving cause of the treaty. But the "San Domingo scheme," with its accompanying charges of fraud, corruption, bargain and jobbery, had by this time become highly unpopular, and the president, in a special message of April 5, 1871, abandoned the question to congress, appealing to the candor and intelligence of the people for a justification of his own action. No further action was taken in the matter. President Baez, of San Domingo, had been the most efficient agent of the proposed annexation; and his government was completely overthrown by a successful revolution, 1872-3. — One of the most active opponents of annexation was Senator Charles Sumner (see his name). The controversy between him and the president became personal and angry, and in 1871 he was removed from his place of chairman of the senate committee on foreign relations, at the request of the president, by vote of the other republican senators. From that time he was in opposition to the administration until his death, in 1874. A. J.

SANDWICH ISLANDS. These islands are situated in the Pacific ocean, at an equal distance from the shores of America and Japan, between 19° and 22¼° of north latitude and 155° and 160° of Paris longitude. The archipelago is composed of fifteen islands, of which only seven are inhabited or inhabitable. Their names and respective area in square kilometres are as follows: Hawaii, 12,620; Maoui, 1,966; Oahu, 1,822; Molokai, 468; Kaouai, 2,010; Nihaou, 308; Kahoulai, 94. On a total area of 19,756 square kilometres, the number of inhabitants was, in 1872, 56,897, of which 40,044 were natives. Since 1798, the date of the discovery of these islands by Cook, their population has been constantly diminishing. It amounted at that time to at least 300,000; in 1823, Mr. Ellis found less than 150,000, of whom 85,000 were in the great island of Hawaii. The statements of subsequent censuses have shown still further diminutions: in 1832, the population was 130,313; in 1836, 108,579; in 1849, 84,163; in 1853, 71,019; in 1860, 67,979. These diminutions are attributed to the dissolute habits of the inhabitants. The introduction of civilization and Christianity has not yet succeeded in establishing the institution of the family there. Marriage exists only in name. The children are, for the most part, brought up by persons other than by those who begot them. The children brought up by their parents are no better taken care of. The father scarcely able to exist, his protection is almost entirely lacking. The mother, desirous of preserving her charms, which nursing children might destroy, and especially her freedom, hastens to rid herself of her progeny. The children, born spite of attempts at abortion, are, notwithstanding all the severity of the criminal laws, regularly put to death during the first year after their birth. The practices of abortion and infanticide are common in all classes of society. In the lower classes, births are very numerous; but, despite the advantages and exemptions from taxes granted to families which have more than two children, it is rare to find a family which has more than one. — The governmental and social system was for a long time a sort of feudal communism. The union of the islands under the sole rule of Kamehameha I. in the beginning brought about no change in this state of affairs. The sovereign alone was proprietor of the land. It was not until 1848 that the right of possessing landed property was granted to individuals. — In 1838 all power was concentrated in the hands of royalty. At that time Kamehameha III., yielding to the advice of American missionaries, made himself a constitutional king. The constitution of 1840, which created a chamber of nobles, composed of sixteen persons, five of whom were women, with the king for president, did not prove very successful. It was necessary to revise it in 1848, and to confide the executive power to a council of ministers, presided over by the minister of the interior. This new constitution, which recognized an order of nobility, has also been reformed. The two parts of the national representation were replaced by a privy council, composed of the king, the queen, the ministers, the governors of the four largest

islands, the chancellor, the judges of the supreme court, and of eight elected members; but since that time the constitution of Aug. 4, 1864, doubled the number of the elected members of the privy council, eight of whom are chosen from among the natives, and eight from among foreigners. This parliament deliberates at will in the native or in the English language. After the death of king Kamehameha V., the author of the constitution of 1872, a descendant, in the female line, of the chief of the dynasty of Lunalilo I. was elected king, not, as has been stated, by universal suffrage, but by a vote of parliament. (He only reigned two years.) — The press plays a great part in the political system of the islands. The government is represented by the "Polynesian," a journal whose chief editor is appointed by the government, with the title of director of the press; the opposition, by the "Commercial Advertiser," the "Friend," and the "Star of the Pacific." — Almost all public offices are in the hands of English or American naturalized Hawaiian subjects. The constitution of 1840 accorded freedom of conscience; no religion has succeeded in improving the population; the ministers of all religious sects are agreed in acknowledging that their flock is Christian only in name. Schools, however, are numerous.—During 1859–60, the revenues amounted to $656,006, and the expenditures to $643,000. During 1870–72 the receipts amounted to $964,956, and the expenditures to $969,784. The customs figured in the receipts for $396,418, the domestic taxes for $98,983, the direct taxes for $215,962, the *regalian* rights, postoffice, renting of domains, etc., for $124,071. The national debt was estimated, in 1874, at $177,971. — The soil is very fertile, and its present products would be sufficient to feed a population five times as large as that now occupying the islands. To the native nutritious plants have been added the cultivation of tobacco, indigo, potatoes and sugar cane. The exports, in 1860, amounted to more than $1,200,000; those of 1871, to $2,145,000, of which $1,408,000 were native products. Oils and whalebone, sugar, coffee, wool and peltry formed the principal articles of export. The imports represented an amount of more than $1,500,000. Six-tenths were furnished by the United States, and the other four-tenths by England, the Hanseatic cities, Sweden and Russia. The Sandwich islands are connected with all these countries and with France by commercial treaties. The independence of this archipelago was, in 1863, the object of a special recognition, in which the United States joined the following year. *

LOUIS GOTTARD.

* The Sandwich islands are also known as the Hawaiian islands, Hawaii being the largest of the group. The latest statistics give the population at 57,985, 5,916 of whom are Chinese and 4,561 whites. The capital is Honolulu, with a population (1878) of 14,114. The receipts of the state from April 1, 1876, to March 31, 1878, amounted to $1,151,713, and the expenditures to $1,110,472. The state debt on March 31, 1878, was $444,800. The standing army consists of only seventy-five men. There is a volunteer corps of 400 men.—M.

SANITARY SYSTEM. I. *Public Health.* The administrative organization of the sanitary regimen, in Europe, may be divided into three distinct systems: the French system, the English system and the German system. Other states adopt one or the other of these systems, with some modifications. — 1. *The French System.* This is characterized by the institution of collective authorities, under the name of councils of public health, and by the purely consultative powers with which they are invested. The right of execution belongs to the prefect, who is president *ex officio* of these councils. From the time of the new organization of police in the city of Paris, in 1667, the first magistrate charged with this administration, De La Reynie, formed a commission of physicians to consult upon a question relative to the making of bread. The opinions were found to be so diverse that he appealed to the faculty of medicine, which, at that time, embraced the entire medical body. In this assembly the disagreement was no less, and a commission, composed this time of six physicians and six "notable and expert" citizens, had to decide the question. Afterward, recourse was had again, more than once, to the advice of this commission, and, toward the end of the last century, the state of the sanitary police of the capital of France was relatively superior, and it filled with enthusiasm J. P. Frank, who may be considered as the founder of scientific hygiene. "I found there," he exclaimed, "a model of those courageous applications of *heroic* remedies, which will never escape criticism in certain German provinces. For many centuries the enlightened vigilance of the magistrates of this immense city has descended to the slightest details, and an eminently salutary (*segensvoll*) order of things confirms the value of most of the prescriptions which have their origin there." — The royal society of medicine was religiously faithful to that part of its duties, the usefulness of its work, in the domain of public health, extended far beyond the precincts of Paris, and has outlived the existence itself of the illustrious company. Whoever has had to treat any subject of hygiene, notably of endemics or epidemics, appreciates with real gratitude, in the memoirs of the society published from 1779 to 1790, the instructive developments of its programmes and the wealth of material it has bequeathed to students. — M. Dubois, prefect of police, took up these excellent traditions, when, by a decree dated the 18th Messidor, year VIII. (July 6, 1802), he established a board of health, composed of four paid members. Since then, this board, consulted as to all questions relating to public health, has seen the number and importance of the affairs submitted to its deliberation increase in proportion as Paris has increased. Its organization was fixed by the decree of the prefect of police of Dec. 24, 1832, somewhat modified in 1838 and 1844. The decree of Dec. 15, 1851, only confirmed the existing institution. The powers of this board extend only over Paris, but there are, in each of the arrondissements of

the city of Paris and in those of Sceaux and Saint Denis, health commissions, with less extensive powers. — The example given by the capital was slowly enough followed by the administrations of the principal cities of France. From 1822 to 1832, Lyons, Marseilles, Lille, Nantes, Troyes, Rouen, Bordeaux, Toulouse and Versailles were provided with boards of health. In 1836 the government thought of a general and definitive organization of the sanitary régime in France. The academy of medicine joined eagerly in this effort with a long and remarkable report by Dr. Marc; but these projects were not realized. They were revived by the revolution of February. In the midst of the ardent aspirations for the well-being of the masses, which agitated this epoch, public health could not be forgotten. A plan was drawn up under the direction of M. Tourret, then minister of agriculture and commerce, and became the decree of Dec. 18, 1848. This act applied only to the departments; it organized commissions of health in each department, arrondissement and canton, composed of physicians, apothecaries, architects and other specialists. Their powers extended over the healthfulness of the public highways, houses, workshops, schools, etc.; over the slaughter houses, factories and other industrial establishments, the nuisances of all kinds, dangerous animals, cemeteries, epidemic and endemic diseases, as well as over epizoötics. Their powers also extended to the surveillance of the quality of the foods, beverages, condiments and medicines of commerce. The decree mentions also many other points; but, as they seem to be entirely neglected, we may pass them over in silence. In fact, the occupation of the boards of health consists chiefly, as M. Tardieu admits, in examining demands for the licensing, removing or abolishing dangerous, unhealthy or incommodious establishments, governed by the decrees of Oct. 15, 1810, and Dec. 31, 1866. The committees find at times useful auxiliaries in the *physicians of epidemics* and the *cantonal physicians*. The first, established since May 2, 1805, in each arrondissement, must, at the first request which they receive from the subprefect, go to the localities in which an epidemic has broken out, examine into the circumstances of the situation, the habits of the people, etc., which might have caused it to originate or which favor it, and prescribe the measures proper to arrest its progress, as well as the method of treatment. The cantonal physicians date from April 13, 1835, and are as yet in only a certain number of departments. — The organization of the *Comité consultatif d'hygiène publique de France* was regulated by the decrees dated Aug. 10, 1848, Oct. 23, 1856, and Nov. 5, 1869. It is composed of physicians, a chemist, an engineer of roads and bridges or of mines, an architect, and various functionaries. The province of the committee extends to quarantines and to the service of the sanitary physicians established in the orient; to the measures to be taken to prevent and combat epidemics; to the improvement of the thermal establishments, and to means of rendering the use of them more accessible to invalids who are poor. — The law of April 13, 1850, also instituted, besides, "in each commune where the municipal council shall have declared it necessary," commissions of unhealthy houses, furnished with the power necessary to bring about the purification of such houses. — The academy of medicine is the completion of the aggregate of the institutions with which we have to deal here. It encourages by honorary rewards the study of epidemics, centralizes the results which this study produces, and presents annually, in its learned memoirs, a tableau of the diseases which have prevailed in the different parts of France. The care of propagating vaccine, and the centralization of the observations made in the establishments of thermal or mineral waters, are also confided to it. — Italy, Belgium and Spain follow, in their sanitary system, the way of the French. But it would be departing from the truth to place these countries in the same line. In the middle ages, Italy had already preceded other countries on this road, and to-day it still occupies an honorable rank among countries which give their attention to public health. — 2. *The English System.* Intelligent provisions relative to the construction and maintenance of public highways, dams and sewers; regulations concerning unhealthy trades and the construction of houses, dating from the reigns of Henry VIII. and Queen Elizabeth, had fallen into disuse. Under George IV. a law declared that each person had the right to remove objects which were "to the annoyance of all the king's subjects," and "of doing one's self justice." Then it was necessary to bring long and expensive lawsuits, which were very much disapproved of by everybody. And yet there was the appearance of a sanitary police. It was confided to local juries; their organization and the services which could be expected from them may be inferred from the following example. In a district frequently ravaged by contagious fevers "of the gravest kind," the jury was composed of twelve members, of whom six were toll-keepers, one or two cheesemongers, three or four tailors or drapers, one mason, one house builder, and no physician. No one, they acknowledged themselves, knew anything of the business in hand, except how to examine weights and measures; and without the fortuitous presence of the builder, they would neither have understood, nor been able to do anything of, what was incumbent upon them. — Such was the situation when the invasion of the cholera brought to an end this too long continued security. The tribute paid by England to the scourge was great. In one year alone she lost 70,000 individuals, of whom 30,000 were adults. This was 10,000 more men than the wars of 1800 to 1815 had cost her. And this was not all. In presence of these hecatombs, it was recalled that other epidemic diseases, almost unknown elsewhere, subjected, at all times, the English populations to a regular diminution, and it had to be acknowledged that those wealthy cities

and those sunny stretches of country were as if poisoned by murderous miasmas; that those majestic rivers, the pride of the country, carried death in their corrupt waters; that the royal residences and even the interior of the palaces were filled with dangers. As soon as these cries of alarm were heard, England looked the enemy in the face, and understood that, to conquer it, radical measures were necessary. — From 1848 new laws paved the way for a general healthfulness by means of the drainage of the marshes, the streets and the houses, as well as the establishment of aqueducts and sewers. This vast undertaking was confided to a general board of health, furnished with great executive authority and powers proportioned to the difficulties of the enterprise. In the special interest of the new sanitary police, the entire country was divided, by geological basins, into districts wholly independent of the administrative arrangements of the parishes, etc.; physicians were charged with the medical care of the poor, who were, moreover, visited and aided by a great number of relief officers. — This organization appears to have been only partially successful, especially outside of the capital; complaint was made of the multiplicity of laws and authorities, one charged with the poor, another with the sewers, others still with unhealthy houses, etc. A law of 1872 (Aug. 10, 35 & 36 Victoria, chap. lxxix.; see also the sanitary act of 1866) concentrates this service in the hands, either of the municipality in the cities, or of poor boards. All power is given them to take the necessary measures and to levy taxes, to appoint and pay physicians, and to have charge of the execution of measures of sanitary police. The sanitary service comes within the functions of the board of local government, which causes its execution to be seen to by inspectors appointed for that purpose. — 3. *The German System.* The principle of cantonal physicians, official guardians of the public health, and expert physicians attached to the courts, charged with visiting the poor gratuitously, is everywhere in force. A hierarchy, similar to that of the administrations, binds them to a medical college forming part of the provincial authority. At the top of the pyramid is a superior committee. This system does not seem, however, to be sufficiently efficacious, at least as regards epidemics, for in 1872, the government appointed a commission to devise the organization of a service embracing all Germany, public health being within the functions of the federal government. — Holland, Russia, Sweden and Denmark have organized their sanitary institutions after the German system. — II. *Endemics and Epidemics; Contagious Diseases; Quarantines.* The diseases which have a right to the attention of the legislator and of the administration constitute *three* classes. They are: endemic, epidemic and contagious diseases. *Endemic* diseases arise from the conditions of the configuration of a country, from its meteorology, from the geological structure of its soil, from the distribution of its waters and their qualities, from its vegetation and all its products, from the food of its inhabitants, from their mode of life, from their ease or their poverty. The number of affections of this order is large, if one considers them in all the zones of the globe. Here it is sufficient to cite the most prominent examples in certain climates: cretinism, with the endemic goitre, intermittent fevers, pellegra, etc. When we consider that the goitre and cretinism constitute a veritable physical and moral degeneration of man; that it is fatally propagated by heredity; that on the territory of France live more than 100,000 of these unfortunates, and that the number of them is still more considerable in Switzerland, Piedmont, Austria, etc.; that the endemic intermittent fevers, in their various pernicious forms, very often carry death in their train, and when they are of an intense degree, keep entire populations in an habitual state of debility, incapacity for labor, and sunk in profound poverty, we must admit that the ravages produced by this category of evils outweigh every other danger which can temporarily threaten public health. — Fortunately, the state can do much to improve this state of things. The drainage and cultivation of the marshes, the planting of the downs, irrigating canals, drainage practiced on a sufficient scale, are sure means of producing healthfulness. A government must not even recoil before the removal of a small population, when it is absolutely impossible to modify the topography of the localities which it inhabits, as may happen in certain narrow valleys, and mountain gorges, seats of cretinism. These great public works necessitate, it is true, very considerable expense. But public interest counsels these productive expenses as much as humanity commands them. — Any disease which attacks simultaneously in a place a more or less considerable number of individuals, is called an *epidemic.* Strictly speaking, we should not have to cite examples here, for we would have to pass in review almost all the immense repertory of medical practice. We see even epidemics of erysipelas and of brain fever; as, on the other hand, we observe isolated cases of affections which we are most used to regard as being of an epidemic character, such as small-pox, cholera, etc. Epidemics belong to those cases in which society finds the compensation of the sacrifices it has undergone to increase the well-being and strength of its members even in the lowest ranks. The evil is always so much the more formidable and is so much the more extensive as it encounters the less resistance; and where can this resistance be found except in the vital energy of those who are exposed to the attacks of disease? Moreover, hygienic and healthful measures, hastily improvised when an epidemic is imminent or has already broken out, present the double inconvenience of being particularly expensive and of a very limited efficacy. — A *contagious* disease is one which can be transmitted, by the contact of an individual who is already affected by it, to one or more other individuals predisposed to catch it. This definition differs essentially, we see, from the

one we gave in the preceding paragraph; it establishes a well-defined line of demarcation between the two classes of diseases. There exist undoubtedly contagious diseases which are never epidemic, just as there are important epidemics into which the element of contagion never enters; for these latter, the question is only one of isolation, sequestration, quarantine. — Antiquity, although it was acquainted with very terrible epidemics, opposed to them only a stoical courage and a few measures of general hygiene. In the middle ages only, at the same time that the frequency and violence of the "pests" took a frightful development, did efforts of direct defense against them begin to be taken. The terror which they inspired was extreme, the weapons with which they were fought were often barbarous. Society saw itself powerless to attack the evil in its source, by transforming the physical state of Europe and improving the material and moral existence of its people. It conceived the idea of closing access to its cities to the enemy, and of hemming it in, like a conflagration, when it had once penetrated there. The disease considered especially contagious, leprosy, had its permanent quarantines. Veritable centres of an unclean and crowded population, the settlements of lepers soon became themselves, by hereditary propagation, more surely than by contagion, immense centres of infection, which that heartless time ended by recognizing only one way of opposition, the funeral pile and the stake, its last argument in hygiene, as it was in politics and theology. — The Italian republics sought, from the second half of the fourteenth century, in *quarantines* a means of protection against the invasion of pestilential diseases, although the greater part of these diseases, far from being the real eastern plague, were not even contagious. Milan possessed a lazaretto with nearly 500 rooms. Having at that time the monopoly of the trade with the Levant, Venice instituted, in 1403, the first maritime quarantine; Genoa followed this example in 1467. The regulations designed for these institutions were drawn up with Draconian severity, and the traces of them have been very slowly effaced. Scarcely a century ago, shipwrecked men, who were supposed to come from a port where an epidemic prevailed, were driven from the shores of Holland with cannon, and in our day we have seen pitiless instructions given to the troops who, on the frontiers of Poland and Russia, formed the sanitary cordon against the cholera. Despite a permanent sanitary cordon, maintained, from 1728, by Austria upon all its eastern frontier, its provinces were ravaged by the plague in 1738, and from 1755 to 1757. — In France, up to the year 1822, there existed no sanitary law, although Marseilles, in obedience to the wants which its relations with the east created, had for a long time developed the institutions bequeathed by previous centuries, and had evolved from its old *captains of health* the magistracy of *sanitary supervision*, no less independent than they. The invasion of the yellow fever into Catalonia soon brought about the promulgation of a law, dated March 3, 1822, followed by a royal ordinance of Aug. 7 of the same year. The precision with which, in 1830, it was believed the advance of the cholera could be followed from the delta of the Ganges to the centre of Europe, revived with new force the hope that the progress of diseases considered to be communicable might be arrested. The experiment was not fortunate for the contagionist doctrines, which had been previously shaken so far as the yellow fever and the plague were concerned. Legislation had to undergo modifications, which were formulated by the royal ordinance of Aug. 17, 1847 (which instituted European sanitary physicians in the Levant), a decree of Aug. 10, 1849, and a decree of Dec. 24, 1850. Then France took an initiative, the happy influence of which must be acknowledged. She was the instigator of an *international sanitary conference*, formed by the various powers which have joint interests in the Mediterranean. In 1850 there assembled at Paris delegates from France, Austria, the Two Sicilies, Spain, the Roman States, Greece, Portugal, Russia, Sardinia, Tuscany and Turkey, who, after thorough discussion, decided on a project for an international convention and for sanitary international regulations. England was also represented at this congress, but she did not sign the convention which was the result of it. Adopting the advice of her general board of health, she renounced all organization intended to keep away from her shores the cholera, the plague and the yellow fever. Neither in France nor elsewhere did people dare to break, in so radical a manner, with deep-rooted ideas and apprehensions. But the new code has freed commerce from a great part of the shackles and the injury which were becoming more onerous in proportion as the circle of communications between nations enlarged. — The imperial decree promulgating this international convention bears date May 27, 1853; the decree relative to its being put into execution is dated June 4 of the same year, and was followed by detailed instructions. After having declared that this act applied especially to the plague, the yellow fever and the cholera, the convention sets forth in principle that besides any healthy port has the right to fortify itself against a ship having on board persons affected by a disease reputed contagious, such as typhus fever and malignant small-pox. It maintains the *foul bill* and the *clean bill*: the former, for the proven presence of the disease in the country from which the ship comes; the latter, for the attested absence of all contagious disease. Every ship arriving with a *foul bill* shall be declared in quarantine. The latter is divided into quarantine of observation and close or rigorous quarantine. In what concerns the plague, the minimum of the quarantine is fixed at ten full days, and the maximum at fifteen. For the yellow fever, the minimum is five days and the maximum seven; for the cholera, the quarantine of observation is five full days, including the time of the voyage. — For merchandise, three categories have

been established, and they must be treated according to the class to which they belong. The execution of the prescriptions is confided to sanitary authorities, who are everywhere organized upon uniform bases. The *director of health*, taken when possible from the medical body, is the head of the active service. A council, composed of local scientific elements, watches over the interests of the public health, exercises a general surveillance over the sanitary service, gives advice as to the measures to be taken in case of invasion, and controls its execution. — Besides the provisions common and applicable to all the countries signing the convention, Turkey in Europe and Turkey in Asia, as well as Egypt, are the object of particular provisions, intended to prevent the development of the plague, to stop this disease when it exists, to give notice of it, and to oppose its introduction into other countries. To this end a superior board of health has been established at Constantinople, and a sanitary board at Alexandria; foreign delegates, who must as much as possible be specialists, form a part of these boards. — This organization is completed by the development of the institution of sanitary physicians, established in 1847, who are divided into two classes: central physicians and ordinary physicians. Appointed by the contracting powers, they preserve their independence of the local authorities, and are dependent only on the governments which appointed them. Their functions consist in studying, in its relation to public health, the country where they are, its climate, its diseases and all the conditions attached thereto, as well as the measures taken to combat these diseases; to inform the central physician of the arrondissement or district (a central physician resides at Constantinople, Smyrna, Beyrouth and Alexandria), and the local consular body and the local authorities, of everything which has to do with the general health. — Finally, physicians, commissioned by the minister of agriculture and commerce, are shipped upon the steamers, which are the most active intermediaries between France and the Levant. These men are there, as so many posts of observation, whence they must signal the slightest suspicious disease which may arise during the voyage. M. BORCHARD, D. M. P.

SAVINGS. Saving is the intended conservation of the whole or part of a useful object; it is the setting apart of what is not indispensably necessary for actual wants; it is a provident reserve for certain contingencies, a provision or resource which perseverance increases from day to day, to guard against the necessities of an uncertain future. The saving is direct when it is exercised on the object itself, which is not actually consumed. It is, however, generally indirect, taking the form of money laid by until a profitable investment is found for it, or it is intrusted to some private or public savings institution. — Adam Smith was the first to study the nature of *savings*, and he did it like a profound economist, politician and philosopher. Smith values highly the man who saves, as a benefactor of society, as the originator of a public workshop, which furnishes employment to a greater or less number of producers; the constant, uniform and uninterrupted effort of individual saving, he raises to the rank of a principle, and he sees in this principle the prime source of national wealth. The spirit of saving, he adds, is always more extensive than the wastefulness of prodigality can possibly be; its reparatory power is enormous, and no matter how great the waste of individual or governmental imprudence, it is still at work in the nation, unknown and in silence, from the irresistible necessity of assuring the future; this spirit realizes such an amount of saving, that, from one historical period to another, we may easily recognize a constant improvement in public and private fortunes. According to that illustrious economist, the immediate cause of the increase of a nation's capital is saving, and not industry. Industry, it is true, furnishes the material which is to be placed in reserve, but saving alone accomplishes this reserve, and without it, capital, being entirely consumed as fast as it is produced, would never become any greater. — Frederick Bastiat, in an unfinished chapter of his "Economic Harmonies," bases the résumé of his entire doctrine, exchange and value, upon the definition of saving. "To save," he says, "is voluntarily to place an interval between the time when we render a service to society, and the time when we demand back an equivalent therefor. Thus, a man may, every day, from his twentieth to his sixtieth year, demand from his fellows, services equivalent to only three-fourths the value of the services he renders them in the practice of his profession or trade. Thus he acquires the right of drawing from society, in his old age, when he can no longer work, the unpaid fourth of his labor of forty years. The fact of his having received and accumulated titles, in the form of bills of exchange, sight drafts, bank notes and specie, is an entirely secondary matter and of no moment; it has reference only to the manner of accumulation; it can not change either the nature or the effects of saving. * * To save, therefore, is to have rendered a service, and granted time for the return of its equivalent, or, to speak more generally, it is to allow a certain space of time to elapse between the service rendered and the service received." — One of the most dangerous anti-economic prejudices advanced, is that which considers saving as a veritable injury to society, and especially to labor. It is urged by unthinking men, that, to encourage commerce, it is necessary to spend, and to spend a great deal. This is even made a governmental rule in too many cases. This disastrous sophism, which, as Adam Smith has remarked, has not yet succeeded in ruining nations, because the power of saving is greater than that of prodigality, at least impedes the development of general prosperity, and impoverishes or overburdens with debt, the cities which administer their affairs in accordance with it. It is based upon a singular illusion, which identifies the man who saves with

the avaricious miser, whose only care is to hoard up treasure. In times of invasion or trouble, in the absence of all security, when men's minds are tortured by the fear of pillage, the man who has received money in exchange for his services, may be driven to imbed it in a wall, or bury it in the ground, in order to save it from brutal cupidity. But in the normal state of society, unless a man be a fool or most profoundly ignorant, he will find some more profitable place for his spare capital; he will buy interest-bearing notes, or a direct interest in some industry, or he will purchase produce with the speculative chance of selling it again at a profit, or, better still, he will become an owner of real estate. How can these different operations be prejudicial to society, to industry, or even to the laborer, who is always pitied in the same breath which blames the man who saves? Workmen are the most interested of all in the general increase of capital, and, as we have seen, capital can only be increased by means of saving. In considering expense as a benefit, we must always bear in mind the great distinction that should be made between the free and voluntary outlay of a private individual who makes use of his own revenue as he wills, and public or forced expense. In the latter case, if it is intelligent and reproductive, it may turn to the profit of those who bear the expense; if foolish and unproductive, it impoverishes them, since they do not receive any equivalent advantage in return, and it benefits only a few, whose accidental or frivolous and superfluous labor it makes use of. Unfortunately such errors are regarded as incontestable truths and irrefutable axioms, by men who are otherwise most enlightened, in the official world, and they have long been the cause of disorders whose direful consequences are simply incalculable.

LOUIS LECLERC.

SAVINGS BANKS. (See BANKS, HISTORY AND MANAGEMENT OF SAVINGS.)

SAXONY. The kingdom of Saxony forms part of the German empire; it has an area of 14,968 square kilometres; its frontiers, with a total length of 1,191 kilometres, border on Prussia to an extent of 306 kilometres, and on Austria to an extent of 644 kilometres; the rest is bounded by various other states of Germany. — The population of the kingdom of Saxony was 2,225,280 in December, 1861, and 2,556,022 at the end of 1871; in 1880 it was 2,972,805; the country is therefore one of the most densely populated of Europe. In 1815 there were only 1,178,802 inhabitants; the population has therefore more than doubled since that time. — *Constitution.* The constitutional act of Saxony dates from Sept. 4, 1831, but it has been modified by the laws of May 5, 1851, Nov. 27, 1860, Oct. 19, 1861, Dec. 3, 1868, and Oct. 12, 1874, without, however, being altered in its spirit. The diet is composed of representatives of the various orders. The first chamber comprises the adult princes, five *mediatized* lords, two deputies of Protestant establishments, one deputy of a Catholic establishment (*stift*), one deputy of the university of Leipzig, two Protestant prelates, twelve proprietors of equestrian property elected for life by their order, ten equestrian proprietors appointed for life by the king (the first must possess a net income from lands of 2,000 thalers, and the second of 4,000 thalers), eight burgomasters of the principal cities, and five persons chosen by the king. The second chamber consists of twenty deputies of equestrian proprietors (having an income from land of at least 600 thalers), twenty-five deputies of the cities, twenty-five deputies of the peasants, and ten deputies of the merchants and manufacturers. All these deputies must belong to the order or the class or the district which sends them to the chamber. The whole political organization is conceived in a conservative spirit. Thus, the chambers assemble only every three years; the budget is voted for a triennial period; the deputies are elected for nine years. The formation of political parties is hindered by the fact that the deputies can not choose their own places in the hall where the sittings are held, the places being determined by law or distributed by lot. The government alone has the right of initiative. When a bill has been adopted by one chamber, the other can not reject it except by a majority of two-thirds of the votes of the members present. Ministers can not be impeached except by an agreement of the two chambers. The high court of justice, which is the court of last resort, has jurisdiction in such cases as well as of every question as to the interpretation of the constitution. It is composed of twelve members, of whom six are appointed by the king from among the judges of the kingdom, three by the first and three by the second chamber, outside of the diet; the high court is presided over by one of the presidents of the courts of appeal chosen by the king. In Saxony the power of the crown is less limited than in most other constitutional monarchies, which results in part from the antiquity of the dynasty and in part from the moderation and spirit of justice which, for many generations, have animated the princes of the house of Saxony. However, as long as the royal family remains Catholic, it will not be invested with the episcopal power which Protestant sovereigns enjoy; three or four members of the ministry are charged with the exercise of that power. — *Administration and Justice.* The country is divided into four circles (departments) the smallest of which had (1874) 380,000 inhabitants and the largest 959,000 inhabitants. At the head of each circle is a directory charged with the administrative affairs, with those of worship and instruction. The circles are divided into grand bailiwicks (*amtshauptmannschaft*) to the number of fifteen in all, and the grand bailiff may be considered as the subdelegate of the directory. In the inferior hierarchical degree of administration we find in forty-eight cities, city (municipal) councils, and in the country 121 bailiwicks (districts of 4,000 to 36,000 inhabitants), which the large proprietors gratuitously

aid as justices of the peace. The city communes possess a certain degree of autonomy. Civil justice includes as of first resort the 121 bailiwicks and (for more important matters) sixteen tribunals, whose jurisdictions extend over 84,000 to 265,000 inhabitants; above these tribunals figure four courts of appeal, one in each circle; and finally, the supreme court of appeal (third resort) sits at Dresden. In criminal cases, the trials are public, the pleadings oral, and there is a public prosecutor. Leipzig is the seat of the supreme court of commerce for all Germany. — *Worship and Instruction.* There were, in 1874, 1,248 churches, of which 1,211 were Lutheran, distributed among 897 parishes, which form thirty-seven superintendent circumscriptions. There are only 54,000 Catholics in Saxony. Public instruction includes 1,977 primary schools (instruction is obligatory), seventy Sunday schools, eight primary normal schools for male instructors and one for female instructors, eleven gymnasia (lyceums), one university (Leipzig), one academy (school) of mines, two agricultural and forestry institutions, one veterinary school, seven *realschulen* (schools of the exact sciences), two polytechnic schools (of arts and manufactures), two conservatories of music, two academies of fine arts, five schools of architecture, three commercial schools, etc. There are few countries so rich in institutions of learning, both elementary and superior, in museums, collections, and other means of instruction. — *Finances.* In the triennial financial period 1861–3, the revenue, net receipts, was 12,856,852 thalers; in the period 1864–6 it was 13,227,924 thalers; in 1872–3, 13,752,919 thalers, not including the extraordinary budget of nearly 26,000,000, intended for the construction of railways, and derived from the disposable funds of the state, principally from loans. The ordinary revenues, the only ones with which we need to occupy ourselves here, proceeded, in 1872, from the following sources:

	Thalers.
Domains:	
Forests	1,727,523
Agricultural domains	127,074
Mines	230,000
Royal manufactory of porcelain at Meissen	48,480
Miscellaneous	64,813
Total domains	2,197,890
Crown rights, net product:	
Railways	4,909,200
Taxes on the mines	261,536
Highway and bridge tolls	225,965
Miscellaneous	20,600
Total crown rights	5,417,301
Special resources (which the Saxon budget wrongly places under the head of "productive capital"):	
Interest of debts	1,230,000
Lottery	818,520
Charges of justice	52,900
Reserve of official salaries	40,950
Miscellaneous	5,138
Total special resources	2,147,508
Direct taxes:	
Real estate	1,677,870
Industrial and personal	1,298,500
Total direct taxes	2,976,370
Indirect taxes:	
Customs and consumption	613,860
Stamps	400,000
Total indirect taxes	1,013,860
Total direct and indirect taxes	3,990,230

The total amount of the taxes was reduced by the fact that the postoffice, telegraphs, customs, salt and other direct taxes were given to the German empire, which, in return, charged itself with certain expenses. Let us only remark that the customs are mentioned in the above table because Saxony appoints the customs officers the whole length of its frontiers, and retains out of the receipts which it turns into the coffers of the German empire the necessary sums to pay the agents and for material expenses. — The following are the principal items of expense of the state, in thalers:

ITEMS.	1864.	1872.
Civil list	600,000	675,000
Appanages	205,666	191,162
Interest of the public debt	2,285,231	5,487,551
Liquidation	836,296	44,166
Diet	51,520	51,520
Ministry of state, archives of the state, court of accounts	31,890	35,880
Ministry of justice	565,547	587,452
Ministry of the interior	995,944	1,397,718
Ministry of finances	510,209	511,402
Ministry of war	2,955,957	----------
Ministry of worship and public instruction	453,177	853,893
Ministry of foreign affairs	98,745	51,755
Quota to the expenses of the German empire	85,900	1,781,807
Pensions	596,910	544,875
Public works (and railways)	3,420,820	2,172,630
Other expenses	192,370	207,580
Unforeseen expenses	100,000	118,304
Total	13,236,179	14,637,185

The public debt amounted, in 1819, to more than 25,000,000 thalers; in 1842, it had decreased to 13,155,000; in 1861, the construction of the railroads raised it to 56,132,333 thalers bearing interest, and to 7,000,000 of paper not bearing interest. Jan. 1, 1873, the debt amounted to 103,003,250 thalers, besides 12,000,000 of paper money. Eighty-four millions of this debt must be charged to the railways. The property of the state is worth nearly one hundred millions, about eighty-four of which are in real estate, and fourteen millions in personal property. — *Army.* Military service is regulated by the German legislation. (See GERMAN EMPIRE.) — *Agricultural and Industrial Resources, etc.* The kingdom of Saxony is one of the most advanced countries. Agriculture has been brought to a high degree of perfection. 50.31 per cent. of the total area of the country consists of arable land, 2.85 of gardens, 11.28 of meadows, 0.12 of vineyards, 2.1 of pasture land, 30.95 of forests, and 2.39 of uncultivated lands. The soil is but little parceled out into small properties, for so populous a country. This results in part from the law which permits each rural domain the exploitation of a third only of its extent. The 971 equestrian properties, possessed in part by people who

are not nobles, form 13 per cent. of the private estates; 24 per cent. of the remainder of the real estate belongs to inhabitants of the cities, and 63 per cent. to the actual cultivators of the soil. An equestrian property is worth, on an average, 90,000 thalers; six only exceed in value 420,000 thalers. The peasants, free since 1830 from all feudal tax, are in comfortable circumstances; yet, Saxony imports 7.2 per cent. of its consumption of cereals. According to the census of 1873, the country possesses 115,667 horses, 120 asses and mules, 647,074 horned cattle, 206,830 wool-bearing animals, 301,091 hogs, 105,401 goats, and 64,288 hives of bees. — Saxony is an industrial country, for less than a third of the population lives by agriculture, while more than two-thirds are devoted to industry, commerce and the liberal professions. In 1862 there were in the manufactories 290,108 masters, clerks and workmen. There were employed 303,397 spindles for carding wool, 104,622 for combing wool, 707,887 in the cotton mills, 13,082 in the flax mills, and 520 in the silk manufactories. Small industry gives occupation to 61,129 masters and 101,178 artisans; the corporations did not lose their privileges till 1861. The distribution of steam machines is remarkable: 275 (6,442 horse power) belong to the mines and works; 75 (374 horse power) to agriculture; 32 (630 horse power) to the mills; 247 (30,898 horse power) to the transport establishments; 605 (8,071 horse power) to the manufactories. Progress has been so rapid for some time that in 1874 the number of spindles and that of the machines may be considered to have doubled. — The value of the commercial movement can not be separately settled, but Saxony must furnish a considerable share to the commerce of the zollverein. The city of Leipzig, notably, is celebrated for its great fairs, where millions of quintals of merchandise are gathered together; this city, besides, is the centre of the German book trade; and it alone has 217 bookstores. — The length of the state railways in 1874 was 108.8 miles of 7½ kilometres, the cost of constructing which, up to 1871, was 74,479,430 thalers; the length of the private lines is 34.4 miles; the length of the highways is 406 miles, and that of the roads 88½ miles. The postoffice carried, in 1861, 12,083,513 letters and packages, and in 1871, 28,819,176, not including 1,042,381 and 1,841,940 local letters in these years respectively; in 1861, 2,012,433, and, in 1871, 2,902,698 money packages, containing nearly $281,000,000 in 1861, and $279,000,000 in 1871. In 1861 the number of telegraphic dispatches was 4,015 official, and 132,552 private. There are three banks, two of which have the right to issue bank notes. — Saxony is the country in which saving is carried to the greatest extent. There is a savings bank to every 2.5 square miles (in England to every 9.4, in France to every 24, and in Prussia to every 11); or, one to every 19,400 inhabitants (in England to every 44,300, in France to every 87,000, and in Prussia to every 38,257). There is one depositor out of every 8 inhabitants (in England out of every 18, in France 32, and in Prussia 31). The average amount on each depositor's book has been 59.6 thalers (in England 184, in France 80, and in Prussia 80). Finally, dividing the amount deposited among the whole population, the average is 7.5 thalers to each inhabitant (10.2 in England, 2.5 in France, and 2.6 in Prussia).*

WILLIAM ROSCHER.

SCHOOLS. (See EDUCATION AND THE STATE.)

SCHURZ, Carl, was born near Cologne, Germany, March 2, 1829. He took part in the revolutionary troubles of 1848, came to the United States in 1852, entered political life as a republican, and reached the grade of brigadier general during the rebellion. He then settled down to newspaper work, and in 1867 became editor of a St. Louis newspaper. In Missouri he was one of the leaders of the "liberal movement" (see LIBERAL REPUBLICAN PARTY), and was elected United States senator in 1869 for the full term. His abil-

* At the census of Dec. 1, 1880, the population of Saxony was composed of 2,876,138 Lutherans; 72,946 Roman Catholics; 1,467 German Catholics; 10,235 members of other Christian sects; and 6,516 Jews. The clergy are chiefly paid out of local rates and from endowments, the budget contribution of the state to the department of ecclesiastical affairs amounting to but 85,598 thalers, chiefly spent in administrative salaries. The government of the Protestant church is intrusted to the *Landes-Consistorium*, or national consistory. Public education has reached the highest point in Saxony, every child, without exception, partaking of its benefits. By a law of June 6, 1835, attendance at school, or under properly qualified teachers, was made compulsory. The kingdom has the second largest university in Germany, that of Leipzig, founded in 1409, and attended, on the average of recent years, by nearly three thousand students. — The financial period extends over a term of two years. In the financial accounts, both the revenue and expenditure are divided into "ordinary" and "extraordinary," the latter representing income from state domains and disbursements for public works. The ordinary revenue for each of the two years 1882-3 was returned at 67,767,236 mark, and was balanced by the expenditure. The extraordinary revenue for each of the two years 1882-3, likewise balanced by the expenditure, was returned at 4,014,905 mark. More than one-half of the total revenue of the years 1881-2 was derived from domains and state railways. The chief branch of expenditure is that of interest and sinking fund of the public debt, amounting to 31,593,138 mark, for the years 1882-3. The debt was incurred almost entirely for the establishment and purchase of a net-work of railways and telegraphs, and the promotion of other works of public utility. The total debt had risen on Jan. 1, 1881, to 669,583,425 mark, and in 1882 to 673,445,475. — The population of Saxony, by the census of Dec. 1, 1880, was 2,972,805, comprising 1,445,330 males, and 1,527,475 females. The area, in English square miles, and the population, of the Hauptmannschaften, was as follows at each of the two enumerations of Dec. 1, 1875, and Dec. 1, 1880:

Kreis-Hauptmannschaften.	Area, in Eng. Sq. Miles.	Population.	
		Dec., 1875.	Dec., 1880.
Dresden	2,229	749,508	808,512
Leipzig	1,220	689,731	707,886
Bautzen	1,282	339,208	351,326
Zwickau	2,066	1,081,905	1,105,141
Total	6,777	2,760,342	2,972,805

—F. M.

ity as a speaker and writer induced the republican party to condone his offense of "liberalism," and he became secretary of the interior under Hayes. — See Davis and Durrie's *History of Missouri*, 598; Schurz's *Speeches*, 1865. A. J.

SCIENCE, SOCIAL. (See SOCIAL SCIENCE.)

SCOTLAND, the northern part of the island of Great Britain. The length of the mainland, from the Mull of Galloway, in latitude 54° 39′ north, to Dunnet Head, in Caithness-shire, in latitude 58° 40′ north, is 278 miles; the breadth, from Buchanness, in Aberdeenshire, in longitude 1° 41′ west, to the most westerly point in Ross-shire, in longitude 5° 52′ west, is 150 miles, while between the firths of Forth and Clyde, the breadth is only thirty miles. The area, including the islands, 186 in number, is 29,819.09 square miles, or about half the size of the state of Michigan. Its population in 1881 was 3,785,578; in 1811 it was but 1,805,864. — Although small in size, thinly populated and poor, Scotland, for many centuries, has occupied an important place in the annals of western Europe. Respectable historians have prefaced the history of Scotland with an imaginary line of kings descended from a fabulous daughter of Pharaoh, called Scota, who, fleeing from the plagues sent to punish her father's obstinacy, peopled Scotland. — The first reliable knowledge we have of Scotland is derived from Julius Cæsar, who invaded the island in the year 55 B. C. Julius Agricola first explored its northern coasts with his fleet, and informed the Romans that Britain was an island. In the 80th year of the Christian era, Agricola led the legions of Rome across the line which in later days marked the boundary between England and Scotland, and his son-in-law, Tacitus, in recording his achievements, first made Caledonia familiar to the Roman world, and brought a new country within the scope of authentic history. — Although the Romans effected no permanent conquest beyond the neck of land between the firths of Forth and Clyde, yet they more than once pushed their armies far northward. There are more known Roman ramparts, forts, camps and roads in Scotland than in all the rest of the world—vestiges of a close, continued and doubtful warfare. The Caledonians, who so long and so effectually kept the conquerors of the world at bay, are described as barbarous and warlike, with red hair and large limbs, and rugged as the land they inhabited. They painted their bodies, and could stand great hardships. Their arms were bows and arrows, small shields, short spears, and pointless swords; they fought also with chariots drawn swiftly by small horses. They were polygamous and idolaters, their religion being druidical. The name Caledonia, although used by the Romans, had no place among the natives, whose name for Scotland was Albin. The Roman civilization had no influence on Scotland except as it reached that country in after times from the continent. — When the Romans withdrew, the inhabitants of Scotland consisted of the Romanized Britons of Strathclyde on the south, the Dalriads, or the Scots of Ireland, on the west, and, largest of all, the kingdom of the Picts, embracing the whole of Scotland northward and eastward from the firth of Forth. The archæological hosts have long fought over the Picts. Were they Celts, or Teutons? Were they the same as the Caledonians of Tacitus, or the Scots of Ireland? What language did they speak? These are questions which will probably never be settled. — The most important event in the history of the Picts was their conversion to Christianity, in the sixth century, by St. Columba and other missionaries from Ireland, who settled in the isle of Iona. — When the writers of the early Christian centuries speak of Scotia, they refer to Ireland. The Mull of Cantyre, in Argyleshire, is only twelve miles from the county of Antrim, and the Scots spread in great numbers into Argyle and the western isles, so that there came to be two Scotias, and, prior to the twelfth century, a Scot might have meant a native of Ireland or of Scotland. The colony of Irish Scots in Albania, or present Scotland, continued to enlarge till it became a powerful and compact state, and the term Scotia gradually became dissociated from its original country, and attached entirely to the country which now bears the name. — How it came about, history does not state; but near the middle of the ninth century the Pictish kingdom disappears from history, and Kenneth MacAlpin, king of the Scots, is found reigning over its people. It is not unlikely that the barbarous Picts succumbed to the superior aggressive civilization of the Scots. At this time the Celts were known as a lettered people, and it is not improbable the Picts felt honored in accepting the Dalriadic sovereign as their own. — Scotland was long subject to incursions from the great Viking fleets of Scandinavia, and from the fourth to the tenth century large numbers of the Northmen settled on the coasts, and mingled with the existing population or gradually crowded them westward. The population of Scotland is probably of the most composite origin of any nation in Europe, a fact which has, no doubt, greatly influenced their national characteristics. Picts, Francs, Angles, Scoto-Galwegians, Saxons, Celts and Norsemen, all contributed to make the Scotsmen of to-day. — After Kenneth, the first king of the united Scots and Picts, followed a number of royal successors, such as Gregory the Great, Duncan, and Macbeda or Macbeth, around whom has gathered a most interesting history; but unfortunately it is largely mythical. — The first monarch of whose coronation we hear, was Malcolm III., son of Duncan, known as Malcolm Canmore, who was crowned at Scone, in 1057. His wife, the good Queen Margaret, or St. Margaret, had a greater influence on the destinies of Scotland than even her husband. Through her influence the "Lord's Day" was first sanctified from labor, and she did much to introduce a higher civilization. — In the tenth year of Malcolm Canmore's reign occurred the Norman

conquest of England. The subjection of the southern kingdom by the restless and ambitious Norman opened a serious future for the Scots, and for centuries they had a ceaseless struggle to prevent their absorption by their aggrandizing and powerful neighbors. — The system of the Celts, even to their latest times, was patriarchal, and not feudal. The Highlander fought for his chief as the head of his family or clan, and not because he was his landed superior. For the same reason the early Scots fought for their king, who, indeed, was oftener called king of Scots than king of Scotland. — The Normans gradually introduced the feudal usages of the continent. Under them the king was theoretically the owner of all the land. Those cultivating the lands held them from some lord or superior, who in turn held them from the king or some other superior who did so. Each subordinate had to do homage to his superior for the lands he held, for he held them solely through the special favor of his lord, who, in return, had a right to call for military and other service. The king of Scots had estates in England, and for these, under the feudal system, had to do homage to the king of England as his superior. The English soon claimed that he did homage as king of Scotland to the king of England as his superior, and that the crown of Scotland was vassal to the crown of England. Notwithstanding that folios on folios were written by the English to prove their king lord paramount of Scotland, the Scots contested the claim for generations in many a costly war. — After Malcolm Canmore came Donald Bane, Duncan II., Edgar, Alexander I., and David I. The last named was the third son of St. Margaret, and succeeded his brother Alexander in 1124. As a true son of his good mother, he had a great influence on the condition of Scotland. In his reign the old traditionary usages were first superseded by written laws. He established the bishoprics of Dunkeld, Moray, Aberdeen, Ross, Caithness, Brechin, Dunblane and Galloway, and built the abbeys of Holyrood, Melrose, Jedburgh, Kelso, Dryburgh, Newbattle and Kinloss. He so lavished the lands of the crown on the Catholic church that King James I. said that "he was ane sair sanct for the crown." David reigned twenty-nine years. He was all to Scotland that Alfred was to England. After him came his grandson, Malcolm IV., who was not twelve years old when he began to reign. He was king twelve years, but leaves no special mark on history. — He was succeeded, in 1165, by William I., surnamed the "Lion," who was taken captive at the siege of Alnwick. King Henry granted him his release only after he had signed an obligation of absolute homage to the English king for Scotland, and placed the Scots under feudal subjection to England, as if a proud and warlike people could be handed over by a slip of parchment signed under duress. Richard the Lionhearted, of England, for 10,000 marks, released the Scots from all the conditions extorted by his father from William. — William the Lion was succeeded by his son, Alexander II., a monarch of great wisdom and ability, who was in turn succeeded by his son, Alexander III., whose accidental death left the crown to an infant granddaughter, Margaret, the daughter of the king of Norway, who died in one of the Orkneys, while returning to Scotland. The death of Alexander III. closed a period of prosperity, which the kingdom did not again enjoy for five hundred years. No fewer than ten competitors for the crown appeared, the chief being John Baliol and Robert Bruce, grandfather of the great Bruce. The matter was referred to Edward I. of England, who decided in favor of Baliol, stipulating that he should do homage to him as his feudal superior. The case was under discussion and consideration for eighteen months, and the decision in favor of Baliol was no doubt a correct one according to the law of hereditary descent as now established. — As Edward claimed to be lord paramount of Scotland, so the king of France made a like claim on England, and summoned Edward as his vassal to appear and do homage before him. King Philip even fixed the day when Edward should appear in Paris. Edward prepared for war, and summoned his vassal Baliol to his aid. In the war between England and France Scotland saw her opportunity, and not only refused to aid England, but formed a league offensive and defensive with France. This was the first of that ancient league which for three centuries bound the kingdoms of France and Scotland in the closest intimacy against their common enemy, England, and had a great influence, not only on the politics of Scotland, but even on its language and manners. — The Scots invaded England, which so exasperated Edward that he decided to concentrate his force on Scotland, and marched northward as far as Elgin with a great army, taking Berwick, Edinburgh, Stirling, Aberdeen, and all the other strongholds of importance. From the abbey of Scone he carried to Westminster the stone of destiny, the palladium of Scotland. It was enshrined in the chair on which the kings of Scotland were crowned. The Scots reverently believed it to be the very stone which Jacob used as a pillow at Bethel, and that it was brought to Scone by Pharaoh's daughter Scota, from whom the Scottish kings were descended. Wherever that stone might go, it was believed the Scots would be supreme, a belief which was confirmed when, afterward, James VI. of Scotland was crowned in Westminster king of England. Edward I., as he marched back, garrisoned the strongholds with English soldiers, and many of the old castles in Scotland must be assigned to this period, 1296, and their style of architecture is properly called Edwardian. The Scots found the English planted in large numbers in strongholds in their very midst, and harassing them in many most exasperating ways. While the nobility, the natural leaders of the nation, had sworn allegiance to Edward, the smaller gentry and the common people sullenly awaited an opportunity for revenge. — At this juncture appeared the renowned Sir Will-

iam Wallace of Ellerslie, not only a brave soldier, but a man of great political and military genius. Gathering around him a band of heroic spirits, he harassed the English till his successes enabled him to collect an army of some 40,000 men, with which he totally defeated a larger English army under Surrey at Stirling bridge. This battle of Stirling bridge gave great encouragement to the Scots, as it showed that their haughty neighbors were not invincible, and being the first pitched battle of importance between the two nations did much to inspire and render permanent that international animosity which has disappeared only in recent years. After defending his country with heroism for several years, Wallace was betrayed into the hands of Edward, who caused him to be executed in London in 1305. His head was placed on London bridge, and a quarter of his body exposed at New Castle, Berwick, Stirling and Perth, respectively. These bloody trophies, far from frightening the Scots into submission, aroused their wrath and strengthened their courage. They only wanted a leader to attempt summary revenge. In the meantime, Edward, believing he had conquered Scotland, took steps to incorporate it with England. The crown was to be represented in Scotland by a governor or lieutenant, to be assisted by a council. Scotland was also to be represented in the English parliament by ten representatives; three were to be selected by the prelates, two by the abbots, two by the earls, two by the barons, and two by the community or commonalty. When parliament met, an ordinance was passed for the government of Scotland, complete in all its details. Edward showed a broad statesmanship in all this, and a desire to propitiate the Scots. Being seventy years of age, he hoped for a peaceful close of his stormy life. But it was too late. The Scots had seen the effect of Norman power in England; and Stirling bridge, Falkirk and the quartering of Wallace, were not to be so easily forgotten. — In February, 1306, Robert Bruce, lord of Annandale, was missed from Edward's court, and it was found that he had left for Scotland. He was now thirty-two years old, and had been carefully trained in the English court. On his way north he met Comyn, his only rival for the crown of Scotland, in the church of the Grey Friars, Dumfries, and during a heated controversy stabbed him with his dagger. He and his followers then attacked the English judges at that time sitting in Dumfries, and drove them across the border. The die was cast, the Rubicon was crossed, and there was no retreat for Bruce. The tidings spread rapidly all over Scotland, that Bruce was in the field against the English, and the people rose like one man. In March of the same year he was crowned king in the chapel royal of Scone. King Edward promptly determined on such an invasion of Scotland as would forever suppress all opposition. The flower of England's chivalry, with all the fighting power of England, was enlisted in the cause; and the king, broken down as he was, exacted a promise that his body should be carried with the army till Scotland was subdued. Some of the nobles of Scotland and Bruce's nearest relatives were executed as traitors, and their bodies quartered; but the Scots were not a servile people, to be cowed by such cruelties, which only served to arouse them to greater deeds of daring. King Edward died within sight of Scotland, on July 7, 1307. — The first undertakings of Bruce were unfortunate; but the death of King Edward proved a favorable turning point in the destiny of Scotland, for his son, Edward II., was no such leader as a contest like that demanded. — June 24, 1314, is the most momentous day in Scottish history, the day on which the battle of Bannockburn was fought. The Scots had between 30,000 and 40,000 men, while the English had 100,000. They had, according to agreement, to relieve the English garrison in Stirling castle before St. John's day, or it was to capitulate; and it therefore behooved them to attack the Scots in a field which the latter had selected in front of Stirling. The generalship of Bruce and the bravery of his men inflicted on England, that day, a defeat and a humiliation greater than ever befell her in all her history before or since, with the exception of the battle of Hastings. Her mighty host became a very chaos. The confusion of their flight was irremediable. The booty obtained was very rich, and articles taken at Bannockburn were treasured as heirlooms for centuries. An immense sum was also acquired by the Scots as ransoms for their noble captives.— The battle of Bannockburn marks an important epoch in Scottish history. The patriotic feelings excited and the glory acquired on that day consolidated the nation as it had never been before. It engraved on the Scottish heart a pride of their independence as a nation, which for centuries prevented a union with England; and to this day, like Thermopylæ and Marathon, it fires many a heart with an enthusiasm for liberty. The war continued for fourteen years longer, during which time England was twelve times invaded, and ravaged with fire and sword; and Edward III. was compelled to ratify a treaty in 1328, in which the claims of Bruce and the independence of the kingdom were acknowledged. — David II. was only eight years old at his father's death, in 1329, and Randolph, earl of Murray, was appointed regent. Edward Baliol, son of John Baliol, being assisted by Edward III. of England, claimed the throne, and was crowned at Scone in 1332. David, being a mere boy, was sent to France, and Baliol, being defeated soon afterward by the supporters of the Bruce dynasty, fled into England. An active warfare continued along the borders, the Scots making a diversion in favor of their ally, France, on whose soil the English king about this time gained the famous battles of Crecy and Poitiers. David returned from France in 1341, and though but eighteen years of age, he at once put himself at the head of his forces, and while invading England was taken prisoner, and remained one for eleven years. He reigned thirty-nine years, and was succeeded

by Robert II. (1371–90), grandson of Bruce of Bannockburn, being the son of his daughter Marjory, and Walter, lord high steward of Scotland, whence came the name of the Stuart dynasty, of which he was the first. Probably no regal line ever encountered so many misfortunes as did the royal house of Stuart, of more than one of whom it has truly been said that they never learned and never forgot. He was succeeded by his son, Robert III. (1390–1406), who being weak-minded, the government devolved upon the duke of Albany. He killed the king's oldest son, David, and his second son, James, fleeing to France, was captured by the English, and detained as a prisoner for nineteen years, during the greater part of which time Albany ruled as regent. It was now over one hundred years after Bannockburn when James I., being ransomed, began his reign, in 1424. He was an accomplished prince, poet and legislator, and made many necessary reforms in the administration of the country, establishing the court of session and other tribunals. He with a firm hand checked the powerful and turbulent nobility, and did much to introduce law and order. He was cruelly assassinated (1437) in the midst of his beneficent work, leaving his son, James II., then a boy of but six years of age, to succeed him. He was a brave and vigorous ruler, and was killed by the bursting of a cannon at the siege of Roxburgh, in 1460. — James III., his son, was crowned when seven years old. He was unpopular with the nobility, who rebelled against him, and persuading his son, a youth of sixteen, to join them, the king was defeated and slain in the battle of Sanchieburn in 1488.— His rebellious son succeeded, as James IV., in the sixteenth year of his age. In 1489 he married Margaret, eldest daughter of Henry VII. of England, and from this marriage eventually came the union of the crowns of England and Scotland. This Margaret, daughter of Henry VII., being great-grandmother of James VI. of Scotland, on the issue of Henry VIII. becoming extinct by the death of Elizabeth, James was next heir. James IV., desirous of assisting his ally, France, declared war against Henry VIII. of England, and was slain on Flodden Field, in 1513, where Scotland suffered the greatest defeat in her national annals. Twelve earls, thirteen lords, five eldest sons of noblemen, and an immense number of barons, fell with their king, and the land became one house of mourning. — At the death of James IV. his son James V. was but five months old, and the office of regent was conferred on his cousin John, duke of Albany. James first married Magdalen, daughter of Francis I., king of France, who dying without issue, he married Mary of Lorraine, daughter of the duke of Guise. By her he had two sons, who died young, and in 1542 the queen was delivered of a daughter, the famous but unfortunate Mary Queen of Scots. When she was seven days old her father died of a broken heart, caused by the mutinous conduct of his nobles, and the defeat of his army at Solway Moss. When told of the birth of his daughter, the dying man is said to have murmured, "It came with a lass, and it will go with a lass," in allusion to the throne coming to the Stuarts by the daughter of Bruce. Little did he think that the son of that lass, now but seven days old, would sit on the English throne. James V. was affectionately remembered by his people as the "King of the Commons," and he long held a place in literary renown as the "People's Poet." — It will help us somewhat to realize the troublous character of the times and the unhappy condition of Scotland, to state that, from 1390, when Robert III. began to reign, to 1567, when James VI., thirteen months old, succeeded his mother Queen Mary, a period of 177 years, every king of Scotland was succeeded by a minor. During all those years the nation was shaken by the continued quarrels of the nobles. They were a haughty, fierce and turbulent class, those Hamiltons, Huntleys, Douglasses, Albanys, Atholes, Arrans and Argyles. Combining the most indomitable courage with an utter want of principle, they seldom hesitated to endanger the interests of their sovereign, and even the interests of their country, to avenge fancied insults to their family, or to carry on personal feuds. Still, the country was advancing in wealth, and gradually taking an influential place among the powers of Europe, notwithstanding the clouds of misfortune which had encircled the personal history of her Jameses. "Battle, murder and death had swept away four of them; the fifth died of a spirit broken down by the weight of calamities." — During the latter part of the reign of James V. Protestantism began to make considerable headway in Scotland. Although she had for centuries been a faithful daughter of the Roman Catholic church, she was so far removed from Rome that she received but little of that attention bestowed so assiduously on the powerful countries of continental Europe. On this account her clergy had received but little supervision, and had become very ignorant and very corrupt. For this reason the hold of the Catholic church upon the moral sense of the people was very weak, and it was not a difficult task to alienate them from the papal see. Under Henry VIII. England had become a base of operations whence those who favored the Protestant faith could influence Scotland. Attempts made by Cardinal Beaton, the Catholic primate, to crush out the spirit of inquiry by persecution, not only failed in their object, but had a contrary effect. —With the rise of Protestantism, there came a party in Scotland which preferred an alliance with England to the ancient league with France; and by and by two well-defined parties existed, the Protestant or English party, and the Catholic or French party. The Protestant party hoped to unite the crowns of England and Scotland by the marriage of the Princess Mary, the young Queen of Scots, to Edward, son of Henry VIII., and they might have succeeded had it not been for the imperious conduct of Henry, who so roused the Scottish pride that the Catholic party gained the consent of the nation to her marriage with the dauphin

of France, an event which brought upon her and upon Scotland many trying calamities. Mary, through the influence of her mother and the French party, was sent to France to be educated, when only six years old. In 1558 she married Francis, then dauphin, afterward king, of France; but, he dying without issue, she returned to Scotland, and in July, 1565, married Henry Stuart, known as Lord Darnley. It was a fearful mistake, for there was scarcely the vestige of a good quality to be found in his character. He was vicious, vainglorious, presumptuous—a fool. On June 19, 1566, a son was born, who was afterward James VI. of Scotland and James I. of England. Darnley was murdered in February, 1567, and in May of the same year Mary married the earl of Bothwell, who was generally believed to have directed the murder. The nobles soon after drove Bothwell out of the kingdom, and, having confined Mary in Lochleven castle, compelled her to abdicate in favor of her infant son, with her half-brother, the earl of Murray, as regent. She escaped from Lochleven, and rallied a powerful force around her, which was defeated at Langside by the regent Murray. Mary then fled to England, claiming the protection of her cousin, Queen Elizabeth, but this princess ungenerously confined her in different prisons for eighteen years, and then the accomplished and beautiful, but most indiscreet and unfortunate, Mary Queen of Scots, being accused of conspiring against the life of Elizabeth, died with heroic bravery on the scaffold at Fotheringay castle, on Feb. 8, 1587. There is probably no instance in history where one so able, lovely and accomplished became to such a marked degree the victim of untoward circumstances. Her life proved a burden to herself and a misfortune to her people. — From the time of her father's death to that of her own, the religious aspect of Scotland had undergone a most wonderful change. While she was in France, and her mother, Mary of Lorraine, was regent, the conflict between the Catholic and the Protestant faith was intense. During those eventful years, when individual convictions were struggling with the traditions of centuries, and the religious thoughts and emotions of the people were stirred to their depths, there appeared upon the scene a man of no ordinary power, the fearless, stern, eloquent reformer, John Knox. His life and work have made a more marked impression on Scotland than those of any other man, and no grander figure can be found in the history of Protestantism in Great Britain. It can hardly be doubted that Knox saved Protestantism in Scotland; and in saving it in Scotland he saved it in England; for, if Scotland had been Catholic, it would have furnished the great Catholic powers of the continent a base of operations against England, and in all probability, under such circumstances, a revolution would soon have driven Elizabeth from the throne, and England would have been reclaimed to the Catholic church. But Knox breathed into the commons of his country a spirit which lives to-day, a spirit of individuality and independence which taught them that the humblest peasant, as an immortal soul, is equal in the sight of God to the proudest peer. They may have been hard, narrow and fanatical, but, "heated red-hot in the furnace of a new faith," they could never again be trodden under the foot of tyranny. Protestantism in England proceeded from the king downward, but in Scotland it originated and developed in the bosom of the people themselves. Many of the nobility joined the Protestant ranks from mercenary motives, but the common people did so from their convictions of right. Knox tried to have the lands and revenues of the church set apart for educational purposes, but the greed of the nobility was too much even for him. The year before Mary returned from France, 1560, a meeting of the estates abolished forever in Scotland the power and jurisdiction of the papal see, and made the confession of faith drawn up by Knox and his associates the standard of faith in Scotland. — Mary on her return failed to understand the true state of affairs. She had been educated in a wrong school to meet in a conciliatory spirit the public feeling of Scotland as it now was. If she had but realized that Scotland could not be brought back to the Catholic church, and conformed herself to the necessities of her condition, she might have reigned a happy queen over a happy people; but that was not to be. — Mary's son, James VI., had been crowned king in 1567, when but thirteen months old. His uncle, earl of Murray, who was appointed regent, being assassinated in 1570, the office was held in succession by the earls of Lennox, Mar and Morton, when the king took the reins into his own hands. During the government of the regents the kingdom was distracted by civil wars, which continued largely to partake of a religious character. Protestantism retained its supremacy, and Presbyterianism became the established religion of the country. At three o'clock, Thursday morning, March 24, 1603, Queen Elizabeth died; and, a feat unmatched in that age, Sir Robert Cary galloped into Holyrood Court on Saturday night and wakened King James to announce to him that he was monarch of England, Scotland, France and Ireland. The two nations, which for centuries had been bitter enemies, and had crossed swords on a hundred bloody fields, were now united under one head. On the 5th of April James set out for London, and as he journeyed leisurely through England he was received with enthusiasm everywhere. He arrived in London on the 22d of May, to take possession of the government of his new state, and at this point ends the history of Scotland as a distinct kingdom. — The domestic condition of Scotland was but slowly influenced by the union of the crowns, but its external relations underwent a radical change. The ancient league with France, though never formally abrogated, was now and forever after a dead letter, while it was a matter of pride to the Scots that their king now ruled over their "auld enemy," England. The national institutions of Scotland remained un-

touched, so that from this source there was nothing to arouse their national jealousy. The parliament still remained in Edinburgh, and there was no occasion for the nobility and landed gentry to go to London, as was the case in 1707, when the union of parliaments took place. However, as the way was now open, a large number of Scots flocked southward to better their condition, and they generally succeeded. Political economy was not understood then, and the prosperity of the Scots was supposed to be at the cost of the English, and in consequence they were much disliked and much maligned. — Immediately after the accession of James, steps were taken for an incorporating union of the kingdoms, which signally failed. It was proposed that the new state should be called "Great Britain," a name which the king himself claimed to have suggested. A decision by the courts, that all persons born in Scotland after the union of the crowns in 1603 were entitled to all the privileges of Englishmen, did more than anything else to unite the two peoples. An attempt was made to force the church of Scotland to adopt the episcopal form of government; but it failed, and James gave it up as a hopeless task "to make that stubborn kirk stoop more to the English pattern." — For centuries Scotsmen found their native land too small for their energies, and both before and after this period, under Gustavus, Frederick and Peter the Great, as well as in the Low Countries, France and even in Turkey, they in large numbers attained distinction; and, now that the era of colonization and commerce had dawned, they were not slow to avail themselves of its opportunities. This was first manifested in the settlement of New Scotland, or Nova Scotia. — Charles I., on his accession, learning nothing from the past, commanded the use of Laud's liturgy in the churches in Scotland, as "the only form which we think fit to be used in God's public worship in this our kingdom." An outbreak was of course unavoidable, and tumults arose in various parts of the kingdom. Under the lead of Archibald Johnston of Warriston, the solemn league and covenant was renewed. In 1638 it was signed in Greyfriar's churchyard amid the wildest enthusiasm, some drawing their own blood, which they used for ink. It has been estimated that a large proportion of the adult male community of Scotland subscribed their adherence to it, as copies were placed in all the churches and other public places. The cause of their national religion had come to be considered as one with that of their national independence. — The close of the thirty-years war released thousands of Scottish soldiers experienced in the wars of Europe, who now returned home and contributed not a little to the important part which Scotland took in the great civil wars of the seventeenth century. — After the restoration of Charles II. to the throne, in 1660, unmindful of the failures of his father and grandfather in a similar attempt, he tried to force episcopacy on the Scottish church, but he met with most ignominious failure. — The estates of Scotland were not slow to indorse the revolution of 1689, and to tender the crown of Scotland to William and Mary, declaring that King James VII. had "forefaulted" all right to the crown. The attempt to compel the Highlanders to conform to the new state of affairs resulted in one of the most cruel and treacherous transactions which has ever blackened history. It is known as the massacre of Glencoe, and occurred in 1692, leaving a stain upon the name of William of Orange, which his admirers have found it hard to wipe out. — Now that the activity and enterprise of the Scots could no longer find a field in the wars of their country against England, or in the greater contests of continental Europe, they began to make themselves felt in the field of commerce. Wm. Paterson founded the bank of England in 1695, while, some years later, John Law drove France wild with his Mississippi company and other financial bubbles. The Darien and African companies were products of the same period, all showing the active though misguided enterprise of the Scottish mind at that time. — On the accession of Queen Anne, in 1702, the first business of importance which came up was to incorporate the union of the two kingdoms. The succession to the throne and the union of the two parliaments were readily agreed upon, but the English commissioners would not agree to allow the Scots to participate equally with them in the foreign and colonial trade, and the negotiations were a failure. In April, 1706, a new set of commissioners, representing both kingdoms, met at Whitehall; in two short months their labors were finished; and so much and so important business has probably never been concluded in so short a time. The union was bitterly opposed in Scotland; but, after nine months' discussion, on Oct. 16, 1707, an act ratifying its terms was passed in the estates by a vote of 110 to 69. At this time the population of England was about 6,000,000, while that of Scotland was probably not over 1,000,000. Nothing so much reconciled the Scots to the union as the prospect of equality in trading privileges and reciprocity of citizenship. — George I., the first of the Hanoverian line, was proclaimed king on Aug. 5, 1714, at the market cross of Edinburgh, amid apparent quietness through the whole country. Next year, however, the chiefs of the Highlands, under the earl of Mar, commenced a Jacobite insurrection in the north, which, although encouraged by the appearance in Scotland of the pretender, the son of James VII., was speedily suppressed. This added greatly to the stability of the new government, which now attempted to disarm the Highlands, and in the interests of peace constructed a system of excellent roads through that heretofore almost impassable region. The Highlanders were irritated by and restless under the industrial civilization of the Saxon, and when Prince Charles Edward, "Bonnie Prince Charlie," the oldest son of the pretender, under promise of help from France, raised his standard at Glenfinnan, in August, 1745, many a chieftain with his

clan rallied around him. The Jacobite army, marching southward, after defeating Gen. Cope at Preston Pans, entered Edinburgh in triumph. With an army of but 6,000 men, remarkable to say, the prince pushed as far as Derby, only two days' march from London, when the approach of the duke of Cumberland with a larger force compelled him to retreat. On April 16, 1746, his half-starved, exhausted army was routed on the field of Culloden, and with it forever fell the house of Stuart. — The British government, unwilling to lose the benefit of the fighting qualities of the Highlanders, organized Highland regiments, with Highland officers and Highland uniforms, nine of which are still in the British army. These regiments have become famous for their never-failing bravery, shown on many a well-fought field in every quarter of the globe. The Gælic-speaking population of Scotland in 1881 numbered only 231,594, or 6.20 of the whole. — For years the union was very unpopular in Scotland, and it was some time before its beneficent effects began to be felt. In recent times the prosperity of Scotland has been such as could never have been possible without the union. Although occasionally at the present time complaints are made that Scotland receives neither her share of parliamentary attention, nor her proportion of disbursements from the imperial treasury, yet no voice is ever heard expressing a doubt as to the beneficial results of the union. — While Scotland is an integral part of the United Kingdom, she still retains her own courts and practices of law, and her own church government. At the head of the judiciary is the court of session, which consists of thirteen judges, and is supreme in civil cases. Five of its judges comprise the court of justiciary, which is supreme in criminal cases. The full court sits in Edinburgh, but circuit courts are held in the principal cities of the country. Criminals are indicted by the lord advocate or his deputies, and are tried at the expense of the state. In case of the lord advocate failing to prosecute, any private person may do so on his own responsibility. Criminal cases are tried by a jury of fifteen persons, a majority only being necessary for a verdict; and when the case is not clear, a verdict of "not proven" may be brought in. Appeals from the Scottish courts go to the house of lords. The subordinate courts in the counties are held by justices of the peace, and the sheriffs, the functions of the latter being judicial in Scotland, and not ministerial, as in England. — In the cities the chief magistrate is not called the mayor, but the "lord provost," and the aldermen are called "baillies." In many particulars the law as well as the titles and duties of public functionaries differ wholly from those of England and the United States, and show distinct traces of the ancient league with France. — The Scottish peers elect sixteen of their number to represent them in the house of lords; but, in addition, many Scottish peers, being also British peers, sit in the house of lords in their own right, and without an election. Scotland is represented in the house of commons by sixty members, of whom thirty-two represent the counties, twenty-six the burghs, and two the universities. Fifty out of the sixty members belong to the liberal party. The strength of the bodies dissenting from the established church has probably much to do with Scotland being so overwhelmingly liberal in politics. The number of electors on the registers in 1881 were: in the counties, 98,328; in the burghs, 216,851. — The established church of Scotland is Presbyterian in form of church government. It embraces but a minority of the people, two non-established Presbyterian churches, the Free and United Presbyterian, having together more adherents than the state church. Some sanguine minds think the day is not far distant when the church of Scotland will be disestablished, and all the Presbyterian bodies of the country be united in one grand Presbyterian church, the church of almost all the people of Scotland. The Free church left the established church in 1843 under the lead of the celebrated Dr. Thomas Chalmers, and the result was another church and manse in almost every parish in Scotland. — For centuries Scotland had a system of national education superior to that of any country in Europe. As early as 1262, Master Thomas Bennum writes himself as "Rector Scholarum de Aberdeen," and in 1478 the master of the "Grammar Schules of Aberdene" had a salary of £5 annually. John Knox and his associates, 300 years ago, ordained that there should be a school in every parish, and there is no doubt but that to her parish school system is to be attributed the high place her sons have commanded in the fields of religion, literature and science. It was truthfully said of Scotland that every Scot had a mouthful of learning, but not a mouthful of meal. The imperial parliament has, in a recent educational act, wholly changed the system in Scotland by providing for local school boards and compulsory education. The number receiving education in 1881 was 720,099, being 19.28 of the whole population. Of those between the ages of five and fifteen no fewer than 79 per cent. were receiving education, which will compare favorably with the school statistics of any state in the American Union. There are four universities in Scotland, viz., St. Andrew's, Glasgow, Aberdeen and Edinburgh, founded, respectively, in 1411, 1450, 1494 and 1582. They are more popular in their privileges than those of England, and were framed after the pattern of the continental universities of the fifteenth century. During the session of 1880–81 there were 6,619 students of all classes in attendance. The graduates elect two members of parliament; those of Aberdeen and Glasgow electing one, and those of Edinburgh and St. Andrew's the other. — Out of 20,000,000 acres of land in Scotland only 5,000,000 can be cultivated, yet her agriculture is not surpassed by any country in the world. Her deposits of iron and coal are very rich, and her shipbuilding and manufacturing interests are very large. The tonnage built on the Clyde is larger than that on any other river on the

globe, and Glasgow is the second city of importance in the British empire. — There has been a great reduction in pauperism and crime during the last ten years. In 1872 there were 117,611 paupers, while in 1881 there were only 97,787; in like manner the number of convicted criminals fell from 2,259 in 1872 to 1,882 in 1881, showing a remarkable diminution of crime as well as pauperism accompanying an increase of population. — Notwithstanding the barren soil, the inhospitable skies and the scant population of Scotland, few nations, since the days of ancient Greece, have produced so many names illustrious as historians, philosophers, scholars, essayists, novelists, scientists, theologians and poets.* — BIBLIOGRAPHY. The historical works of Buchanan; Hume, Lond., 1657; Guthrie, 10 vols., Lond., 1767; Dalrymple, 2 vols., Edinb., 1776–9; Robertson, 2 vols., Lond., 1758; Pinkerton, 2 vols., Lond., 1797; Heron, 6 vols., Pesth, 1794–9; Laing, 4 vols., Lond., 1804, new ed., 1819; Chalmers, 2 vols., Edinb., 1807–10; Mackintosh, 2 editions, Lond., 1822. Further, Tytler, *History of Scotland*, 8 vols., Edinb., 1826–34, 3d ed., 1845; Lindau, *Geschichte Schottlands*, 4 vols., Dresd., 1827; Scott, *History of Scotland*, 2 vols., Lond., 1830; Chambers, *Domestic Annals of Scotland, from the Reformation to the Revolution*, 3 vols., Edinb., 1859–61; Burton, *History of Scotland*, 7 vols., Lond., 1867–70, 2d ed., 8 vols., Lond. and Edinb., 1873–4; Mackenzie, *History of Scotland*, Edinb., 1867; Burns, *Scottish War of Independents: Its Antecedents and Effects*, 2 vols., Glasgow, 1874. The earliest history of Scotland is treated of by Leslie, 2 vols., Edinb., 1866, and Skene, *Celtic Scotland: History of Ancient Alban*, 2 vols., Edinb., 1876–7.

JOHN JOHNSTON.

* Scotland has given to the world more than its share of genius, a fact largely attributable to its social, religious and political conditions. We may mention — 1. *Poets.* John Barbour, Sir David Lyndsay, George Buchanan, Dr. Arthur Johnston, Gavin Douglass, Allan Ramsay, Robert Blair, James McPherson, John Logan. Dr. James Beattie, James Thomson (of the "Seasons"), Thomas Campbell, John Skinner, Lady Anne Barnard, Jane Elliott, John Leyden, William Laidlaw, John Graham, James Montgomery, Mrs. Joanna Baillie, Robert Burns, Baroness Nairn, Robert Tannahill, James Hogg (the "Ettrick Shepherd") Allan Cunningham, William Motherwell, William Edmonstoun Aytoun, J. Ballantine, Robert Buchanan. — 2. *Novelists.* Tobias George Smollett, Sir Walter Scott, Elizabeth Hamilton, John Galt, Susan Edmonstoune Ferrier, Mrs. Christian Isabel Johnstone, Sir Thomas Dick Lauder, George MacDonald, William Black, etc. — 3. *Theologians.* John Knox, Ebenezer Erskine, Ralph Erskine, George Campbell, John Brown, Andrew Thomson, Thomas Chalmers, Edward Irving, Robert S. Candlish, Thomas Guthrie, Norman Macleod, John Tulloch, John Caird, John Ker. — 4. *Metaphysicians, etc.* Dr. Thomas Reid, Dugald Stewart, Lord Monboddo, John Abercromble, M. D., George Combe, Sir William Hamilton, Sir James McIntosh. — 5. *Historians.* Hector Boece, David Hume, Dr. William Robertson, Patrick Fraser Tytler, Lord Hailes, Dr. John Gillies, Bishop Burnet, John Pinkerton, Sir William Napier, James Boswell, Dr. Thomas McCrie, Cosmo Innes, J. G. Lockhart, W. Stirling Maxwell, John Lord Campbell, Henry Lord Cockburn, Lord Macaulay, John Hill Burton. — 6. *Miscellaneous Writers, Essayists, etc.* Sir Andrew Fletcher, Dr. Adam Smith, Archibald Alison, Prof. John Wilson (Christopher North), John Gibson Lockhart, J. R. M'Culloch, Francis Jeffrey, Lord Erskine, Henry Lord Brougham, Robert Mudie, Prof. Masson, Dean Ramsay, Dr. Robert Chambers, Rev. George Gilfillan, James Mill (father of John Stuart Mill). — 7. *Discoverers and Travelers.* Mungo Park, Hugh Clapperton, Captain Grant, James Bruce, Sir John Ross, David Moffat, David Livingstone, etc. — 8. *Scientists.* John Napier (inventor of logarithms), Sir David Brewster, James Watt, Prof. J. D. Forbes, Sir John Leslie, John P. Nichol, Sir James Clark, M. D., Thomas Clark, Dr. Alexander Bain, Sir William Fairbairn, Sir Charles Lyell, Sir Roderick Murchison, Hugh Miller, Prof. John Fleming, Archibald Geikie, Prof. John Playfair, etc.

SCOTT, Winfield, was born near Petersburgh, Va., June 13, 1786, and died at West Point, May 29, 1866. He was educated at William and Mary college, and was admitted to the bar in 1806, but three years afterward obtained a captain's commission in the army. During the ensuing war he rose rapidly to the rank of major general. He remained in the army at the end of the war, becoming commander-in-chief in 1841. His peace service was varied by an abortive quarrel wrongfully forced upon him by Jackson; the latter accusing him of "pompous insolence," "slander," and "the designs of an assassin"; and by services during the nullification excitement at Charleston 1832–3, and on the Canadian and Maine frontier in 1837–41, in both of which he judiciously and successfully attempted to keep the peace. During the Mexican war he assumed chief command of the army, and captured Mexico. In 1852 he was the last candidate of the whig party for the presidency. In 1859 he was made lieutenant general of the army. He was too far advanced in years to come up to the high expectations of the public, and in November, 1861, he retired from active service. See his *Autobiography*, and Mansfield's *Life of Scott*. ALEXANDER JOHNSTON.

SCRATCHING. The rejection of a candidate by drawing a line through his name on the printed ballot, whether or not the voter writes in another name in its place. In the "Australian system" of voting, for some time in use in England, the names of all candidates are printed on an official ballot, and the voter designates those for whom he votes by "scratching" the other names. In the United States the name and practice have been identified with "independent" voting, and the practice of scratching the names of unsatisfactory candidates from the ballot supplied to the voter by his own party, and replacing them with names from the opposite ticket or of his own choice, has long been common with individuals as a means of protest. The term acquired political notoriety in 1879, when a number of younger republicans in New York state, having little or no previous connection with politics except as individual voters, united against "the machine," and advised the "scratching" from the republican ticket of the name of the candidate for governor, Alonzo B. Cornell, and that of the candidate for state engineer, Howard Soule. The reasons for this action were: the dissatisfaction with the Saratoga convention, and the belief that under the control of the "machine"

leaders the republican party could not win in the presidential election of 1880. The call for what afterward became the independent republican organization, popularly known as the "young scratchers," was a private letter printed in the "New York Evening Post," of Sept. 6, 1879; and the name of "scratchers" came from a phrase in the address soon after issued to republican voters, which concluded: "We urge true republicans not to stay at home from the polls, not to bolt, but to scratch, not to desert their party, but to attempt to purify it from within. We believe this is the only means to insure in 1880 the needed republican victory, not of politicians, but of statesmen who may be trusted to carry into practical operation the republican principles of national supremacy, sound finance, and administrative reform." The movement was much ridiculed by the party press, but the election showed that Gov. Cornell fell behind his ticket 19,686 votes, a fact which became an important factor in the succeeding presidential campaign. R. R. BOWKER.

SEARCH, Right of. M. Hautefeuille is of opinion that the search of vessels at sea is not, properly speaking, a right, but the manner of exercising various rights which may belong to belligerents. — Martens expresses himself thus: "The mere hoisting of a neutral flag by a merchant vessel met with, not being sufficient proof that it is not a vessel of the enemy, natural law can not refuse to belligerent powers the right of searching merchant vessels encountered by their men of war or privateers *in a place where it would be allowable to seize an enemy's vessel*, and therefore to conduct such vessels into port if the proof that they are not subject to confiscation be insufficient. But according to universal international law, the decision of the suit between the subjects of the two nations as to the lawfulness of the capture does not belong exclusively to either of them, and in default of an amicable settlement, a mixed tribunal must be established to decide it. (*Précis du droit des gens*, t. ii., § 317.) A merchant vessel which refuses to allow itself to be searched is suspect, and runs the risk of being declared a good prize. — M. Cauchy is right in saying that "the right of search would never have given rise to any objections if the thing had not gone beyond what the term conveys." It is against the abuse of it that objection has been taken; for, as Hübner, Lampredi, and, we may say, all impartial men, acknowledge, the flag is not of itself a proof of the nationality of a vessel; it is also necessary to know if the ship has a right to the colors which it carries. — M. Cauchy (*Droit Maritime*, t. i., p. 55) distinguishes three degrees of verification: 1, the production of a pass, or *congé du prince*, a naval passport which shows the nationality, the port from which the vessel sailed, and its destination; 2, the representation of the charter parties or freighting, in which are found the nature and the quantity of the merchandise on board; and 3, the visit of the vessel, or the direct search of its contents. The first two means have raised no serious debate, while the third has been much disputed. M. Cauchy compares the first two modes of verification to the proofs usual in civil procedure, and the third to a beginning of criminal proceedings. The visit of a ship appears to us a means which should be employed only in cases where there is suspicion that it carries contraband of war, or where there is suspicion of any other serious fraud. As a rule, the ship's papers should be sufficient. — It appears clearly from the foregoing that the right of visit is practiced only in time of war; in time of peace there would be no occasion for visiting a ship except in pursuance of especial conventions, and for the object indicated in such conventions. Thus, the United States and England concluded, April 9, 1862, a treaty granting to each other for a period of ten years the mutual right of visit and search of vessels suspected of being engaged in the slave trade. France did not ratify a similar treaty proposed by England in 1841; but she concluded another, May 29, 1845, which shows clearly her repugnance to grant this right, under no matter what pretext, in time of peace. — Men of war are not, in any case, subject to the right of visit or search.

MAURICE BLOCK.

SECESSION (IN U. S. HISTORY). The constitutional apology for the right of secession by one of the states of the American Union may be very briefly dismissed; it is entirely dependent upon the theory of state sovereignty. (See that title.) Grant that the states are still individually sovereign; that their citizens owe a primary allegiance and obedience to their state, and a secondary obedience to the federal government because their state remains a member of the Union; that the Union is a voluntary confederacy, not a nation: and the right of secession must be admitted as a matter of course. The *advisability* of secession, the propriety of severing the ancient relations with friendly and confederate states, is entirely a matter for the state's decision: when the decision is made, every law-abiding citizen is bound by his allegiance to his state to obey it. (See ALLEGIANCE, III.) However fallacious the doctrine of state sovereignty and its progeny, secession, may be, there is at least this apology for the action of the seceding states in 1860–61: that the doctrine of state sovereignty, in both its premises and its consequences, had been familiar almost from antiquity; that its technical language had been used constantly, even by those who would have scouted its logical consequences, and that the system of negro slavery, with all its countless influences, had shut out the south from that educational process which had made state sovereignty either a meaningless formula, or a political heresy, in the north and west. (See NATION.) It must be noticed, however, that the right of secession has never been admitted by any department of the national government: joint or separate resolutions have been passed by the two houses of congress, assert-

ing the sovereignty of the states; decisions have been made by the supreme court of much the same character; but the right of secession itself has never been admitted. Leaving the theory of state sovereignty to be considered under its appropriate head, it is the object of this article to trace the more practical idea of secession in our history: I., as a mere incident of particularism, of state sovereignty; II., as complicated with slavery; and III., in practice. — I. The union of 1643 (see NEW ENGLAND UNION) experienced in miniature most of the perils to which the perfected and national Union was afterward exposed: nullification attacked its commercial regulations, and even put a veto on its wars; but its final disappearance was due not so much to any secession as to the inherent weakness of its nature, and the dislike of the crown. With the introduction of the attempt at a more general union in 1754 (see ALBANY PLAN OF UNION), the idea of secession first comes plainly into view. The plan of Franklin contemplated its establishment by act of parliament, a very unusual acknowledgment of the power of parliament over the colonies. In explanation of this feature of his plan, he states the various interests of the colonies, and their jealousy of one another, and adds: "If ever acts of assembly in all the colonies could be obtained for that purpose, yet as any colony, on the least dissatisfaction, might repent its own act, and thereby withdraw itself from the union, it would not be a stable one, or such as could be depended on; for, if only one colony should, on any disgust, withdraw itself, others might think it unjust and unequal that they, by continuing in the union, should be at the expense of defending a colony which refused to bear its proportionable part, and could therefore one after another withdraw, till the whole crumbled into its original parts." The theory of secession could hardly be more exactly stated; in its final application in practice it was only improved in one respect, the passage of the ordinances of secession by state conventions, instead of by the assemblies. — Accession to, and secession from, any union, were of course equally unconstitutional, without the king's consent, while the colonies remained a part of the British empire. But, as the American revolution itself was frequently appealed to in after years, as the first great example of, and precedent for, secession, it may be well to lay stress here on one essential difference between them, that the former was an exercise of the undeniable right of revolution, a revolt of an unrepresented fraction of the empire against the usurpations of parliament, and afterward against the king for sustaining parliament; while the latter was attempted to be justified as a constitutional right of the states, which could not rightfully be resisted by any other state, by all the other states, or by the federal government. A revolt of a territory, unrepresented in the federal government, against what it might consider the usurpation of the federal government, and its attempt to establish a separate government, might claim the American revolution as a precedent; the seceding states in 1860–61 could not. A revolutionist hazards his life upon the issue, with the pains and penalties of treason as a possible result; a secessionist claims all the advantages of revolution, without any of its responsibilities or dangers. — Notwithstanding the early and general dissemination of the theory of state sovereignty, its practical consequence, the right of secession, was for some years unheard of, perhaps unthought of. Until 1788 the common dangers of war were a fence outside of which none of the thirteen states dared to stray; after 1783 the authority of the congress of the confederation was so weak a fence that none of the states cared to give it importance by formally demolishing it. The ugly word "secession" first appears in the convention of 1787, July 5, though it then referred to the states as represented in the convention itself: Gerry remarked that, unless some compromise should be made, "a secession, he foresaw, would take place." The subsequent ratification of the constitution by eleven of the thirteen states, on the original refusal of Rhode Island and North Carolina to ratify, has often been appealed to as a brilliant example of peaceable secession; and so it must be considered, if the ratifications were really, as they purported to be, the acts of "sovereign states." The articles of confederation had expressly provided that no change should be made in them unless with the assent of the legislatures of every state; and yet, in the face of this covenant, eleven of the states not only formed a new government, but inserted in it a provision for future amendment by three-fourths of the states. On the theory that the states were sovereign until the adoption of the constitution, how can such a proceeding be anything but a secession, albeit of the majority from the minority? But another power was present in the ratification, the power which had held the states together even before the adoption of the articles of confederation, the sovereign power of the nation, of the national people as distinguished from the people of the state. Its non-recognition by the state conventions can not alter the fact of its already established existence; and, without its existence, the assumptions of the continental congress, from 1775 until the ratification of the confederation in 1781, would be even a more colossal sham than the ratification of the constitution. The historic truth is, that the people of the nation, which had alone validated the revolutionary acts of the continental congress, and which had tolerated the articles of confederation, had now at last interposed to bring order out of chaos; that it was disposed to deal very tenderly with the rights and even with the prejudices of the peoples of the several states; that it chose to maintain state lines in the ratifications; but that, when nine of the states, including a heavy majority of the territory, wealth and population of the nation, had expressed their decision in favor of the new form of government, factious opposition was to cease. It is true that the status of the possible non-ratifying states was carefully ignored

everywhere, as being what the "Federalist" called a "delicate question"; but it is impossible to suppose that two, or even four, recalcitrant states would ever have been allowed to escape from the national jurisdiction. Gouverneur Morris' warning in the convention of 1787, July 5, "This country must be united; if persuasion does not unite it, the sword will," which provoked so much contrary feeling, was the simple truth. The forms of ratification would never have been neglected; but ratification, willing or unwilling, would have been extorted from Rhode Island and North Carolina by a pressure increasing continually until finally successful. The passage of the senate bill, May 18, 1790, to prohibit bringing goods, wares and merchandise from the state of Rhode Island "into the United States," and to authorize a demand of arrears of money from the said state, is a fair example of the sort of pressure which would have been increased indefinitely but for the ratification by the state on the 29th of the same month. The nation has always been thus gentle and considerate in allowing the assertion of state sovereignty in non-essentials; in essentials state sovereignty must yield or be crushed. — Under the constitution the Union was at first spared any internal dissensions of such magnitude as to suggest secession as a remedy. Projects for separation from the Union were undoubtedly on foot before 1795 in Kentucky (see that state), and in western Pennsylvania (see WHISKY INSURRECTION); but these were rather the product of frontier freedom from restraint than the consequence of state sovereignty. Soon after 1795 a series of articles were published in the "Connecticut Courant," urging "the impossibility of union for any long period in the future," and laying down the permanent dogma that "there can be no safety to the northern states without a separation from the confederacy." These letters met no general approval in the north, and the election of Adams to the presidency in 1796 took away for the time their moving cause, a fear of southern domination in the federal government. The idea of state sovereignty, with secession as a possible consequence, next appeared, on the other side of Mason and Dixon's line, in 1798. (See KENTUCKY RESOLUTIONS.) The author of the Kentucky resolutions, Jefferson, explains his feeling on the subject of secession at some length in his letter of June 1, 1798, to John Taylor. "If, on a temporary superiority of the one party, the other is to resort to a scission of the Union, no federal government can ever exist. If, to rid ourselves of the present rule of Massachusetts and Connecticut, we break the Union, will the evil stop there? Suppose the New England states alone cut off, will our natures be changed? Are we not men still to the south of that, and with all the passions of men? Immediately we shall see a Pennsylvania and a Virginia party arise in the residuary confederacy. If we reduce our Union to Virginia and North Carolina, they will end by breaking into their simple units. Seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose." The objections, it will be noticed, lie to the advisability, not to the right, of secession. This defect, however, was common to most of the public men of the time; and for years afterward state sovereignty, with all its consequences, was the first refuge of a minority. The existence of the nation was hardly recognized, even by the courts, for twenty years after 1798 (see NATION, JUDICIARY); though its existence was not often denied in such plain language as that employed by Tucker, in his edition of Blackstone in 1803. After summing up, to his own satisfaction, the proofs that Virginia had always been a sovereign state, and enumerating the powers which Virginia had delegated to the federal government, he thus concludes: "The federal government, then, appears to be the organ through which the united republics communicate with foreign nations and with each other. Their submission to its operation is voluntary: its councils, its engagements, its authority, are theirs, modified and united. Its sovereignty is an emanation from theirs, not a flame by which they have been consumed, nor a vortex in which they are swallowed up. Each is still a perfect state, still sovereign, still independent, and still capable, should the occasion require, to resume the exercise of its functions, as such, to the most unlimited extent. But, until the time shall arrive when the occasion requires a resumption of the rights of sovereignty by the several states (and far be that period removed when it shall happen), the exercise of the rights of sovereignty by the states individually is wholly suspended, or discontinued, in the cases before mentioned; nor can that suspension ever be removed, so long as the present constitution remains unchanged, but by the dissolution of the bonds of union: an event which no good citizen can wish, and which no good or wise administration will ever hazard." Herein is contained, for the first time, the sum and substance of the doctrine of secession. — When the idea of secession next appeared, it was again in the north, and closely connected with the question on which it was finally put into practice in the south, the territories of the United States. The acquisition of Louisiana (see ANNEXATIONS, I.), in 1803, was very objectionable to the federalist politicians of New England. They had been beaten in the contest with the south alone: to re-enforce the southern line of battle with six, nine or a dozen future states, peopled by "the wild men on the Missouri," seemed simply suicidal, a condemnation of New England to perpetual nullity. They therefore resisted the annexation to the utmost, and claimed that, as the constitution was made only for the original territory comprised within the United States, an extension of territory was unconstitutional without the consent of all the states. "Suppose, in private life, thirteen men form a partnership, and ten of them undertake to admit a new partner without the concurrence of the other three, would it not be at their option to abandon the partner-

ship after so palpable an infringement of their rights? How much more so in the political partnership." The annexation was consummated; but it was not until Jan. 14, 1811, on the enabling act for the first of the dreaded new states, Louisiana, that Quincy, of Massachusetts, fairly declared, in the house, the federalist conception of its consequences. "It is my deliberate opinion, that, if this bill passes, the bonds of this Union are virtually dissolved; that the states which compose it are free from their moral obligations; and that, as it will be the right of all, so it will be the duty of some, to prepare definitely for a separation, amicably if they can, violently if they must." Quincy was called to order, but the house decided that he was in order. Ex-President Adams, in reply to a copy of the speech, could only say that "prophecies of division had been familiar in his ears for six and thirty years." — In the meantime the opposition to the democratic administration, confined chiefly to the New England politicians on the annexation question, had become more popular with the introduction of the restrictive system. (See EMBARGO, III.) It is beyond question that some project of secession had been mooted in New England in 1808, though probably confined to a very few; and that Burr's candidacy for governor of New York in 1804 was a part of it. (See BURR, AARON.) By taking in the great state of New York, and by yielding the leadership-in-chief to a New York democrat, who was highly popular with the democrats of New England, it was hoped that a new republic might be formed, compact, homogeneous, and strongly defended by nature in every direction. Burr's defeat had much to do with the failure of this project, but the indifference of the people of New England probably more. The strong and general popular feeling which was aroused by the embargo revived the project. How many took part in it is uncertain; they were probably very few. The whole truth is probably expressed in a letter of Joseph Story, afterward supreme court justice, Jan. 9, 1809: "I am sorry to perceive the spirit of disaffection in Massachusetts increasing to so high a degree; and I fear that it is stimulated by a desire, in a very few ambitious men, to dissolve the Union." Henry's letter, of March 7, 1809 (see HENRY DOCUMENTS), goes further, and details the federalist programme as follows: that, in the event of war, "the legislature of Massachusetts will declare itself permanent until a new election of members; invite a congress, to be composed of delegates from the federal states; and erect a separate government for their common defense and common interest." Henry's assertions, however, are usually only proof that the contrary is the truth, and that is probably the case here. It is only certain that the accounts of the feeling in the eastern states, as given by John Quincy Adams and Story, caused a panic among the democratic leaders, and ended the embargo. — During the war of 1812 the feeling in New England grew still higher. Ultra federalists undoubtedly used language aiming directly at secession; the student will find a large collection of such utterances in Carey's "Olive Branch," as cited among the authorities. Indiscreet references to "the New England nation," occasional flauntings of a flag with five stripes and stars, the firing of "New England national salutes" of five guns, and other similar indications, when combined with the general discontent in New England (see CONVENTION, HARTFORD), kept the administration in a chronic state of alarm. The discussion of secession in any form by the Hartford convention has been denied by its president and secretary; its journal shows no trace of it; and Mr. Goodrich has collected every available proof to the contrary. It appears certain that no such active design was considered or desired by its members; but a few of the opening sentences of its report are at least suggestive. "If the Union be destined to dissolution, by reason of the multiplied abuses of bad administrations, it should, if possible, be the work of peaceable times and deliberate consent. Some new form of confederacy should be substituted among those states which shall intepd to maintain a federal relation to each other. But a severance of the Union by one or more states, against the will of the rest, and especially in a time of war, can be justified only by absolute necessity." The report concluded by advising, that, if no attention should be paid to their remonstrances, and the war should continue, a new convention should be called in the following June, "with such powers and instructions as the exigency of a crisis so momentous may require." — With the close of the war of 1812 the first period of the history of secession ends. It continued immanent in the doctrine of state sovereignty; but nothing occurred to call it to active life. It was threatened as a possible alternative to its illegitimate brother, nullification (see that title), but was never enforced. Secessionists proper in South Carolina had a contempt for nullification, and composed the so-called "Union party" of 1831–3 in that state. Indeed, Jackson's nullification proclamation was offensive to them, as laying down "the tyrannical doctrine that we have not even the right to secede." — II. Throughout its subsequent history secession is always connected with slavery or the opposition to slavery. The right to secede, after it had been completely formulated by Tucker in 1803, was asserted again and again for the next thirty years, but always as a mere particularist formula, a corollary of state sovereignty. The most striking of these, and particularly as coming from the north, is that of Judge Rawle, of Pennsylvania, in his commentaries on the constitution, as cited below, in 1825. "The secession of a state from the Union depends on the will of the people of such state. * * The state legislatures have only to perform certain organical operations in respect to it. To withdraw from the Union comes not within the general scope of their delegated authority. But in any manner by which a secession is to take place, nothing is more certain than that

the act should be deliberate, clear and unequivocal; and in such case the previous ligament with the Union would be legitimately and fairly destroyed. * * In the present constitution there is no specification of numbers after the first formation. It was foreseen that there would be a natural tendency to increase the number of states. It was also known, though it was not avowed, that a state might withdraw itself. The number would therefore be variable. Secessions may reduce the number to the smallest integer admitting combination. They would remain united under the same principles and regulations, among themselves, that now apply to the whole. For a state can not be compelled by other states to withdraw from the Union, and therefore, if two or more determine to remain united, although all the others desert them, nothing can be discovered in the constitution to prevent it." It is notable that, so late as Nov. 9, 1860, Horace Greeley upheld "the practical liberty, if not the abstract right, of secession," only insisting that the step should be taken "with the deliberation and gravity befitting so momentous an issue." It is true that these two utterances are almost the only ones from a representative northern man after the war of 1812 in support of the theory of secession; and that all the other utterances which have been laboriously collected are simply the expression of state feeling, of state opposition to the annexation of Texas, the fugitive slave law, and similar measures, without any apparent thought of the right of secession which was involved in it. Nevertheless, it is painful to consider the result which would have followed in 1860–61, if the action of the seceding states had been slow, calm, and the evident outcome of popular desire, instead of hasty, violent, and the work of the politicians. In that event, the issue of the struggle would have been painfully doubtful. — Secession came in again with Texas, whose independent existence was itself a brilliant instance of successful secession from the Mexican republic. As the probability of its annexation grew stronger, the language used in advocacy of or in opposition to it grew with it. March 3, 1843, John Quincy Adams and a few anti-slavery whigs issued an address to their constituents, warning them that the annexation project had never been given up, and that it would result in and fully justify a dissolution of the Union. Through this and the following summer, on the other hand, "Texas or disunion" became a frequently expressed sentiment in the south, particularly in South Carolina, but this died away as the success of annexation became assured. But even this did not drive the northern states into any action looking to secession, or a dissolution of the Union, though this was unofficially suggested. In January, 1845, at an anti-annexation convention in Boston, Wm. Lloyd Garrison urged the calling of a Massachusetts convention to declare the Union dissolved, and to invite other states to join with her in a new union based on the principles of the declaration of independence. "Although," says May, "his motion was not carried by the convention, it was received with great favor by a large portion of the members and other auditors, and he sat down amidst the most hearty bursts of applause." But the final annexation of Texas, operating against the feelings of the most thoroughly nationalized section of the Union, was insufficient to call forth any dangerous or even irritating desire for a dissolution of the Union. That was reserved for the question of the settlement of the new territories (see WILMOT PROVISO). — CO-OPERATION. The theory of secession involved the right of any state to withdraw from the Union singly; and yet the silent proof of its inherent fallacy is that single secession was never attempted, and probably never thought of. In 1847 Calhoun had endeavored unsuccessfully to obtain the "co-operation" of the slave states in the following programme: 1, the calling of a slave state convention; 2, the exclusion of the sea-going vessels of the northern states from southern ports; 3, the prohibition of railroad commerce with the northeastern, but not with the northwestern, states; 4, the present maintenance of the freedom of trade on the Mississippi; 5, the continuance of this interstate embargo system until the northwest should be "detached" from the eastern states, and should unite with the south in opening the new territories to slavery. Calhoun's programme opened the way, however, for a bolder idea of "co-operation" in 1850, according to which a number of slave states were to secede in company, for mutual defense, if any prohibition of slavery in the new territories should be enforced. But the southern states held to the resolutions of the Georgia state convention of 1850, declaring that the state accepted the compromise of 1850, but would resist, even to secession, such anti-slavery legislation as the abolition of slavery in the District of Columbia, or in the territories, or of the interstate slave-trade. There can be no doubt that South Carolina was ready to secede in 1850, but not alone. Her state convention of April 26, 1852, declared her right to secede, but forbore to exercise it, out of deference to the wishes of other slaveholding states, that is, because no other slaveholding state wished to secede with or after her. Co-operation was, therefore, never practically attempted, because of the compromise of 1850, by which the Wilmot proviso was really enforced in California, by its admission as a free state, while nothing was said of it in the organization of the territories of Utah and New Mexico, and the fugitive slave law was accepted by the south as a make-weight. (See COMPROMISES, V.) But, though this attempt at secession by a section was unsuccessful, there had grown up an alienation between the north and the south which boded no good for the future. Calhoun's last speech in the senate, March 4, 1850, described the manner in which many of the multitudinous cords that bound the Union together had already snapped. Of the five great Christian denominations which had been national in their organization, two, the

Methodists and Baptists, had split into two sectional parts; and the Presbyterians were evidently close to the point of division. Political bonds were also stretched almost to breaking, and their preservation depended on the willingness of the northern states to satisfy the south by not excluding slavery from the territories. "If you," says Calhoun, who "represent the stronger portion, can not agree to settle the great questions at issue on the broad principle of justice and duty, say so; and let the states we both represent agree to separate and depart in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do." The last sentence shows the remarkable underlying consciousness in every advocate of secession, of the truth so forcibly stated by Webster three days afterward: "Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surface! Peaceable secession is an utter impossibility." (See, in general, UNITED STATES, II., 5.) — This underlying consciousness, that secession meant war, was for some time sufficient to make any attempt at open secession hopeless *ab initio*, and no such attempt was made. Indeed, the south had been very well satisfied with the compromise of 1850; and the impediments to the execution of the fugitive slave law (see FUGITIVE SLAVE LAWS, PERSONAL LIBERTY LAWS), while they excited great discontent in the south, were not commonly looked upon as reasonable cause for secession. Those final causes were three in number, with a supplementary cause, "coercion," which will be stated in the next section. 1. Nothing is more noteworthy in the extreme southern states than the sudden development of large estates, the freezing out of small planters, and their emigration after the absorption of their property. "In a few years large estates are accumulated as if by magic." In large sections of each state the population consisted almost wholly of negroes, with the few whites owning or managing them. But in all these states representation was on the basis of the "federal population": that is, three-fifths of the negroes were represented, while the voting and office-holding pertained to the few whites. Thus, apart from the natural influence belonging to the wealthy class of the population, the counties in the "black belt" were practically the pocket boroughs of the slave-owners therein. These thus held far more than their fair share of power in state legislatures and conventions, and in some states absolutely controlled them. With every year, from 1850 to 1860, the power of this class was growing stronger, and their desire for secession for the protection of their property in slaves was not weakened. (See SLAVERY, IV.) 2. But there was still another and much larger class in the south, owning few or no slaves, not wedded to the protection or extension of slavery, but high-spirited, and determined not to submit to oppression, or, above all, to the evasion of a fair compromise. The results of the passage of the Kansas-Nebraska bill (see that title) served to bring these into the secession programme. They had never asked for the abrogation of the Missouri compromise; but, when it had been abrogated by fair agreement, it seemed to them an unworthy evasion to turn Kansas and Nebraska into free states by organized, not voluntary and natural, emigration from the north. This was the class to which was addressed the argument which A. H. Stephens says carried Georgia, the key-stone of a successful secession, out of the Union: "We can make better terms out of the Union than in it." 3. The Harper's Ferry insurrection (see BROWN, JOHN) had a silent influence everywhere. Those who desired secession were active, persevering, and in earnest; those who did not, were at the best negative; for they saw one great chance of good, even in a successful secession, a release from national association with future John Browns, and the ability to protect themselves from such invasions by open and national warfare. — With so many influences at work in its favor, it is matter for wonder that secession in 1860–61 was only forced through by the influence of the first two classes over the delegates to the state conventions, and that the popular demand for secession was so conspicuous by its absence that the conventions, except in Texas, did not venture to submit their ordinances to popular vote. For, in a popular vote, be it remembered, the "federal representation" disappeared; only the votes of the whites went for anything; and the total vote of the state might very easily show that their nominal representatives did not really represent them. There must have been an enormous mass of Union feeling in the south, blind, leaderless, and rendered powerless first by the belief that their primary allegiance was due to the state, and then by the organization of the new national government at Montgomery, but still genuine and hearty. — III. The threat that secession would have followed Fremont's election, in 1856, was probably only an electioneering device. When his election seemed probable, Gov. Wise, of Virginia, called a meeting of southern governors at Raleigh, for Oct. 13; but only three governors appeared, those of Virginia, North Carolina and South Carolina, and these did nothing. The meeting was of some influence, however, upon the northern vote. (See REPUBLICAN PARTY, I.) Practical secession was hardly as yet possible. The alienation between the sections was not yet sufficient; and the power of the secessionist class over the state conventions was not yet great enough. Four years made a great difference in both respects. In December, 1860, Senator Iverson, of Georgia, pictured the situation in the senate thus: "There are the republican northern senators on that side. Here are the southern senators on this side. How much social intercourse is there between us? You sit on that side, sullen and gloomy; we sit on ours with portentous scowls. Yesterday I observed there was

not a solitary man on that side of the chamber came over here, even to extend the civilities and courtesies of life; nor did any of us go over there. Here are two hostile bodies on this floor, and it is but a type of the feeling that exists in the two sections. We are enemies as much as if we were hostile states. I believe the northern people hate the south worse than ever the English people hated France; and I can tell my brethren over there that there is no love lost on the part of the south." From this picture, the fact is carefully eliminated that the southern senators represented, not the southern people, but its slaveholding class; but, even barring this defect, the picture is well worthy of study. With such a tightly strained tension of international relations between the governments of the two sections, the real feeling of the people was a matter of but secondary importance, and there was but little need of open threats of secession in case of Lincoln's election. Such threats were undoubtedly made, but unofficially; and the question of secession played no formal part in the campaign of 1860. The whole congress of 1859–61 was inundated by threats of secession in the event of the election of Seward as president in 1860, the object seeming to be to commit the southern people to that policy beyond the possibility of an honorable withdrawal. It has been asserted that the disruption of the democratic party, in 1860, was contrived by the secessionist class for the purpose of insuring Lincoln's election, and thus obtaining an excuse for secession; but such a design is very doubtful. (See DEMOCRATIC PARTY, V.) The more natural explanation of their course is in their hope that the electoral vote would be so divided up as to give no candidate a majority; that the choice of the president would thus go to the house of representatives; and that they would there be able to obtain the election of either Breckinridge or Bell. That their hopes had some foundation, may be seen from the facts that the opposition to Lincoln, after his election, still controlled both houses of congress; and that the republicans, throughout the whole rebellion, were indebted for their majority in congress to the voluntary absence of the southern delegations. — As it resulted, however, Lincoln obtained the electoral votes of all the northern and western states, with the exception of a part of New Jersey's vote, and was elected beyond cavil. What was to be the next step in the political game? Were the southern states to go on debating about co-operation, without taking any practical steps toward secession, until the popular impression caused by Lincoln's election had worn off, and his administration was found to be nothing out of the ordinary? In that case, the idea of secession might as well be laid permanently on the shelf, with other worn-out political stage thunder. The southern politician class felt, that, rather than give up what they had grown accustomed to consider the only life-preserver of their section, or rather of slavery, they would prefer to go over the cataract with it. — Nevertheless, there remained that dread of the practical attempt to secede by a single state, which was always the surest internal condemnation of the whole theory of secession. Gov. Gist, of South Carolina, had already sent a circular letter to the other southern governors, Oct. 5, 1860, asking their advice and plans. His state, he said, would secede with any other state, if Lincoln should be elected; or she would secede alone, if she should receive assurances that any other state would follow her; "otherwise, it is doubtful." Not one governor answered that his state would secede alone. Florida, Alabama and Mississippi would secede with any other state; North Carolina and Louisiana would probably not secede at all; Georgia would wait for some overt act. At first sight, these answers seem discouraging; but there was hope in them. If three states were only waiting for a leader, South Carolina would take the plunge, though the gallantry of the act is considerably diminished by this preliminary probing for assurances of support. A movement begun even by four states, would probably swing the other gulf states; any attempt at "coercion" by the federal government would bring the border states; and the confederacy of the slave states would then be complete. — The South Carolina legislature, which chose presidential electors until 1868, was in session to choose them, Nov. 6, 1860, and remained in session until Lincoln's election was assured. It then called a state convention, made appropriations for the purchase of arms, and adjourned. The convention met at Columbia, Dec. 17, adjourned to Charleston, on account of an epidemic in Columbia, and there unanimously passed the following ordinance, Dec. 20: "We, the people of the state of South Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the ordinance adopted by us in convention, on the 23d day of May, in the year of our Lord 1788, whereby the constitution of the United States was ratified, and also all acts and parts of acts of the general assembly of this state ratifying amendments of the said constitution, are hereby repealed; and that the Union now subsisting between South Carolina and other states, under the name of the United States of America, is hereby dissolved." On the 24th a declaration of causes for secession was adopted. It recapitulated the arguments in favor of state sovereignty and the right of secession, and assigned as a cause for immediate secession the general hostility of the northern states to the south, as shown in their union under a sectional party organization, and in their refusal to execute the fugitive slave laws (see PERSONAL LIBERTY LAWS); and it concluded with an imitation of the closing paragraph of the declaration of independence. On the same day the governor by proclamation announced the fact of secession. Having adopted ordinances to enforce the existing laws of the United States for the present under state authority, to transfer to the legislature the powers hitherto exercised by the federal government, to make the state ready for war, and to appoint commissioners to form, if possible, a permanent government for

all the states which should secede, the convention adjourned, Jan. 5, 1861. The action of the state then ceases to relate to secession, and falls under other heads. (See CONFEDERATE STATES, REBELLION.) — The action of Georgia comes second in importance politically, if not chronologically; for the rank, wealth and position of the state would have made its persistent refusal to secede a most annoying brake on the secession programme. The legislature called a state convention, Nov. 18, 1860, and the whole struggle took place on the election of delegates. There was hardly any denial of the right of secession; but a strong state party, under the lead of Alexander H. Stephens, warmly denied the advisability of secession. The convention met at Milledgeville, Jan. 17, 1861, and on the following day, by a vote of 165 to 130, declared it to be the right and the duty of the state to secede. This really settled the question. Jan. 19, the formal ordinance of secession was adopted by a vote of 208 to 89. In order to maintain the position of the state, every delegate but six signed the ordinance; and these six yielded so far as to pledge themselves to the defense of the state. After passing the other necessary ordinances for a transfer of powers from the federal government to the legislature, the convention adjourned, but re-assembled in Savannah, March 7, and on the 16th ratified the confederate constitution. — In Mississippi the convention was called for Jan. 7, at Jackson, and passed an ordinance of secession on the 9th by a vote of 84 to 15. March 30, the confederate constitution was ratified by a vote of 78 to 7. — In Florida the legislature passed the bill calling a convention, Dec. 1, 1860, and the convention met at Tallahassee, Jan. 3, 1861. Jan 10, an ordinance of secession was passed by a vote of 62 to 7. — In Alabama the election for delegates was ordered by the governor (see ALABAMA), and the convention met at Montgomery, Jan. 7, 1861. Jan. 11, an ordinance of secession was adopted by a vote of 61 to 39. March 13, the confederate constitution was ratified. — In Louisiana the legislature, Dec. 11, 1860, passed the bill calling a convention, and it met at Baton Rouge, Jan. 23, 1861. Jan. 26, an ordinance of secession was adopted by a vote of 113 to 17, and on March 21 the confederate constitution was ratified. Louisiana was the only original seceding state in which the popular vote for delegates was a close one. It is stated at 20,448 for, and 17,296 against, immediate secession. — In Texas, secession was forced through with great difficulty, and altogether as a revolution. The governor refused to call an extra session of the legislature until, early in January, 1861, he found that steps were being taken to call it together without his authority. He then summoned it for Jan. 22. But this gave very little time for the passage of a convention bill, the election of delegates, and the meeting of the convention. An entirely unofficial call was therefore issued, delegates were elected, and the convention met at Austin, Jan. 28. Feb. 1, an ordinance of secession was passed by a vote of 166 to 7; but, as the convention itself was entirely without any basis of law, the ordinance was to be submitted to popular vote, Feb. 23. The legislature, Feb. 4, validated the convention, apparently with a view to overriding a possibly adverse popular majority. The popular vote was reported to the convention as 34,794 for the ordinance, and 11,235 against it. But even before the popular ratification, the convention had appointed delegates to the confederate congress, Feb. 11, and the federal troops in the state had been captured and paroled. The confederate constitution was ratified March 23. One week before that day the convention had declared vacant the office of Gov. Sam Houston, who had shown no inclination to favor the convention or its purposes. — These seven states, South Carolina, Mississippi, Florida, Alabama, Georgia, Louisiana and Texas, were the original seceding states; and the details of their action seem to show that the first three named were the only ones in which convention action represented the majority of the white voters. In Georgia and Louisiana the result was due to the lack of any abiding principle in the unionist representatives for resistance to the earnest body of secessionists; in Alabama, to the control of the convention by the southern portion, or "black belt"; and in Texas, to the revolutionary action of the secessionist politicians. These considerations, however, are not of much practical importance, for in all the states unionists and secessionists alike acknowledged the abstract right of secession, the citizen's paramount allegiance to his state, and the unconstitutionality of "coercion" by the federal government. The secession of even a single state, and an attempt to coerce it, would therefore have brought about the secession of the other states named, as it afterward did in the cases of Arkansas, Tennessee, North Carolina and Virginia. — COERCION. It is noteworthy that originally the most extreme particularists had the least objection to the coercion of a state by the federal government. In writing to Monroe, Aug. 11, 1786, Jefferson says: "There never will be money in the treasury till the confederacy shows its teeth. The states must see the rod: perhaps it must be felt by some one of them. * * Every rational citizen must wish to see an effective instrument of coercion, and should fear to see it on any other element than the water." And still more fully, Aug. 4, 1787: "It has been so often said as to be generally believed, that congress have no power by the confederation to enforce anything, for example, contributions of money. It was not necessary to give them that power expressly; they have it by the law of nature. When two parties make a compact, there results to each a power of compelling the other to execute it." This was the general ground on which the democratic members of congress, in 1861–5, while still holding the constitution to be a "compact," voted for the prosecution of the war. It may also explain the reason why both the Virginia and New Jersey plans in 1787 (see CONVENTION OF 1787) included a power to coerce disobedient states; and why Madison and

others in the convention wished to give the federal government an absolute veto on the legislation of state governments, to remove the necessity for any forcible "coercion." — Either of these plans would have been hazardous. Madison himself said that "the use of force against a state would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as a dissolution of all previous compacts by which it might be bound." This expression, justified as it is by common sense, has often been quoted as a condemnation of "coercion." But it must be noted that no such "use of force against a state" was ever authorized by the constitution. That instrument gave an indirect and far safer power of coercion, 1, in the case of states, by extending the power of the federal judiciary to state laws involving the construction of the constitution (see JUDICIARY, I.); and 2, by giving the power to compel individuals to obey the federal government in any conflict with the state. — Nevertheless the opinion was strangely prevalent in 1860-61, that, because congress had no power to "coerce" a state, secession could not be interfered with. The simplest argument for this view can be found in President Buchanan's message of Dec. 3, 1860. It was the main encouragement to secession by a single state; it was announced again and again by the border states during the winter of 1860-61; and the consciousness of its general existence threw the Lincoln administration at first altogether upon the defensive. (See BORDER STATES, and the names of their states in detail.) It was not until the popular uprising in the north had taught the administration what states it could rely upon, that the federal government was encouraged to begin the work of coercion by exercising its power to execute the laws and suppress insurrection by means of the armed militia. From that time coercion took the form of repression of individual resistance, the federal government ignoring the action of the state as entirely *ultra vires*. This is the form which coercion took in its first operation in our history, the "force bill" of 1833 (see NULLIFICATION), and which it must always take. If a state should see fit to form a treaty with a foreign power, the federal government would ignore such action, and would compel individuals to ignore it also, by the use of the courts in cases of mild resistance, and of the army and navy in case of resistance by force. This process of "coercion" could hardly be better stated than in a pamphlet cited below, by Gov. H. A. Wise, of Virginia, published in 1859, though aimed at a very different object. He supposes the state of Vermont gradually coming to forcible resistance against the execution of the fugitive slave laws, her state convention making the arrest of a slave felony, and her magistrates and officers resisting the federal writs of *habeas corpus* by force. "The president must then command a sufficient force of the army or navy or militia of the United States to overcome the rebellion and treason; and that would not be all. The jailor and judges and governor of Vermont, and all persons guilty with them of rebellion against the faithful execution of the laws of the United States, would have to be arrested and tried according to law, or, if their resistance was serious enough to require it, to be slain in battle of rebellion against the laws of the Union. And I am sure, that, if civil war should thus be brought on to battle and carnage, every patriot and lover of the laws would march to the order of coercing a state, to compel her authorities and her people to obey the supreme laws, to lay down their weapons, and to renounce the state laws and ordinances commanding their rebellion." — Voluntary secession had really spent its force in carrying Georgia, Alabama, Louisiana and Texas with it; but it relied on carrying the other slave states with it on the plea of resistance to coercion, when President Lincoln should call for troops to enforce the laws. In two of them it succeeded fairly: Arkansas passed an ordinance of secession May 6, and North Carolina May 20. (See those states.) In Virginia and Tennessee, another plan had to be adopted. The convention, while nominally submitting the ordinance of secession to popular vote, first formed "military leagues" with the confederate states; confederate troops at once swarmed over their territory; and under their auspices the popular vote became a farce. In this way Virginia's ordinance was ratified May 23, and Tennessee's June 18. Here the current stopped: in Maryland, Kentucky and Missouri much the same plan was tried as in Texas, but it was a failure. (See those states.) In Delaware alone of the slave states, secession seems to have had no advocates. — The United States supreme court has finally decided that the ordinances of secession were entirely void, and that a state government steps out of its sphere when it undertakes to organize armed resistance to the federal government. Reconstruction by congress does not seem to have been founded on the notion that the ordinances of secession had so far taken the states out of the Union as to require their readmission, but on the theory that the state governments had either been vacated by the fault of the individual citizens of the state, or had been seized upon by usurpers; that in either case the reconstruction must be under the authority of the federal government; and that individuals who had been guilty of treason were estopped from objecting to the methods which congress might see fit to employ. (See RECONSTRUCTION, I.) — Finally, the suppression of the doctrine of secession by force has established the political existence of the nation, as distinguished even from *all* the states. It has done so, not by the facts that all the seceding states, in their new constitutions, expressly disavowed any right of secession, and declared the primary allegiance of the individual citizen to be due to the United States; but by the higher fact that the nation has plainly expressed and successfully enforced its will in the matter. For the future, all men are bound to take notice that it is the nation

that wills that there should be state governments, and not states which will that there should be a national government. The ultimate results of secession in this way no man can foresee. (See NATION, III.) — The theory of the right of secession will be found in Centz's *Republic of Republics;* Fowler's *Sectional Controversy;* 1 Calhoun's *Works*, 300; 1 Tucker's *Blackstone*, Appendix, 187; 1 Stephens' *War Between the States*, 495; Rawle's *Commentaries on the Constitution*, 302; Appleton's *Annual Cyclopædia*, 1861, 614 (Davis' Message of April 29). The study of Mr. Fisher's theory of "constitutional secession," by amicable agreement between the federal government and a seceding state, will also be found interesting and profitable: see Fisher's *Trial of the Constitution*, 160, 167. (See STATE SOVEREIGNTY, III.) See also (I.) authorities under NEW ENGLAND UNION, and ALBANY PLAN OF UNION; 5 Elliot's *Debates*, 276, 278; 1 Benton's *Debates of Congress*, 172; 4 Jefferson's *Works*, edit. 1853, 111; 1 von Holst's *United States*, 196; authorities under KENTUCKY RESOLUTIONS; 3 Jefferson's *Works*, edit. 1830, 394; 2 Schouler's *United States*, 192; Quincy's *Life of Quincy*, 206, 210; Adams' *Documents Relating to New England Federalism* (see, under index, "Northern Confederacy"); 4 Upham's *Life of Pickering*, 53; 3 Sparks' *Writings of Gouvernour Morris*, 319; 1 Story's *Life of Story*, 182; 8 Niles' *Weekly Register*, 262; Carey's *Olive Branch*, 7th edit., 416, 449; Hunt's *Life of Livingston*, 346; authorities under CONVENTION, HARTFORD, and NULLIFICATION; (II.) 1 Greeley's *American Conflict*, 359; May's *Anti-Slavery Conflict*, 320; 2 Benton's *Thirty Years' View*, 613, 698, 733; Cox's *Eight Years in Congress*, 188; 16 Benton's *Debates of Congress*, 403, 415 (Calhoun's and Webster's speeches, March 4 and 7, 1850); 2 Olmsted's *Cotton Kingdom*, 158; (III.) Nicolay's *Outbreak of Rebellion;* 1 Draper's *Civil War*, 438, and 2 *ibid.;* *Buchanan's Administration*, 108; Greeley's *Political Text Book of* 1860, 170; McPherson's *Political History of the Rebellion*, 2; 2 Stephens' *War Between The States*, 312; *ibid.*, 671 (South Carolina declaration of 1861); 2 Jefferson's *Works*, edit. 1830, 43, 203; H. A. Wise's *Territorial Government*, 103; Botts' *Great Rebellion*, 205, 209; Brownson's *American Republic*, 277; Story's *Commentaries on the Constitution*, edit. 1833, § 359; Mulford's *The Nation*, 334; Goodwin's *Natural History of Secession;* Hurd's *Theory of Our National Existence*.

ALEXANDER JOHNSTON.

SEDITION LAWS. (See ALIEN AND SEDITION LAWS.)

SEMINOLE WAR. (See SLAVERY, II.)

SENATE (IN U. S. HISTORY). This name is given to the smaller of the two branches of the state legislatures, but, when used without distinctive description, usually refers to the smaller of the two houses of congress. (See CONGRESS, HOUSE OF REPRESENTATIVES.) — In the congress of the confederation there was but one house, and each state had an equal vote in it. (See CONFEDERATION, ARTICLES OF.) There was some effort in the convention of 1787 to continue the arrangement of a single house, but it found no influential support, except from Franklin and the "Jersey plan," and was abandoned. The greatest difficulty, which seems very slight now, but was almost insuperable in the beginning of the convention's work, was to find a different basis of existence for the two houses. It was comparatively easy to fix the membership of the house of representatives by fair proportions of the whole population of the country. (See APPORTIONMENT.) But it was then very difficult to hit on any radically different basis for the senate, which should be satisfactory to all concerned. There was no different class, as in Great Britain, from which to select a house of lords (see that title); and the formation of a smaller house, on the same basis as the other, would have ended in the establishment of two houses, both controlled by precisely the same ideas, and the loss of all the advantages of two houses. — The same difficulty has attended the formation of state senates, and has been met there by the division of the state into different territorial units for the two houses. (See ASSEMBLY.) The convention of 1787 hit upon a simple and natural basis for the senate, and formed a body as efficient in practice as it is apt to strike the imagination of an observer favorably. The senate is certainly the most dignified and impressive part of the American constitutional system, unless we except the supreme court. But this brilliant success of the convention must not blind us to the fact that the convention itself gained it blindly, or was forced into it; that it was the product of no single clear design or desire; and that it was due to the gradual and unwilling compromise of conflicting purposes. (See CONVENTION OF 1787; COMPROMISES, I.) If the scheme of the senate, as we admire it in its final form, had been offered to the convention in the first place, it would almost certainly not have received a single vote. — The Virginia plan, when first introduced, provided that the senate, without as yet giving it a name or defining its powers or term of office, should be chosen by the house of representatives out of a proper number of persons nominated by the state legislatures. Pinckney's plan proposed that it should be chosen by the house from residents of the various states to serve for three years; that the senators from New England, the middle and the southern states, should constitute three classes, to go out of office on successive years; and that the senate should have sole power to declare war, make treaties, appoint foreign ministers and judges of the supreme court, and decide territorial disputes between the states. Hamilton's plan proposed that senators should be chosen by electors chosen by the people of each state in election districts; that they should serve during good behavior; and that the senate should have the power to declare war and approve treaties and appointments. The New Jersey plan

provided for no senate. In the debate three other plans of selection were brought up: 1, by the national executive, out of nominations by state legislatures; 2, by the people; and 3, by the state legislatures; and the last was adopted unanimously, June 7. As yet it was not settled whether the states were to be equally or proportionately represented in the senate, the small states urging the former plan, and the large states the latter. This question, on which, said Sherman, of Connecticut, "everything depended," came up June 11. A motion that each state have one vote was lost, and another for proportionate representation in both branches was carried, the six "large states" in both cases voting against the five "small states." On the next day the term of senators was fixed at seven years. June 13, the committee of the whole reported that the "second branch" was to be chosen for seven years by the state legislatures, according to the population of each state, and to be paid out of the national treasury; its members to be at least thirty years old, and to be ineligible to office under the United States for a year after the end of their term of office. The constitution of the senate, in its first form, was thus completed; and though it still lacked a name, the words "senate" and "senatorial" were frequently used in debate. — The report of the committee of the whole as to the composition of the senate was adopted by the convention, June 24–25, except that the term of seven years was changed to six. The convention was then brought face to face with the all-important question, the rule of representation in the senate. For days the debate went on. The five small states, Connecticut, New York, New Jersey, Delaware and Maryland, knew that they would be outvoted by the six large states in the end; and a motion was made, June 30, that the president of the convention write to the executive of New Hampshire, asking for the attendance of that state's delegates; but it was voted down. Dr. Franklin proposed that each state have an equal representation in the senate, with a vote on money bills proportionate to its share of taxation; but this was not considered. The large states were determined to have a proportional share of the senate; the small states were equally determined to have an equal share. The debates grew unusually warm, for this convention; and one of the Delaware delegates went so far as to declare, that, if the large states should push the matter to an unjust issue, they would dissolve the confederation, and then "the small ones will find some foreign ally, of more honor and good faith, who will take them by the hand and do them justice." The temper of the small states rose so high that the matter was not pushed to an issue. It was settled by compromise, and the equal representation of the states in the senate was the result. (See COMPROMISES, I.) — July 14, the large states made a fresh effort to apportion senators among the states in numbers varying from one for Rhode Island and Delaware to five for Virginia, or thirty-six in all, but it was voted down. During the debate, Elbridge Gerry threw out the idea, which was afterward adopted, of allowing the senators to vote *per capita*, instead of by states. From this time the large states yielded, and the equal state representation in the senate was secure. The line of division still existed: the small states usually endeavored to throw as much power as possible into the senate, while the large states did the same in regard to the house of representatives. But the struggle was now most temperate and amicable: "the little states had gained their point." In the report of the committee of detail, Aug. 6, the name "senate" was formally given to "the second branch." Its composition and voting *per capita* were just as in the final constitution, except that there was as yet no vice-president to preside over it. (See ELECTORS, I.) Its powers were very different: it was to make treaties, appoint ambassadors, judges of the supreme court, and commissioners to give final and conclusive judgment in territorial disputes between the states (see TERRITORIES, I.); but it had not yet the power to try impeachments, confirm the president's appointments, or alter or amend money bills. The introduction of the electoral system, Sept. 4, brought with it, as part of the plan, the power of the senate to try impeachments, and the functions of the vice-president as presiding officer of the senate; but, in case of a failure of choice by the electors, the senate was to choose the president, leaving the vice-presidency to the other person having the highest number of electoral votes. The next day another report from the committee of detail gave the senate power to alter or amend money bills. All these new provisions were adopted in the next three days, except that the election of the president was transferred to the house. The constitution of the senate was not further altered, except that the provision was unanimously added, Sept. 15, that no state should be deprived, without its consent, of its equal suffrage in the senate. As a rough summary, we may say that the fundamental idea of the senate was brought in by the compromise of July 5, and that it took almost complete shape, as it now stands, Sept. 4. Alterations at other periods of the convention were comparatively unimportant; and, since the adoption of the constitution, its provisions with regard to the senate have never been altered, except by giving to that body, in 1804, the choice of the vice-president when the electors failed to choose. — In the form which it finally took and has since retained, the senate is a body composed of two members from each state, voting *per capita*. In 1803, Tucker said, of the number of senators, that "it is not probable that it will ever exceed fifty." The number is now (1883) seventy-six, from thirty-eight states. How far this may be increased in the future can not even be guessed. It is true that there are but eight available territories remaining (see TERRITORIES); but there are many indications that the process of forming new states may be turned to the division of old states. (See *State Rights*, under STATE SOVEREIGNTY.) Sena-

tors are to be at least thirty years old, nine years citizens of the United States, and inhabitants of the states for which they are chosen. They are chosen by the state legislatures for six years; and congress may at any time, by law, make regulations, or alter state regulations, as to the manner and time of their election, but not as to the place. For many years there was hardly any field for political manœuvre more fertile than this of the choice of senators by the legislatures. In some states senators were elected by concurrent vote of the two branches of the legislature; in others, by joint convention; in others, a concurrent vote was first to be tried, and then, if necessary, a joint convention. In all the states there were chances for intrigue which were not neglected. A party majority in one house would refuse to go into a joint convention in which it was certain to be beaten; or would resign or absent themselves. (See, for example, INDIANA.) One of the most curious of these manœuvres took place in New York, in 1825. (See that state.) Finally, the act of July 25, 1866, regulated the manner of election. Each house of the legislature is to vote *viva voce* for senator, on the Tuesday following its organization. On the following day the houses are to hold a joint meeting. If it appears that the same person has received a majority in each house, he is elected. If not, the joint meeting is to take at least one *viva voce* vote a day during the session of the legislature, until some person shall receive a majority of all the votes of the meeting, a majority of each house being present. In the case of a vacancy occurring during the session of the legislature, the same course of procedure is to begin on the Tuesday after the notice of the vacancy is received. If a vacancy occurs when the legislature is not in session, the constitution empowers the governor to fill it by appointment until the legislature meets. — When the first senate was organized, ten states were represented. May 14, 1789, they were divided into three classes: one of six members, the other two of seven each. One member of each class then drew lots, the class drawing number one to serve two years, number two to serve four years, and number three six years. The classes were so arranged that no two senators from one state fell in the same class. As the other three states sent senators they were assigned by lot in the same way, a blank being so used as to keep the classes even. As the terms of the classes expired, their successors were elected for six full years. Senators from new states are so assigned as to keep the three classes nearly even. Thus one-third of the senate goes out of office every two years; but there is never any complete alteration of its membership at one time. Theoretically, it has been the same body since 1789, in spite of the periodical changes in its constituent elements. This permanence seems, from the debates of the convention, to have been intended mainly to give foreign nations a sense of security as to the treaty power of the United States; but it has had important influences in every direction. — In legislative matters the senate holds an equal rank with the house of representatives (see, in general, CONGRESS); it may not originate bills for raising revenue, but it may propose or concur with amendments, as on other bills. Its officers are much the same as those of the house (see HOUSE OF REPRESENTATIVES); but it has no such binding code of rules of order and debate. In place of them it relies on the "courtesy of the senate," which the older senators of all parties unite in maintaining; and vivacious graduates from the house of representatives are rapidly chilled down to the orthodox temperature of debate in the senate. The vice-president presides, but has no vote, except in case of a tie. In presiding, he is but the spokesman of the senate, and is expected merely to express its will, or in doubtful matters to call upon it for an expression of its will. He addresses the members only as "senators"— a brief and impressive mode introduced by vice-president Calhoun, instead of the form previously in use, "gentlemen of the senate." (For the succession to the presidency, see EXECUTIVE, V.) — In addition to its legislative functions the senate has peculiar executive and judicial characteristics, which greatly increase its dignity and importance. Its power to confirm the president's nominations is fully treated elsewhere. (See CONFIRMATION BY THE SENATE, TENURE OF OFFICE.) It sits as a court to try impeachments preferred by the house of representatives. (See IMPEACHMENTS.) It has the power to advise and consent to treaties made by the president, and they are not valid until so ratified. (See JAY'S TREATY.) It is even held, on good authority (see Curtis, as cited below), that the senate may propose a treaty to the president; and this interpretation is certainly rather unusual than strained. In transacting its executive business, the confirmation of nominations and treaties, the senate acts in secret. Many unsuccessful efforts have been made to make these debates public. — The senate chamber is in the centre of the north wing of the capitol at Washington, and its simplicity of appearance harmonizes well with the proceedings of the senate. The senate committees are forty-two in number, the most important being, as a general rule, the committee on foreign relations.—See 5 Elliot's *Debates* (index under *Senate*); *The Federalist*, lii.–lxvi.; 2 Curtis' *History of the Constitution*, 417 (and also index under *Senate*); Story's *Commentaries*, §§ 688, 1499 foll.; Poore's *Manual of the Senate;* the act of July 25, 1866, is in 14 *Stat. at Large*.

ALEXANDER JOHNSTON.

SERGEANT-AT-ARMS. (See PARLIAMENTARY LAW.)

SERGEANT, John, was born at Philadelphia, Pa., Dec. 5, 1779, and died there, Nov. 23, 1852. He was graduated at Princeton, in 1795, was admitted to the bar in 1799, and was a federalist congressman 1815–23 and 1827–9. In 1832 he was the whig candidate for vice-president, and

was defeated. (See WHIG PARTY, I.; ELECTORAL VOTES, XII.) He was again in congress as a whig, 1837–41. A. J.

SERVIA, Principality of. A semi-sovereign state, the youngest member of the European family, to use the expression of an English publicist, formed of a part of the old Servian empire founded by Douchan the Strong in the fourteenth century, the dismemberment of which followed soon after the death of that prince (1356). After the fatal day of Kossovo (1389), which paved the way for the subjection of the different Slave states of Turkey in Europe, the Servians acknowledged themselves vassals of the Ottoman porte by virtue of particular agreements, the tenor of which recalls the capitulations concluded about the same time between Turkey and Moldo-Wallachia, and which succeeded no better than the latter in protecting the national independence. Deprived of its *despotes*, or native chiefs, Servia was gradually reduced to the condition of a simple *paschalic*, until the day when, at the call of Kara-George and Miloch, it rose *en masse* against its oppressors, and alone, without other aid than its courage and the diplomatic assistance of Russia, forced, after twenty-two years of fight and negotiation (1804–1826), the porte to restore to it a part of its former rights. In 1826 the additional act of the convention of Akkerman (Oct. 7), confirmed three years after by the treaty of Adrianople, raised Servia into a tributary principality of the Ottoman porte, with the privileges of an independent internal administration. — These privileges were stated and specified in a *Hatti-shérif* of Sultan Mahmoud, dated Aug. 3, 1830, which fixed the limits of the new state, and recognized, by a *berat* dated the same day, Miloch and his descendants forever as *kniazes* (princes) of Servia: a title which had been unanimously conferred upon the liberator three years before the Servian grand *skoupchtina* (national assembly). A second *Hatti-shérif*, promulgated in December, 1838, framed the *oustav*, or Servian statute, in sixty-six articles relative to the government, administration, finances, etc. — The rights and immunities derived from these *Hatti-shérifs* received a new sanction by the treaty of Paris of 1856, which abolished the protectorate that Russia had established over Servia, substituting for it the collective guarantee of the contracting powers, and stipulated, at the same time, for the neutrality and inviolability of the Servian territory, as may be seen from articles twenty-eight and twenty-nine, worded thus: "Art. 28. The principality of Servia shall continue to depend upon the sublime porte, in conformity with the imperial *Hattis* which fix and determine its rights and immunities, placed henceforth under the collective guarantee of the contracting powers. Consequently, the aforesaid principality shall preserve its independent and national administration, as well as full freedom of conscience, legislation, commerce and navigation. Art. 29. No armed intervention shall take place in Servia without previous agreement between the high contracting powers." — The situation of Servia, stationary during the reign of Alexander Karageorgevitch (September, 1842, to December, 1858), was improved both externally and internally in consequence of the revolution which called the Obrenovitchs to the throne. In 1862 the Turks consented to evacuate the fortresses of the Danube and the Save, with the exception of Belgrade, Semendria and Chabatz, which, in turn, were not long afterward restored to the Servians (1867). Two years after (July, 1869), the *oustav* was abolished by the *skoupchtina*, and replaced by the constitution which now rules Servia. — *Political State.* It results from the preceding that Servia enjoys exactly the same rights as a state, and is placed in the same position toward Turkey, as Roumania. Like the latter, its government and administration are completely independent of the suzerain power, to which it is only obliged to pay an annual tribute of 4,600 Turkish purses. It furnishes neither troops nor money in time of war. It preserves its national flag of tricolor bands with the arms of the principality embroidered in relief (a field of gules with a cross of silver, strewn with four sabres, and surmounted by a crown), and maintains at Constantinople, like Moldo-Wallachia, an agent or resident (*kapou kiaïa*) accredited to the porte. — *Area and Population.* The area of the principality is estimated at 49,500 square kilometres. It forms five great territorial circumscriptions, divided, for administrative purposes, into seventeen departments (eighteen with the city of Belgrade), subdivided into sixty arrondissements, comprising 1,199 communes, of which forty are city communes and 1,159 are rural communes, with 2,200 villages. — The population amounted, according to the census of 1866, to 1,215,576, as follows: Servians, 1,057,540; native Wallachians, 127,826; Jews, 5,589; and Bohemians (gypsies), 25,171. The domiciled foreigners (6,960) are not included in this number. — *Government.* The government is a constitutional monarchy, hereditary in the family of Obrenovitch. The prince, or *kniaz*, with the title of most serene highness, as well as the *domnu* of Roumania, exercises the powers and enjoys the prerogatives devolving upon the sovereign in constitutional states, promulgates the laws and ordinances, appoints the public officials, commands the military forces, signs agreements and treaties, and alone represents the nation with foreign powers. He governs with the aid of responsible ministers. The number of ministerial departments, limited to three by the *oustav* of 1838, was raised to seven by the law of 1861, interior, finances, foreign affairs, justice, public instruction and worship, war, public works. The prince shares the legislative power with the national assembly (*skoupchtina*). There are two kinds of skoupchtinas: the *ordinary* skoupchtina, which assembles every year, and the *extraordinary* or grand skoupchtina, convoked only in certain exceptional and fixed cases. The ordinary skoupchtina is composed of representatives elected by the nation, and of deputies (one-third) appointed by

the executive power. Every tax-paying Servian is an elector at twenty-one years of age; every elector paying thirty francs tax is eligible. The constitution guarantees to the citizens equality before the law, individual liberty, religious liberty, liberty of the press, and the abolition of confiscation. — *Administration.* The departments (*okroujié*) are administered by prefects (*natchalnik*), the arrondissements by subprefects appointed by the government; the communes by *kmètes* elected by the inhabitants, and fulfilling both the functions of mayors and justices of the peace. — *Justice.* Justice is administered: 1, by a court of appeal (Belgrade), divided into three chambers; 2, by a court of appeal also sitting at Belgrade; 3, by tribunals of first resort sitting in chief towns of the departments; 4, by rural courts, established from time immemorial in each commune, and composed of the *kmète* and two assessors. The jury system was introduced in 1871, but only for certain cases. The proceedings before all the tribunals are public and oral. The death penalty is no longer inflicted in political offenses. Moreover, it is resorted to only in cases of premeditated murder. The duration of the punishment of forced labor or of imprisonment can not exceed twenty years. — *Public Instruction.* According to published official accounts, there were in the principality, at the end of the scholastic year 1870–71, 484 communal schools, which furnish only elementary instruction, eighteen establishments of secondary instruction, one academy (Belgrade), composed of three faculties (law, science and philosophy); in all, 505 establishments, attended by 27,761 pupils (10,978 in 1861), which is only an average of 2¼ to every 100 inhabitants. But it is only just to remark that before 1830 Servia did not possess a single school, and that instruction was so far from being general, that the two founders of Servia's independence, Kara-George and Miloch, did not even know how to read. Instruction in all the schools is gratuitous; primary instruction is, in a certain measure, obligatory. — *Worship.* The prevailing religion is the Greek Catholic. All other creeds are freely professed. The Servian church is autocephalic (autonomous), that is, it governs itself, entirely independent of the ecumenical patriarchate of Constantinople, by a synod composed of the archbishop of Belgrade, metropolitan of Servia, and three diocesan bishops of Chabatz, Négotine and Oujitzé. The four dioceses together contained, in 1871, 379 churches and chapels, with 742 priests, and 42 monasteries, with 135 monks. The bishops are chosen by the synod and confirmed by the prince. The metropolitan is appointed directly by the synod. — *Internal Relations.* The principality maintains official relations: 1, with the Ottoman porte by means of a Servian *chargé-d'affaires* at Constantinople; 2, with the six guaranteeing powers (France, Austria, Great Britain, Italy, Prussia, Russia) through the medium of agents and consuls general of these powers accredited to the prince at Belgrade; 3, with Roumania, by means of the Servian agency at Bucharest (1862), and the Roumanian agency at Belgrade (1863). The principality also sends a delegate to the permanent river commission of the Danube, established by article seventeen of the treaty of Paris. — *Military Forces.* The military forces are composed of two distinct elements, although each completes the other: the *standing army*, which is, properly speaking, only a collection of the organizations of different sorts; and the *militia*, the organization of which resembles somewhat that of the Prussian landwehr. The first, which is recruited by lot, does not exceed 4,000 men. The second, composed of all the citizens from twenty to fifty years of age who do not form part of the standing army, is divided into three classes or *bans*. The first *ban*, formed of men from twenty to thirty years of age, has an effective force of 68,364 men, infantry, cavalry and artillery, divided into five commands, or *voïvodies*. — *Finance.* There are few countries in which the finances are administered with more wisdom than in Servia. Almost all the budgets show an excess of receipts. Thus the budget year 1870–71 showed an excess of receipts of 1,852,281 francs, out of a total of 14,309,242 francs. The principal sources of revenue are the direct taxes (7,661,200 fr.) and the customs (2,363,296 fr.). Among the expenditures (12,956,096 fr.) figure the general services of the ministries for a total of 10,765,090 francs, the civil list of the prince (504,000 fr.), the tribute to the Ottoman porte (494,027 fr.), the dotation of the legislative bodies (163,461 fr.), etc. — *Commerce.* The value of the imports for the four years 1868–71 presents an annual average of about 25,000,000 francs. The average of the exports for the same period was 29,426,100 francs. In 1868, in consequence of the extreme abundance of cereals, it rose to 38,000,000. The principal articles of export are: hogs, cattle, wool, hides, tallow, suet, brandy (plum) and cereals, which, until 1865, figured among the articles of import.*

A. Ubicini.

* The independence of Servia from Turkey was established by article thirty-four of the treaty of Berlin, signed July 13, 1878, and was solemnly proclaimed by Prince (now King) Milan at his capital, Aug. 22, 1878. — The revenue of Servia is derived chiefly from direct imposts, including a general capitation tax, classified as to rank, occupation and income of each individual, and which is assessed, in the first instance, on the different communes or parishes. The budget for 1883 is as follows: revenue, £1,392,000; expenditures, £1,391,000; showing £900 surplus; and being an increase of revenue to the amount of £86,500 over the previous year. The increase (about the same) in the expenditure is chiefly due to the expenses incurred in reorganizing the Servian army on the German system. The national debt is about £5,500,000, £3,500,000 being incurred for the new railway (Belgrade-Vranja), the interest and amortization of which, during fifty years, is 6 per cent.; £1,500,000 for a lottery loan, to repay the war requisition; £250,000 due to Russia; and £250,000 incurred in 1882 to pay the claims of the disinherited Turks in the annexed provinces. The interest and expenses on the debt amount to £310,000 in the budget for 1883. — The standing army of Servia, on a peace footing, is 9,710 men—infantry, artillery, engineers and cavalry. Besides the standing army, there is the national militia; so that, on paper, in 1882, the total war force of Servia amounted to 210 battalions, with 225,000 men in all.

SESSIONS OF CONGRESS. (See CONGRESS, SESSIONS OF.)

SEWARD, William H., was born at Florida, N. Y., May 16, 1801, and died at Auburn, N. Y., Oct. 10, 1872. He was graduated at Union in 1820, was admitted to the bar in 1822, and entered political life as an "anti-mason." (See ANTI-MASONRY.) He was a member of the state senate 1830–34, and, on the union of the various elements of opposition into the whig party, he became its candidate for governor. Defeated in 1834, he was elected in 1838 and 1840. In 1849, he became United States senator from New York, and at once became the most prominent of the anti-slavery whigs. He had organized a faction of his own way of thinking in the state, in opposition to the Fillmore, or "silver gray," whigs, and seems to have believed that he would finally be as successful with the national party. The attempt was a failure; but Seward's speeches in the senate made him the acknowledged leader of the new republican party from its first organization. In one of them, he made the startling assertion that there was a higher law in politics than the constitution. But the vigor of his speeches had made him a dangerous candidate for a new party; and, although he confidently expected the nomination for the presidency in 1860, it was given to Lincoln. Nevertheless, he became Lincoln's secretary of state in 1861, and served until 1869. (See ALABAMA CLAIMS, RECONSTRUCTION.) See Baker's *Life of W. H. Seward;* Welles' *Lincoln and Seward;* C. F. Adams' *Memorial Address on Seward;* Jenkins' *Governors of New York*, 607; Savage's *Living Representative Men*, 404; W. H. Seward's *Works*.

ALEXANDER JOHNSTON.

SEYMOUR, Horatio, was born in Pompey, Onondaga county, New York, in 1811, studied and practiced law for a time, and was elected mayor of Utica in 1840, and member of the legislature in 1841. He there became one of the leaders of the conservative, or hunker, democrats, supporting Gov. Bouck's administration. In the democratic dissensions which followed, he took no active part on either side, and, in 1850, was unanimously nominated for governor by a united convention of all the factions, and was beaten by about 300 votes in a poll of about 430,000. In 1852, he was again nominated, and was elected. In 1854, he was again the regular candidate in the "scrub-race" of that year, and was defeated by Clark, the fusion (afterward republican) candidate, by 309 votes. In 1862 he was again elected governor, by about 11,000 majority over Wadsworth, republican. (See DRAFTS.) His party orthodoxy, together with his moderate and conciliatory course, had long since made him the recognized leader of the New York democratic party; and the inclination toward him spread until, in 1868, the national convention nominated him, against his own desire, for president. He was defeated, and has since refused to take any active part in politics. (See DEMOCRATIC PARTY, VI.) See Savage's *Representative Men*, 428; Jenkins' *Governors of New York*, 706; Croly's *Lives of Seymour and Blair* (1868); McCabe's *Life of Seymour* (1868).

ALEXANDER JOHNSTON.

SHAY'S REBELLION. (See CONFEDERATION, ARTICLES OF.)

SHERMAN, John, was born at Lancaster, O., May 10, 1823, was admitted to the bar in 1844, and entered political life as a whig. He was a republican congressman from Ohio, 1855–61, and United States senator, 1861–77. He then became secretary of the treasury under Hayes, serving with such brilliant success that, in 1880, he was one of the three leading candidates for the republican presidential nomination. (See REPUBLICAN PARTY, III.) See Sherman's *Select Speeches and Reports*.

A. J.

SHIMONOSÉKI INDEMNITY. The town of Shimonoséki commands the narrow straits leading into the Inland sea from the sea of Japan, which, at this point, are about a half-mile wide. On June 25, 1863, in obedience to orders from the mikado to close the straits, the clansmen of Chōshiu fired on the American steamer Pembroke, but without injury to the vessel. On July 16, by order of the minister of the United States, Capt. McDougall, of the United States steamship Wyoming, attacked the batteries, and sunk two vessels moored under them. French and Dutch vessels, being fired on, also shelled the batteries, the

This army has 810 officers, and some 300 pieces of artillery. The army is, however, being reorganized on the German system. By the new law every able-bodied Servian will be in the army from his twentieth to his fiftieth year. At twenty he enters for two years the regular army, afterward passing into the reserve until he reaches his thirtieth year. From thirty to thirty-seven he is in the first-class militia, and from thirty-seven until fifty in the second-class militia. The infantry will have fifteen battalions, and the cavalry two regiments. The total war force will be 135 battalions, with 160,000 men. — Servia had, in 1888, a population of nearly 1,750,000. The inhabitants are almost entirely Slaves, the Turkish population on the territory (4,250 square miles) acquired from Turkey by the Berlin treaty having rapidly disappeared. There are less than 2,000 Jews (who have much of the commerce of the country in their hands). The gypsy population, it is stated, is turning to the cultivation of the land, on the advantageous terms offered to them by the government. — The state is divided into twenty-one counties. In religion Servia is almost independent of the patriarch of Constantinople. There are about 10,000 Roman Catholics, chiefly subjects of Austria-Hungary, with about 460 Protestants. The excess of births over deaths amounted to 15,355 in 1880, and to 36,836 in 1881. — The chief trade of Servia is with Austria. Besides, with that country, as remarked above, commercial intercourse is mainly carried on with France, the United States, Turkey and Roumania. The total imports are officially valued at about £2,000,000, and the exports at considerably less, mainly to and from Austria and Turkey. Live animals are the chief article of export, particularly pigs, which are kept in countless herds, feeding on the acorns which cover the ground for miles. Large quantities of cereals, hides and prunes, are also exported. The commercial resources of Servia are as yet wholly undeveloped, chiefly for want of roads, but a railway from Belgrade to Vranja is being constructed. There are 1,370 miles of telegraph.—F. M.

French with a landing force destroying one of the redoubts. On Sept. 5, 1864, a combined squadron of one American, nine British, three French and four Dutch ships of war, with 208 guns and 7,590 men, attacked the forts and destroyed them. The American portion of this force consisted of the chartered steamer Takiang, with one Parrot gun, commanded by Lieut. Pearson, who had 258 men under him; the expenses being in all less than $25,000. The allied representatives claimed from the shōgun's government, at Yedo, compensation for damage done, $420,000, or $140,000 apiece to the Dutch, French and Americans, out of the "indemnity" of $3,000,000, to be divided among the four treaty powers, making the share of Great Britain $645,000, and of each of the others $785,000. The bill presented for damage to the Pembroke (loss of time, freight and passengers) was $10,000; the further claim for "annuities to dead and wounded" of the Wyoming, not being allowed. The last installment of the indemnity was paid to the treaty powers by the mikado's government in Tōkiō, in 1875. This "Shimonosēki Indemnity Fund," deposited in the treasury of the United States, amounting, in 1882, with interest, to more than double the original sum, has never been applied to public use, the whole business being looked upon, as it indeed was, as iniquitous and extortionate. A bill authorizing the return of this money to Japan, after deducting a small part of it for the officers and men of the Wyoming, has repeatedly passed one house of congress.*

W. E. G.

SHINTŌ. We shall improve the space at our command by outlining the features of pure Shintō, the indigenous religion of Japan, which has exerted so great a political influence upon the empire, which is so enthusiastically studied by Anglo-Japanese scholars, which has given rise to a large portion of modern Japanese literature, including the finest works of erudition in the language, which furnishes the basis of some vigorous polemics against advancing Christianity, and the original scriptures of which have been denominated by Basil Hall Chamberlain "the earliest authentic and connected literary product of that large division of the human race which has been variously denominated Turanian, Tartar and Altaic, * * even preceding by at least a century the most ancient extant literary compositions of non-Aryan India." — The pure Japanese term for the native religion is Kami no Michi, the Way of the Gods; or, Religion of the Kami. The later and more concise Chinese term, Shintō (*Shin* god, and *tō* doctrine, *i. e.*, theology), was invented to distinguish it from the Way or doctrine of the Chinese sages, or of Buddha. Tō in Shintō is the same as the Tau of Lao-tse, or Tauism. It seems no longer doubtful that the Japanese islands were peopled by a race from northeastern Asia, who made their way from the continent through Corea, long before Buddhism entered China, or before Chinese culture had greatly influenced the nations around the Middle Kingdom. The invaders found on the soil the Ainōs and other tribes, whom they subdued as they moved northwardly and westwardly. They obtained ascendency, not only by their superior arms and prowess, but by their fetiches and religious beliefs. The political order established by the conquerors resembled feudalism, and of the many shrines, established upon the allotted lands by the victors or their descendants, for the reverence of ancestors, some attained great eminence and renown. The invaders professed to have come originally from heaven, and so called themselves the heavenly race, and their ancestors the heavenly gods, while their serfs or conquered people were the earthly race, and their chiefs the earthly gods. — Until the introduction of writing from China, in the fourth century, the prayers, odes and traditions of this essentially ancestral cult were handed down from mouth to mouth and were not committed to writing until the eighth century. Upon the introduction of Buddhism, in 552 A. D., which served to spread Chinese literary culture, the superiority of both the religious and the literary forms and codes of India and China were so apparent that native developments were smitten with paralysis, and, instead of originating, the people borrowed wholesale. Ancient Japanese civilization may be compared to the wooden caissons, on which modern engineers build their lofty towers of bridge masonry; for soon after the Kojiki (Book of Ancient Records) 711–12 A. D., and the Nihongi (Chronicles of Japan) 720 A. D., were completed, all that was peculiar to ancient Japan was rapidly overlaid by Chinese institutions and culture in every department of human activity, and the old features of national life and faith faded from view. In 927 A. D. the code of ceremonial law, Engishiki, was reduced to writing, though in reality it contains a ritual older in many portions than the historic period, which latter, in the light of present historical research, can not probably be stretched beyond 400 A. D. — The Kojiki pictures creation as evolution out of chaos, in which matter existed before intelligence, the first imperfectly formed beings springing like sprouts from the warm mud, and arriving at completed spirit and form only after successive stages of advance. Japan was the first created land, and the first pair, Izanagi and Izanami, furnished the Japanese archipelago with everything needful, and populated it with gods, men and animals. Heaven and earth were still united, but gradually a separation took place. The most famous child of the divine pair was a daughter, who became the sun. Her grandson, Ninigi, was sent from heaven to earth to subdue the turbulent inhabitants, who, in multiplying, became rebellious. Descending from the skies to mount Kirishima in Hiuga, Kiushiu, he subdued his enemies, and his grandson, Hohodémi, born of a dragon mother, set out on a tour of conquest, and fixing his seat of govern-

* Since this article was written, the indemnity has been paid, but paid without interest.

ment near Kiōto, became the first mikado of Japan, being, many centuries afterward, canonized as Jimmu Tennō. By an edict of the 123d mikado, Mutsuhito, promulgated Dec. 15, 1872, the date of Jimmu's accession to the throne was fixed at 660 B. C., so that the Japanese year corresponding to 1883 A. D. is 2543d of the Japanese empire. The mikado is thus the personal centre of the Shintō religion, which consists in the practice of the worship of ancestors, of the sun and other forces of nature, of the gods of grain, of the trees, of the watercourses, of the roads, and of various local influences. Even animals, trees, swords and jewels were, in the primeval cult, called *kami*, and thus deified, though not probably worshiped. Some of the kami were evil, some good.—The Japanese mythology is abundant, fanciful, extravagant, and far from being harmonious in its statements. Three cycles of myths are distinguished by Mr. Chamberlain, having their origin respectively in Kiushiu, Yamato and Idzumo. All the deities of Shintō were once men, and the chief of them are now worshiped by the leading noble families of the imperial court as their ancestors. It is to be noticed, that while ideas or expressions from the Chinese classics are to be detected in the Kojiki, the ancient liturgies are in pure Japanese. In addition to these monuments of the archaic speech, special prayers and hymns are still composed on great occasions, a notable instance being that in Kiōto, in 1868. On this occasion the mikado took an oath to form a parliament for the discussion of national affairs, and the most solemn invocations were made to the Heavenly Gods to ratify the august vow which became the foundation of the new government. Yet, notwithstanding its impressive ritual, Shintō, in comparison with Buddhism or the system of Confucius, lacks dogma and formulated codes; teaching no ethics, unless reverence to the dead and unquestioning submission to the mikado's will may be called ethics. Most of the elements composing positive religion are absent, such as precise doctrines, casuistry, a polemic propaganda, and distinctly marked ministers of religion. In its unpainted and ungilded shrines, severely simple, and built on the type of the dwelling house of ancient Japan, are no idols, or emblems, except the notched strips of white paper—the economical substitute for the ancient offerings of white silk. Closets may contain written prayers, and vases the same or folded paper, while offerings of fruits, grain and fish, are made at stated seasons. The ancient *torii* (bird rest), or perch for the sacred chanticleers, have now become the holy archways through which worshipers approach the shrine. In stone or wood, red or unpainted, these "gateways" are as striking objects in the landscapes of Japan as are spires in northern christendom. Ancient sacrifices, as the liturgies show, consisted of rice-beer, grain, fine cloth, coarse silk, brocade, and boars and cocks, which latter, however, were never slaughtered. Actual lustrations and prayers for cleansing were frequent, and now survive in the washings of the hands and rinsings of the mouths of worshipers. Indeed, the radical idea of offenses was that of defilement, and that of amendment purification. The religious distinction between "good" and "bad" was, in general, "clean" and "unclean." Mr. Ernest Satow, in "The Mythology and Religious Worship of the Ancient Japanese" (Westminster Review, No. ccxxvii., p. 25), says that of the two classes the Asiatic invaders were agriculturists, while the primitive inhabitants were hunters or fishermen, and that the "heavenly" offenses mentioned in the rituals were those peculiar to an agricultural class living among a people pursuing different hereditary occupations, while the "earthly" offenses were more general in their nature.—Left alone by itself, Shintō might have developed into a perfected system, with all the appurtenances of a religion properly so called. This, however, was not so to be. Instead of resisting Buddhism, it became, in contact with it, weaker and weaker in the struggle for existence. It was not only overlaid by Buddhism, but, in the ninth century, it was practically absorbed by the India cult through the Philo-like irenicon of Kōbō, a Japanese priest, learned and perhaps unscrupulous, who, after a professed revelation from the kami, proclaimed that all the chief gods of Shintō, the native heroes and patriarchs, were but previous imperfect manifestations of Buddha to Japan before his avatar as the perfect teacher to India. The native myths, legends and doctrines were explained according to Buddhist ideas, the old gods were baptized with Buddhist names and titles, and henceforth Shintō, as a religious system, except in a few obscure temples, and among a few noble families, among which its purity was sacredly maintained, disappeared from view, and was utterly forgotten by the mass of the people. When, however, in the seventeenth century, the political genius of Iyéyasu gave "the peace of absolutism," after centuries of civil war, and scholars had leisure for research, a school of zealous Shintō scholars arose. The ancient texts were unearthed, deciphered, edited and lectured upon with literary acumen and polemic zeal. Shintō was again set forth in its primal purity, appealing alike to patriotism and the religious instinct. The logical consequences followed. The conviction flashed itself upon the minds of those who especially hated the despotism of the Tokugawa rulers at Yedo, that if the mikado was the descendant and representative of the Heavenly Gods of the Divine Country (Japan), he ought, by virtue of his divine descent, to reign as emperor, as well as pope, and rule his people without a lieutenant between himself and them. Reverence for the mikado and hatred of the usurper increased, forming a public opinion hostile to the duarchy. When the revolution of 1868 broke out, the most potent moral force behind the cannon balls of the imperialists was the belief in the divinity of the mikado and in his right to govern in person, and expel the alien from the polluted Land of the Gods (Japan). The shōgunate was abolished, and

duarchy ceased. No sooner was the new government established in Tōkiō than the Buddhist emblems and ritual war purged from the ancient Shintō temples, and in place of incense, gilding, images and altars, were seen the austere simplicity of virgin wood, white paper and natural offerings. A vigorous propaganda throughout the empire ensued, and for a time it seemed as though Japan was to be led back to the ideas and mental attitude of a world that had passed away fifteen centuries before. But such a miracle was not to be wrought. Experience soon showed the mikado's ministers that in the nineteenth century men could not be born again into the primitive barbaric age. The foreigners refused to be expelled. — With the revolutionary movement came the multifarious demands of complex government, foreign relations and popular rights. Practical politics jostled state religion aside, and the ancient Council of the Gods of Heaven and Earth (Jin-gi Kuan) which had once outranked the Council of the Great Government (Dai-jō Kuan) was reduced first to a department, then to a bureau, again to a sub-bureau, and finally, in 1880, abolished utterly. Nevertheless, Shintō is still a living force with millions of the Japanese; and the grave problem now before the minds of earnest patriots is the transmutation of the old popular reverence for the throne and person of the mikado as divine, into the new loyalty of intelligent respect. The period between the disintegration of old sanctions and motives and the inrooting and growth into strength of new political habits of thought, is always a period fraught with peril, but it is to be hoped that with the decay of the old may come a purer and stronger religious faith as well as new political theory and fabric, and that the throne of the oldest living dynasty on earth may find even a securer foundation than the stilts of myth, when resting upon constitutional foundations "broad-based upon the people's will." — LITERATURE. Nearly all the best writing upon Shintō is found in the *Transactions of the Asiatic Society of Japan*, by Ernest Satow and Basil Hall Chamberlain. See also *Westminster Review*, July, 1878, and *The Mikado's Empire*, New York.

WM. ELLIOT GRIFFIS.

SIAM. When first known to the Portuguese explorers of the sixteenth century, this country, full of brown-skinned people, or "Moors," was called Siam, from a Malay word (*Sáyám*) meaning "brown race," and quite unknown as a proper name to the Siamese, who call their land Muang Tai, "The Free Kingdom." This national designation of the Tai people is significant of the victory of Buddhism, which knows no caste, over Brahmanism, in which men are fixed, as by decrees of predestination, in various ranks of subordination to the Brahmans. Tai (Siam) constantly rejoices in its deliverance from the dogmas of caste, and in the purity of its Buddhism, which is of the "southern" or less modified form of Shaka Muni's teachings. Occupying the heart of the Indo-Chinese peninsula, Siam proper is, geographically, the basin of the Meinam river. A long, narrow strip of land, which runs southward from the head of the gulf of Siam to near latitude 4, forms the isthmus of Kraw, and nearly half of the lessening "Malay" peninsula. The other frontagers of Siam are the wealthy Chinese province of Yunnan on the north, and Annam and Cambodia on the east and south. Siam is thus an axe-shaped country, with an extreme length of 1,350 miles, with a breadth varying from 60 to 400 miles, with a coast line nearly equal to its land frontiers. The greater portion of the kingdom is an unexplored wilderness of forest land, the settled portion consisting of teeming alluvial plains, which in many respects resemble the Nile lands of Egypt. The reports of the area vary from 320,000 to 180,000 square miles, a fact which is due partly to genuine ignorance of topography, and partly to the elastic nature of boundaries in those portions whose inhabitants fluctuate in their loyalty to the lord of the golden umbrella. Politically, the neighbors of Siam are the British in Burmah and Wellesley province, the Malays in the peninsula, the Chinese, the Cambodians, the Annamese, and the French who are near enough for possible close relations. The vassalage of some of the people under Siamese rule is of a nominal character; but the tendency is to the increase, rather than the contrary, of Siamese supremacy. Two seasons, the wet and the dry, rule the year. Most of the habitable portion of the Meinam's basin is overflowed from June to August, by which latter month the snows of Thibet have fully melted, and the cities and villages rise like islands out of the Nile-like flood, the people living in boats and moving over the crops beneath. This abundance of never-failing water in a tropical land makes it a perpetual garden. Plant life attains its maximum, and animal forms are abundant. The dry season lasts from November to April. The thermometer ranges from 64° to 99°, averaging 81°. On the whole, the climate is salubrious, though malarial disorders prevail during the wet season. Europeans, with an occasional visit to a cooler climate, can maintain health, and work during most of the days of the year. Food is excessively cheap, clothing light, and shelter easily erected. The people manifest the traits of a weak and passive race. Their bodies are frail and slim, and their minds quick rather than strong. Their virtues and vices are those usually found in a climate in which nature is an over-indulgent mother, and are fostered by a religion that, like southern Buddhism, of which Siam is the citadel, is full of intellectual subtlety, but allows little outward manifestation. — Most of the land was formerly held on a semi-feudal tenure, the farming population being kept in practical serfdom, and compelled to work at forced labor during portions of the year. This system of debt-slavery which formerly prevailed, by which millions of debtors in bondage to creditors were branded with the seal or mark of their owners, is now radically modified, and

is in course of extinction. Yet the rice is still badly cultivated; and, notwithstanding the fertility of the soil, famines are far from unknown. Yet better methods of agriculture are being introduced. The old plan of driving herds of buffaloes over the fields to level the weeds and turn up the soil, which was afterward harrowed with thorny shrubs, has given way to improved labor, which has greatly increased the output of cereals, and made the export of grain possible and profitable. Rice, cotton, sugar, indigo, various woods, gums, spices, metals and ivory are now exported. — Of the 12,000,000 souls under Siamese rule, one-third only are of the Tai race, another third are Chinese, the remainder being Laotians, Malays, Hindoos, Cambodians, etc. The Siamese are a mixed people, sprung from Mongolian and Aryan ancestors, and possess the mental and physical traits of both the Hindoos and the Chinese. Nearly half of the words in their language have their roots in Sanskrit. The written language has an alphabet of sixty-four letters, of which forty-four are consonants and twenty vowels. Like most alphabets or syllabaries of Chinese Asia, the Siamese system has been derived from ancient India by Buddhism, though in this instance mediately through Cambodia, the ancient Cambodian character being still used in their sacred books. The vocabulary, which is meagre and mostly monosyllabic, is eked out by tonic inflections, by which one word does duty for several distinct meanings. The language is simple in structure, with few idioms, and in general features resembles Chinese. The spelling, like that of Corea, and most countries having an alphabet unnecessarily large, is in a state of chaos. Writing is from left to right. The national literature is of local importance only, most of what is excellent in it being borrowed from Chinese or Hindoo sources, or closely formed on foreign models. The Buddhist writings are very voluminous. The homely wisdom and keen wit of the people are best expressed in their proverbs. Education is almost entirely in the hands of the priests, who constitute a large and influential class. Siam for over 1,200 years has been intensely and only Buddhist, and it is estimated that the priests obtain for their personal and bodily support alone, the sum of $25,000,000 annually. — The government is nominally a duarchy, the supreme king possessing about two-thirds, and the lesser king one-third, of the power, the latter acting as a prime minister or first counselor, though, like the other high nobles, taking semi-annually the oath of allegiance to the supreme king. The legislative power is vested in a council of state and the senabawdi or ministry; the former consisting of from ten to twenty counselors, presided over by the king, with the ministers who sit without voting; and the latter, of the ministers or heads of departments. The king can not promulgate laws without the consent of this council, which also confirms the succession to the throne, which, though nominally hereditary, is not always to the eldest son. — The untrustworthy annals of the Siamese extend back centuries before Christ, but history, in the modern critical sense, begins with the founding of the capital, Ayuthia, A. D. 1350. The civil era, as used by the ruling dynasty, begins at 638 A. D., so that the present year 1888 is the 1245th of Siam. In the sixteenth century the Siamese extended their sway over Cambodia and the Malay peninsula. Among the people trading with them, or serving in their armies, were the Japanese. Relations with Europe were first established in 1513, when the king of Siam sent an embassy with gifts to the great Portuguese buccaneer Albuquerque, who had conquered Malacca. Commerce with Portugal was established, and in 1604 the Dutch took a share in the profits of trading between Bangkok and Europe on the one hand and Nagasaki on the other. The first English vessel arrived at Ayuthia in 1612. Later on a Greek adventurer, named Phaulkon, who had found his way to Siam, ingratiated himself in the king's favor, was appointed by degrees to high office, and persuaded the Siamese to send an embassy to France. This was done, the envoys visiting Paris, and also London, concluding treaties with Louis XIV. and Charles II. The French king sent out embassies in 1685 and 1687, and through the influence or treachery of Phaulkon, a force of five hundred French soldiers were given possession of the citadel at Bangkok, which they held until 1690, when they were expelled, and French influence suffered a bloody, decisive overthrow. In 1782 the Burmans, having invaded Siam, sacked and burned Ayuthia, the present ruling dynasty was founded, and the capital removed to Bangkok. Since the foundation of Ayuthia, in 1350 A. D., forty sovereigns have ruled over Muang Tai. Treaties with the East India company were made in 1822 and 1825. The American sea captain Edmund Roberts, of Portsmouth, N. H., was commissioned by President Jackson to make a treaty with Siam, which was accomplished March 20, 1833. Townsend Harris, in 1856, negotiated a second treaty on behalf of the United States, which allowed greater privileges to American citizens. The court of Bangkok has already signified its intention of sending an embassy to the United States, and of establishing a legation at Washington. The present king, Chulalankarana I., born Sept. 21, 1853, succeeded his father Oct. 1, 1868. The second king is George Washington (Kroma Phraracha). During the past two generations, the American missionaries in Siam have been very active in promoting science, education and the introduction of American ideas, methods and machinery, and have been very influential for good at the court. The present kings are well educated, and have begun a series of reforms which promise a new life for the nation, and show that Siam, like Japan, has begun to abandon Asiatic ideals of civilization, and to put herself in harmony with the political ideas of Christendom. In regard to education, schools after the American model have been established for sons of nobles, and an increas-

ing number of Siamese young men are being educated in western science and literature. Dress and etiquette are less restricted by servile customs, trade is being gradually unfettered, and in place of the old fractional currency in paper promises, bronze tokens, minted in England, form, with the silver coins stamped with the effigy of a white elephant, the circulating medium of commerce. — In 1880 the foreign trade was valued at $10,000,000, the imports being mainly hardware, machinery, dry goods and opium, with which latter article Americans have nothing to do. An increasing fleet of steamers, and square-rigged vessels in the commercial marine, and war vessels after the British model, and army drilled according to western tactics, the adoption of a national flag bearing the design of a white elephant on a crimson field, the granting of perfect religious freedom, the abolition of slavery and feudal or debt bondage, and the beginnings of a diplomatic usage similar to that of western nations, illustrate the earnestness of the rulers of Siam to enter the comity of nations and pursue national prosperity along the lines marked out by the leading governments of the earth. — LITERATURE. Crawfurd's *Embassy to Siam*, London, 1828; Pallogoix, *Description du Royaume Thai*, Paris, 1854; Bowring's *Kingdom and People of Siam*, London, 1857; Leonowen's *An English Governess at the Court of Siam*, Boston, 1870; Vincent's *Land of the White Elephant*, New York, 1874; *Diplomatic Correspondence of the United States*, 1868.

WM. ELLIOT GRIFFIS.

SILVER, one of the precious metals, of a white color, and, when polished, of a brilliant, shining lustre, scarcely inferior to that of highly polished steel. It is next to gold in malleability, ductility and resistance to oxidation in air and water. Relatively to gold, its tenacity is about one-fourth, and power of electrical conduction about one-third greater, and its power of conducting heat as 973 to 1,000. In modern chemistry, the symbol for silver is ag., from the Latin name *argentum*, denoting silver; its atomic weight, 108. Molecular weight, 216; hardness, 2.5-3. Specific gravity, when pure, 10.5. It fuses at about 1873 Fah., and volatilizes at a higher temperature. When melted, it absorbs oxygen, of which it may take up twenty-two times its own volume, and which it expels on cooling with a peculiar sound known as spitting. — Silver is dissolved by nitric acid at all temperatures, and by hot concentrated sulphuric acid. It can be alloyed with many other metals. Alloys of gold and silver are of a greenish white color, more ductile, harder and more sonorous than either metal; 50 parts of silver in 1,000 are sufficient to lower the color of gold. Silver increases the toughness of gold, and gold coins containing a small per cent. of silver are less liable to abrasion than if alloyed with copper alone. Gold alloyed with 30 per cent. of silver has a greenish color; with two-thirds silver, pale or white. The color of silver is not modified by a copper alloy up to about 350 parts in 1,000. Alloys of silver and copper have a less specific gravity than the mean of the two metals, and are harder and more ductile, elastic and sonorous than pure silver. The maximum of hardness is reached by an addition of 200 parts of copper. — Silver is found in its native state, and also occurs in combination with other substances in the form of ores and alloys, but is principally obtained from its sulphide, and from those ores of which it is a variable constituent, but existing in such large quantities as to be an object of metallurgical operations. — The native metal is usually alloyed with a small quantity of copper, gold, and sometimes antimony, bismuth, mercury or platinum. It occurs in masses, and in fine and coarse threads, but generally has the appearance of metallic twigs and branches. A mass taken from the Konigsberg mines, in Norway, in the royal collection at Copenhagen, weighs upward of 500 pounds. A mass discovered at Huantaya, Peru, weighed 800 pounds; while another in Sonora, Mexico, is said to have weighed 2,700. A specimen from Batopilas, Mexico, weighed 400 pounds. — Metallic silver has also been found in Saxony, Bohemia, Hungary, and in the Hartz, Altai, Ural, and some of the Cornish mines; while in the United States it is found in some of the mines in North Carolina, Colorado, Utah, Nevada and California. In the Lake Superior region, the silver generally penetrates the copper in masses and strings, and is nearly pure, notwithstanding the copper about it. — The following are some of the most important silver ores:

Silver in combination with Sulphur.

Argentite—Silver glance—Sulphide of silver. This is the common and most valuable ore of silver, and possesses considerable malleability. It has a metallic lustre, is of a dark gray color, shining streak and an uneven fracture. Its composition is: sulphur, 12.9; silver, 87.1. Hardness, 2-2.5. Specific gravity, 7.196-7.365.

Stephanite—Brittle silver ore. Lustre metallic, color and streak iron-black, fracture uneven. Composition: sulphur, 16.2; antimony, 15.3; silver, 68.5. Hardness, 2-2.5. Specific gravity, 6.269.

Polybasite. This mineral contains from 65 to 75 per cent. of silver, in combination with sulphur, copper, arsenic and antimony. Lustre, metallic; color and streak, iron-black; fracture, uneven. Hardness, 2-3. Specific gravity, 6.214.

Pyrargyrite—Ruby silver—Dark red silver ore. The dark red or antimonial variety contains sulphur, 17.7; antimony, 22.5; silver, 59.8. Lustre, metallic, adamantine; color, black, sometimes approaching cochineal red; streak, cochineal red. Hardness, 2-2.5. Specific gravity, 5.7-5.9.

Pyroustite—Ruby silver—Light red silver ore. The light red or arsenical variety contains sulphur, 19.4; arsenic, 15.1; silver, 65.5. Lustre, adamantine; color and streak, cochineal red; fracture, uneven. Hardness, 2-2.5. Specific gravity, 5.42-5.56.

Stromeyerite—Sulphide of silver and copper. Composition: sulphur, 15.7; copper, 31.2; silver, 53.1. Lustre, metallic; color, dark steel gray; streak, shining; fracture, subconchoidal. Hardness, 2.5-3. Specific gravity, 6.2-6.3.

Sternbergite—Sulphide of silver and iron. Composition, nearly equal parts of sulphur, iron and silver. Lustre, metallic; color, pinchbeck brown; streak, black. Hardness, 1-1.5. Specific gravity, 4.21. It resembles graphite, and, like it, leaves a tracing on paper.

Miargyrite—Sulphide of silver and antimony. Composition: sulphur, 21.8; antimony, 41.5: silver, 36.7. Lustre, submetallic; color, iron-black; streak, dark cherry red; fracture, subconchoidal. Hardness, 2-2.5. Sp. gr., 5.4.

Freieslebenite. An antimonial silver and lead sulphide, containing about 24 per cent. of silver. Lustre, metallic; color, steel gray. Hardness, 2-2.5. Specific gravity, 6-6.4.

Silver fahlore—Gray copper ore. A compound of silver, copper, iron, antimony, arsenic, sulphur, zinc and lead, and sometimes gold and mercury, containing silver in variable proportions up to 31 per cent. Sometimes this metal is almost entirely wanting. Lustre, metallic; color, steel gray to iron-black; streak, brown or black. Hardness, 3-4.5. Specific gravity, 4.5-5.1. This ore is quite common, but the silver is obtained from it with the greatest difficulty.

Silver in combination with Chlorine, Bromine and Iodine.

Cerargyrite—Chloride of silver—Horn silver. Composition: chlorine, 24.7; silver, 75.3; but usually contains a small quantity of the peroxide of iron. Lustre, resinous, passing into adamantine; color, pearl gray or grayish green, and when pure becomes a violet brown on exposure: streak, shining; fracture, conchoidal. Hardness, 1-1.5. Specific gravity, 5.552. This ore resembles and cuts somewhat like horn or wax, and will, by rubbing, silver the surface of an iron plate. Its varieties are:

Iodide of silver. An admixture of iodine with 46 per cent. of silver. Lustre, resinous; color, yellow; streak, yellow.

Bromide of silver. An admixture of bromine with 57.7 per cent. of silver. Lustre, splendent; color, bright yellow.

Embolite. Composed of chlorine 13, bromine 20, silver 67 parts.

Silver combined with other Metals.

Bismuth silver. An ore containing from 15 to 60 per cent. of silver. Lustre, metallic; color, grayish white.

Native amalgam. A compound of silver and mercury, the per cent. of silver varying from 26.5 to 86.6, dependent upon the manner in which it is combined.

Dyscrasite, or antimonial silver. Consists simply of antimony and silver; antimony 22, silver 78; and has a nearly white color. Hardness, 3.5-4. Specific gravity, 9.4-9.8.

Silver combined with tellurium, or Telluride of silver (Hessite). Composition: tellurium, 37.2; silver, 62.8. Lustre, metallic; color, steel gray. Hardness, 2-3.5. Specific gravity, 8.3-8.6. It is slightly malleable.

Silver in combination with selenium; naumannite or selenide of silver. Selenium, 26.8; silver, 73.2. Lustre, metallic; color and streak, iron-black.

Eucairite—Films of silver and copper containing selenium. Composition: selenium, 31.6; copper, 25.3; silver, 43.1. Lustre, metallic; color, lead gray; streak, shining; so soft that it may easily be cut with a knife. It also tarnishes easily.

—The processes for extracting silver from ore may be grouped into three general divisions: amalgamation, smelting, and lixiviation. In amalgamation, the silver is collected by the use of mercury; in smelting, it is made to combine with lead or copper; and, in lixiviation, is drawn off in a solution containing silver as the base, in combination with acids. Each of these methods has processes which differ, each from the others, methods known by the names of the inventors, or of the localities where first introduced. — Ores, for their metallurgical treatment, are generally classified in reference to their constituents, as well as the amount of silver contained. Those from which the silver can be obtained by simple mechanical processes, are called "free milling ores." Ores from which the silver can be extracted by fusion at high temperatures and then drawing off separately the earthy materials and metals, as they arrange themselves according to their specific gravities, are called "smelting ores." When ores do not readily part with their silver by fusion, or by the use of chemicals and the ordinary mechanical processes, they are called "rebellious" or "refractory." — *Amalgamation.* The method of extracting silver from ores by amalgamating them with mercury, was first discovered in 1557 by Bartolome Medina, a native of Pachuca, Mexico, and has since that time, with some modifications, been in general and continuous use. Ores treated by this process may be divided into classes, dependent upon the amount of silver contained and other substances associated with the silver, and require somewhat different metallurgical treatment. Ores containing silver combined with sulphur, chlorine, iodine or bromine, but free from arsenic and antimony, which largely increase the expense, together with the loss of both mercury and silver, are most easily worked by amalgamation. Such ores containing silver assaying less than $150 to the ton, are generally treated by the so-called Washoe or pan process, in which the ores are first crushed to a suitable size, and then, by means of a stamp mill, are pulverized in water into particles of the size of fine sand, and subsequently are ground in cast-iron pans or amalgamators with hot water and mercury, sometimes with, and sometimes without, the addition of chemicals. The silver and mercury, in the form of an amalgam, are placed in small bags, through the interstices of which the redundant mercury oozes and is strained out. The remainder of the mercury is afterward vaporized and separated, by heating the amalgam in an iron retort. The silver, alloyed with more or less of other metals left in the retort, is melted into bars, while the condensed mercury collected from the retort is again used for amalgam. Ores of this character assaying below $90 to the ton, require, for their treatment, a longer time for amalgamation and a greater quantity of chemicals and mercury. Ores assaying in silver over $150 per ton, and associated with arsenic, antimony or iron, so as to render their reduction difficult, are generally crushed dry, roasted with salt in a reverberatory furnace, and then amalgamated in barrels. — *Smelting.* Silver and lead in a state of fusion possess a strong affinity for each other, and advantage is taken of this in the reduction of argentiferous ores. When silver exists in the ore in a metallic state, an alloy is easily made by fusing together the ore and metallic lead, or the ores of lead. In case silver is associated with large quantities of iron pyrites or sulphides other than galena, the ore is frequently fused for a matte, which is then roasted and remelted with lead, and from the alloy thus obtained the silver is afterward separated. Lead and other base metals are removed by different methods, dependent upon the cost of the agents and material employed, and the use to be made and value of the base metals or of the by-products obtained. — *Leaching.* To extract silver from ore by this process the silver must enter into chemical combination with some substance that will form with it a soluble compound. Chlorine, under the proper conditions, readily combines with silver,

and has been found the cheapest and most suitable agent for this purpose. The silver is converted into a chloride by roasting the crushed ore in a furnace with common salt, of which from 5 to 20 per cent. is used, according to the richness of the ore. The chloride, being insoluble in water alone, is leached out from the mass by running through it a solution of calcium hyposulphite, from which the silver is afterward precipitated as a sulphide of silver by a solution of calcium polysulphide (pentasulphide). The precipitated sulphide, in the form of black mud, is collected, roasted, dried, roasted and then melted at a high temperature, with an addition of scrap iron, which takes up the sulphur remaining after the roasting, and reduces the silver to a metallic state. The leaching process is quite satisfactory in its results when it is desired to obtain silver bullion of the highest degree of purity. — *Silver Refining.* Silver is refined either by the dry method, fire, or the wet process, acid. In refining by fire the base metals are converted into their oxides and flow from the melted silver, or are removed by absorption or dissolved in alkaline fluxes. Where large amounts are to be operated upon, the silver is usually refined by cupellation in a reverberatory furnace. The bullion is placed upon a cupellation hearth, made of suitable material, such as crushed slag, quartz and clay, bone-ash, calcareous marl, composed chiefly of carbonate of lime and silicate of alumina, etc., etc., the chief requisite being that the cupel should be infusible, sufficiently porous to absorb the oxides of the base metals, and contain in its composition no reducing agent. The base metals are oxidized by a current of air, and run off as melted oxides, or are absorbed by the cupel. Silver is brought without difficulty by this process to a fineness of over 99 per cent. — Refining by the use of oxidized fluxes is conducted in crucibles, and the agent employed is generally nitrate of potash or of soda. The nitrate is decomposed by the heat of the furnace; its oxygen, combining with the base metals, forms oxides, which are dissolved or held in suspension by silicious or alkaline fluxes. Borate of soda is the flux usually employed in the mints in refining. — Silver is refined by the wet process by dissolving the bullion in acids, precipitating the silver by chlorine, and subsequently reducing it to a metallic state, or by precipitation with copper. This is rarely employed otherwise than as an incident to the parting of gold and silver, or when silver containing base metals can at the same time be advantageously melted and used as alloy for quartation in refining gold. This process is described in the article on GOLD in Volume II.— *Occurrence.* Silver, though not so widely diffused as gold, has been found in every grand division and in many of the principal islands of the globe. In ancient times it was obtained from Nubia and other parts of Africa, from western Asia and many countries in Europe, principally Spain, Hungary and Austria, Germany, Turkey, and Russia. Upon the discovery of America rich mines were soon opened in the countries of South America adjacent to the Pacific coast—Peru, Chili and Bolivia—and also in the northern and western portions of Mexico. Of late years it has been found in greater abundance in the territories and western states of the United States. — *Production.* Silver seems to have been one of the earliest metals known, and, as money, is the first mentioned by the ancient sacred and profane historians. From the mines known to them considerable quantities were obtained, although the methods employed for treating the ores and refining the metal were crude and expensive. Pliny states that silver was found in all the Roman provinces, and both he and Diodorus mention the Spanish mines as the principal source. From the latter it is said that Hannibal extracted 300 pounds daily (equal to $1,500,000 annually), and that one tunnel had penetrated a mile and a half into the mountain. Although new mines were from time to time discovered, the total annual production of silver, as well as the stock previously accumulated, became gradually reduced until the discovery of America. How much then existed in the world, either in the form of coin or personal ornaments, plate and bullion, is a matter of conjecture. The average yearly production for the first fifty-three years after the discovery of America (1492 to 1545) was, according to an estimate made in 1830 by John White for the secretary of the treasury, $640,000; according to Mr. Alex. Del Mar, formerly chief of the United States bureau of statistics, $600,000; and according to Dr. Soetbeer, $2,716,000. The total production of both gold and silver in the western world, America, Europe and Africa, from 1492 to 1800, on the estimates of Mr. Jacob, would be $5,708,000,000; on those of Danson, $5,482,000,000. Mr. White's estimate of the silver production for the period amounts to $3,725,000,000; Mr. Del Mar's to $4,260,000,000, and Dr. Soetbeer's to $4,855,000,000. Their estimates of the gold production during the same time are: White, $1,675,000,000; Del Mar, $1,872,300,000; Soetbeer, $2,332,000,000; which, added respectively to their estimates of the silver production, would make the total production, according to Mr. Del Mar, $6,560,000,000, and according to Dr. Soetbeer, $7,187,000,000, both of which amounts exceed those given by Danson and White. Mr. Del Mar's estimate of the yearly production of silver from 1800 to 1876 amounts to $2,638,500,000, and adding to this the yearly production for the remaining four years to 1880, as estimated by the director of the mint, amounting to $368,800,000, would bring Del Mar's estimate up to $3,007,300,000, which is $161,000,000 less than Soetbeer's estimate. The total production of silver in the western world, since the discovery of America, would be, according to Soetbeer, $8,084,819,000; according to Del Mar, $7,267,300,000. — The yield of silver from the mines of all the countries of the world in each century since the discovery of America, has been estimated by Dr. Soetbeer as follows:

PERIOD.	Kilograms.	Value at the Coinage Rate of the U. S. Dollar.
1492 - 1600	22,834,400	$ 948,998,000
1601 - 1700	37,284,000	1,547,445,000
1701 - 1800	57,084,900	2,370,370,000
1801 - 1880	76,227,275	3,168,006,000
Total	193,330,575	$8,034,819,000

— Among the silver-producing countries of the world the United States stands first, and, with Mexico and Bolivia, furnishes four-fifths of the entire amount. Germany is fourth, with a yield from her mines of nearly $9,000,000, followed by Chili with $5,000,000, and Spain with $3,000,000. The amount of silver obtained from the principal silver-producing countries of the world in 1882 was stated by the director of the mint to be:

COUNTRIES.	Kilograms.	Value.
United States	1,126,088	$ 46,800,000
Russia	11,391	473,519
Australia	2,475	102,878
Mexico	708,508	29,437,798
Germany	214,982	8,934,652
Austria-Hungary	47,118	1,958,324
Sweden	1,176	48,875
Norway	4,812	199,987
Italy	432	17,949
Spain	74,500	3,096,320
Turkey	2,164	89,916
Argentine Republic	10,109	420,325
Colombia	24,057	1,000,000
Bolivia	264,677	11,000,000
Chili	122,275	5,081,747
Japan	22,460	916,400
Dominion of Canada	1,641	68,205
Total	2,633,860	$109,446,595

The special report of the director of the mint on the production of the precious metals in the United States for 1882 makes the total yield for that year in the United States $46,800,000. The largest amount was obtained from Colorado, which produced $16,500,000, the greater part from the Leadville mines. Arizona comes next, with $7,500,000, mostly obtained from the Tombstone district; then Utah, furnishing $6,800,000; while Nevada, once first among the silver states, with a production in 1878 of $28,000,000, now stands fourth with but $6,750,000.

STATES AND TERRITORIES.	1881.	1882.
Arizona	$ 7,300,000	$ 7,500,000
California	750,000	845,000
Colorado	17,160,000	16,500,000
Dakota	70,000	175,000
Idaho	1,300,000	2,000,000
Maine	5,000	----------
Montana	2,630,000	4,370,000
Nevada	7,060,000	6,750,000
New Mexico	275,000	800,000
North Carolina	----------	25,000
Oregon	50,000	35,000
Utah	6,400,000	6,800,000
Total	$43,000,000	$46,800,000

— *Use and Consumption of Silver.* Silver is largely used in ornamentation, manufactures and coinage. For these purposes it is almost invariably alloyed with copper. In the United States the standard for coin is 900 parts silver and 100 parts copper. The English standard, called "sterling silver," contains 7.5 per cent. copper, with a fineness of .925. In France several standards are employed: 950 parts for metals and plate, 900 for standard silver coin, and 850 for bullion and subsidiary coin. — A considerable amount of silver is annually consumed in the arts, and a larger quantity converted into plate or articles for personal ornamentation. Silver is also dissolved in solutions, or used in combination with acids, metals, or alkaline bases in chemical and medicinal preparations, and for manufacturing purposes, in a manner which prevents its recovery for further use. When silver is used for electro-plating, or beat into thin leaves, but a small proportion, if any, can be again collected. Nearly the whole is practically lost, and unavailable for use in coinage or the arts, although ornaments and plate of solid silver are often remelted and used in coinage. But the statistics of all countries show that the plate and jewelry annually brought to their mints for coinage are less than the amount of bullion of recent production found to be annually appropriated for ornamentation and in the arts, etc. At the United States mints the silver of this character deposited for conversion into coin or bars is scarcely one-tenth of the $6,000,000 estimated to be consumed in the United States in the arts, manufactures and ornamentation. — Efforts have been made to ascertain the silver appropriated in various countries and in the world for these purposes. In 1880 Mr. W. Jacob published his work on the production and consumption of the precious metals, which contained much valuable information on this subject. He placed the annual consumption of silver, other than for coinage, at $4,000,000 for Great Britain, and of gold and silver for Great Britain at $12,000,000, and for Europe, $28,000,000. The inquiries instituted in 1879 by the United States director of the mint, and continued for three years, to ascertain the amount thus consumed in the United States, elicited replies which for the year 1881 showed that 1,143 persons and firms consumed in their business over $3,000,000 of silver for the purposes and of the character and description stated as follows:

United States coins	$ 72,190
Fine bars	3,127,432
Foreign coin, jewelry, plate, etc.	188,799
Total	$3,388,421

— Inquiries were also made, at the request of the director of the mint, through representatives of the United States government, as to the consumption of silver in foreign countries. From the information obtained in this manner, and from other sources, the director in 1881 estimated that the annual consumption in the world for uses other than coinage was not less than $35,000,000. — Upon information contained in official reports, and additional facts collected from various sources, Dr. Soetbeer, of Germany, made a detailed estimate

of the consumption of silver in various countries, and placed the net amount in the civilized world at 471,000 kilograms ($19.500,000), distributing that amount as follows:

United States	$ 4,239,000
Great Britain	2,992,000
France	3,117,000
Germany	3,117,000
Switzerland	997,000
Austria-Hungary	1,330,000
Italy	790,000
Russia	1,330,000
Total of above countries	$17,912,000
Other civilized countries	1,663,000
In all	$19,575,000

As by his estimation the United States and seven countries in Europe consumed $17,900,000 of the whole $19,500,000, leaving but $1,600,000 for the remaining countries of Europe, North and South America, while the large consumption of China and India (the latter placed by the director of the mint at $10,000,000) is wholly omitted, the director's estimate of $35,000,000 as the total consumption of the world is probably below the real amount. — *Coinage.* Silver coins are reported to have been struck and used in Greece and Rome as early as the third century preceding the Christian era. The amount of silver coined, however, in that period, and subsequently until the discovery of America, is insignificant, compared with the amounts issued from the coinage mints in the nineteenth century. The records of the English coinage show an annual average coinage of silver of less than $35,000 in the fourteenth and fifteenth centuries, while the value of the silver coinage of Great Britain from 1816 to 1876 exceeded $120,000,000, being over $2,000,000 annually. — In England, however, as well as in Portugal, where the value of the silver coinage from 1852 to 1880 was $48,174,692, the coin circulation consisted of gold rather than silver; but in France, where silver largely circulates, its coinage in sixty years, 1726–85, is stated to have been 1,500,000,000 livres, while from 1795 to 1880, inclusive, silver to the value of 5,511,952,864 francs was coined, equal to $1,100,000,000, being over $12,000,000 annually. — The silver coinage in Mexico in 1809 was $26,172,000, in 1812 $4,409,000, then varying with the disturbed condition of the country, but of late years it has averaged from twenty-two to twenty-eight million dollars. — During the eight years from 1875 to 1883 the silver coinage of a number of the principal countries—the largest portion of which, for the last five years, was executed by the United States, Mexico and India—was as follows:

YEARS.	No. of Countries.	Amount.
1875	18	$119,105,467
1876	15	126,577,164
1877	16	114,359,382
1878	15	161,191,913
1879	10	104,888,313
1880	11	82,397,154
1881	14	108,478,624
1882	12	107,997,952

— In 1882 Mexico manufactured into coin nearly all the silver obtained from its mines, while the United States used for that purpose but seven-twelfths and Germany three-fourths of its silver product. The India mints coined the largest amount. The coinage of silver for the year for the principal countries was:

United States	$27,972,035
Mexico	25,146,260
Great Britain	1,021,261
India	29,386,222
Germany	6,407,157
Austria-Hungary	3,122,519
France	223,853
Netherlands	608,312
Norway	123,280
Sweden	19,708
Spain	10,671,842
Japan	3,294,988
Total	$107,997,952

— The following silver coins of the United States can now be legally issued, except the trade dollar, the coinage of which was, in 1878, suspended by order of the secretary of the treasury as authorized by law:

DENOMINATIONS.	Authorized.	Present Weight.	Coinage to June 30, 1883.
		grains.	
Trade dollar	Feb. 12, 1873	420 1	$ 35,959,360.00
Dollar	April 2, 1792	.....	8,045,838.00
	Feb. 28, 1878	412.5	147,255,899.00
		grams.	
Half dollar	April 2, 1792	12.5	122,761,270.00
Quarter dollar	April 2, 1792	6.25	38,422,086.25
Dime	April 2, 1792	1.25	17,628,012.20

— The principal silver coins of chief European countries, now in circulation or coined by the mints in Europe, their weight and fineness, with the quantity of fine silver they contain, are shown in the following table:

COUNTRIES.	Coins.	Weight.	Fineness.	Silver contained in.
		grs.		grains.
Austria	florin	190.51	900	171.46
Belgium	5 francs	385.8	900	347.22
Belgium	1 franc	77.16	835	64.43
Denmark	crown	115.74	800	92.59
England	shilling	87.27	925	80.74
France	5 francs	385.8	900	347.22
France	1 franc	77 16	835	64.43
Germany	mark	85.73	900	76 16
Greece	5 drachmas	385.8	900	347.22
Greece	1 drachma	77.16	835	64.43
Italy	5 lire	385.8	900	347 22
Italy	1 lira	77 16	835	64.43
Netherlands	guilder	154.32	945	145 73
Norway	crown	115.74	800	92.59
Portugal	5 festoons	192.9	916⅔	176 82
Russia	rouble	319.93	868	277.70
Spain	5 pesetas	385.8	900	347.22
Spain	1 peseta	77.16	835	64.43
Sweden	crown	115.74	800	92 59
Switzerland	5 francs	385.8	900	347.22
Switzerland	1 franc	77.16	835	64.43
Turkey	20 piasters	371.21	830	308.10

— *Abrasion of Coins.* In all estimates of the amount of silver in the world at any period, an allowance must be made for the loss by abrasion, which will vary with the composition of the coins and the frequency of their circulation. The loss by friction is less when coins are alloyed with

copper. Silver coins lose by abrasion, according to Mr. W. Jacob, more rapidly than gold coins. He placed the wear of English standard silver at about $\frac{1}{100}$ part annually. Tests were made at the London mint in 1826 to ascertain the loss on silver coins of different denominations respectively in circulation for three brief periods, taking 300 coins of each denomination for each period, with the following results:

AVERAGE CIRCULATION	Per Cent. of Loss in Circulation.		
	Half Crowns	Shillings.	Sixpences.
Two years	.07	.24	36
Six years	.76	1.60	2.38
Ten years	.99	2.20	3.53
Mean	.086	.205	.309

— The experiments made by the officers of the English mint in 1787 to ascertain the deficiency in weight of the silver coins in actual circulation at that time, showed a loss upon the crown pieces of 3.3 per cent.; half crowns, 9.9 per cent.; shillings, 24.6 per cent. — In 1872–3 a quantity of light gold coins were sent to the mint for recoinage; among them 6,000,000 gold dollars were found to be deficient in weight .478 per cent., being little less than ½ per cent. As the issue of these coins was authorized in 1849, and not quite 20,000,000 were issued, and after 1863, during the suspension of specie payments, they were practically out of circulation, twelve years may be considered as the average period of their circulation, which would give a loss by abrasion of about 1 per cent. in twenty-five years. The loss on 5,000,000 quarter eagles was .00506, being a little over ½ per cent. These doubtless were coined since the reduction of the value of gold coins in 1834, and had been in circulation under forty, and probably not over thirty, years; the loss by abrasion was at the rate of a little over $1\frac{6}{10}$ per cent. in a century. The loss on 10,000,000 half eagles was .005214. These may have been in circulation for the same length of time as the quarter eagles, in which case the loss by abrasion would be at the rate of about from 1½ to 1¾ per cent. in a century. — *Silver Circulation.* It is impossible to tell with certainty the amount of silver in circulation at any given period in any particular country, or the total amount used by commercial nations. Mint reports of most countries furnish meagre information as to the character of the bullion used in coinage, and seldom state the country from which it was obtained, or whether it consisted of bars or coins remelted. Where, however, the recent legislation of a country has changed the denomination or legal-tender character of its coins, an approximate estimate of the coin circulation can be made by deducting from the total coinage subsequent to the change that portion exported and estimated to have been recoined, and used in the arts. Such an estimate is more reliable where the silver coins are valued relatively to gold higher than the value of the bullion they contain, in which case few will be exported, except to those countries where they pass at the legal home valuation. In this case, and in countries where the customs returns give the amount and character of the coin exports, the silver circulation can be stated with sufficient exactness and reasonable certainty. — As to the silver circulation of the United States at the present time (1883), it can be stated approximately without much hesitation, because the country had no silver in general circulation in 1873, and its present stock has been accumulated since that time, with the exception, possibly, of five millions. In 1883 the silver coin in the country on the first of October was estimated by the director of the mint to have been 154,000,000 silver dollars, and $81,000,000 in fractional silver. — *Relative Value of Silver to Gold.* As the principal ultimate demand for silver has been to coin or use it as money, the legislation at different periods of the world and in different countries, establishing for each country the relative debt-paying power of given weights of gold and silver, has, probably, more than any other cause, affected the market value of the two metals. Tables have been published giving their relative values at various periods; but an inspection of their dates, compared with the legislation of the country, shows that either the relative value of the gold and silver coins, or, in some cases, their value less mint charges, is given as the market value of the metals. The production of silver and gold, and their relative values for stated periods subsequent to the discovery of America and prior to 1881, were examined for each country by the eminent German statistician, Dr. Adolph Soetbeer, and his conclusions have been given to the public. During that period the production of gold and silver, and values relatively to each other, as stated by him, were as follows:

PERIODS.	Relative Production.			Relative Value.		
	Silver.		Gold.	Silver.		Gold.
1493—1600	66.2	to	33.8	1	to	10½–12
1601—1700	72.8	to	27.2	1	to	12–15
1701—1800	65.9	to	34.1	1	to	14.97
1801—1850	64.1	to	35.9	1	to	15.70
1851—1875	29.2	to	70.8	1	to	15.53

This comparison, as remarked by Seyd, shows that the relative value of the two metals has been largely affected, though doubtless not wholly controlled, by other causes than the relative amount produced. In the legislative changes made by different nations in the relative value as established in the coinage, it will be found that the higher valuation of the one or the other metal, and the course of exchange and balances of trade between nations, have had much to do with the disturbance of their values, and a great, if not a controlling, influence in determining their relative price. — Alexander Hamilton, in his report as secretary of the treasury to congress on the establishment of a mint, in 1791, clearly stated the effect of such legislation: "If two countries are supposed, in one of which the proportion of gold to

silver is as one to sixteen, in the other as one to fifteen, gold being worth more, silver less, in one than in the other, it is manifest, that, in their reciprocal payments, each will select that species which it values least to pay to the other, where it is valued most. Besides this, the dealers in money will, from the same cause, often find a profitable traffic in an exchange of the metals between the two countries. And hence it would come to pass, if other things were equal, that the greatest part of the gold would be collected in one, and the greatest part of the silver in the other. The course of trade might, in some degree, counteract the tendency of the difference in the legal proportions by the market value; but this is so far and so often influenced by the legal rates, that it does not prevent their producing the effect which is inferred. Facts, too, verify the inference. In Spain and England, where gold is rated higher than in other parts of Europe, there is a scarcity of silver; while it is found to abound in France and Holland, where it is rated higher in proportion to gold than in the neighboring nations." — To understand all the causes which have affected the relative price of gold and silver, it would be instructive to trace the history of the successive changes of each nation, and their contemporaneous valuations. This is not easy to do, because the legal rating of the coins seldom corresponds with the relative amount of bullion necessary to be brought to the mints to obtain them, by reason of deductions for seigniorage to the sovereigns, and fees for the mint officers and workmen. Some of the more important changes have been as follows: For twelve hundred years prior to the time of Xenophon (400 B. C.) the ratio of gold to silver is stated to have been 13.33 to 1. The Greeks and Romans established in their coinage a value of 12 to 1; although it is said that at the time of the return of Julius Cæsar to Rome the value of gold had fallen to the ratio of 7.5 to 1. For the first centuries of the Christian era the relative value of gold in the Roman empire appears to have been as 12.5 to 1. Different countries have from time to time established different ratios, none of which permanently stood, and the rate of valuation was about or a little above or below 12 to 1 until the close of the fifteenth century. But early in the seventeenth century the valuation of gold was raised, first by England to about 13.7, and subsequently by Holland to 13.62, and again raised about the middle of the century by Holland to 14.93, and later, in 1665, by edict of Charles II., to 14.5 in England; and the coinage of both gold and silver, in the succeeding year, was made free to all at current rates, at which time the valuation in Italy and Spain is stated to have been 15 to 1. — The value of gold and silver in European countries in 1640 is reported by reliable authorities to have been: France, 13⅔ to 1; Flanders, 12½ to 1; Germany, 12 to 1; Netherlands, 12½ to 1; Milan, 12 to 1; England, 13⅛ to 1; Spain, 13⅓ to 1; France (1726), 14½ to 1. — In the eighteenth century Great Britain, in 1717, made the value 15.21 to 1. France, nine years later, established the ratio of 14.42 to 1, and Spain, in 1730, 16 to 1. In 1785 France adopted the ratio of 15½ to 1, Portugal had increased the valuation of gold compared with silver to 15.8 to 1, and Spain, first to 16 and then to 16.5 to 1. In 1798 England suspended silver coinage, without, however, changing the ratio. The average valuation during the eighteenth century was a little less than 15 to 1, while the United States adopted as the basis of its value 15 to 1. — In the nineteenth century the most notable change was made by Great Britain, which demonetized silver, increasing its valuation and the amount to be offered in legal tender, and excluding the public from the right to deposit it at the mint for coinage. In 1834 the amount of pure gold in the gold coins of the United States was reduced, bringing the relative value as nearly 16 to 1. In 1835 gold was demonetized in British India, and silver made the only legal tender. In 1847 Holland demonetized gold, and adopted an exclusive silver standard. — The increased production of gold, after its discovery in California and Australia, affected prices in Europe, and largely increased the imports from India, necessitating a greater export of money to that country to settle balances of trade. As silver only was legal tender coin, gold having been demonetized, the demand for silver for transportation raised its price in the London market above the French mint value, as compared with gold, of 1 to 15½; and for some years, until a greater supply from the mines was able to satisfy the demand, silver was generally higher in London than its coining value at the European mints open for public coinage. The countries giving the lowest legal valuation to silver were denuded of their silver coins. The scarcity of the latter induced the United States, in 1853, following the example of Great Britain, in 1816, to commence the coinage of silver on government account, and to issue fractional silver coins of reduced weight and limited legal tender. All United States silver coins of less denomination than one dollar, issued since that date, are of a weight that makes the value of the silver contained, compared with gold, as 1 to 14.88. — In 1870 Germany, and in 1873 the United States, passed laws demonetizing silver and discontinuing the privilege to the public of coining it at their mints. This action was followed later by the states of the Latin union agreeing to suspend the coinage of silver, which, following the large increase in the production of silver from the mines of the United States, largely depressed its value, which, compared with gold, has averaged in the London market, for the eight years subsequent to 1875, about 1 to 18.

HORATIO C. BURCHARD.

SILVER BILL. (See HAYES, R. B.)

SINKING FUND. This fund may be defined as a financial arrangement intended to redeem or extinguish the public debt upon certain determined

conditions, by means of a sum to be annually set aside from the produce of taxes, and to be used in sinking or paying a part of the debt through the purchase of a portion of the public indebtedness. Historically, this is not a strictly accurate definition, but it is generally correct when applied to the financial methods of the present day. The sinking fund has ever been regarded as an instrument for reducing the public indebtedness, but through false systems it has sometimes proved fallacious, and has often even increased the debt. The simplest method of creating such a fund would be by economizing in the expenditures of government, and setting apart the sum saved for the purchase and the cancellation of the state's securities or certificates of indebtedness. But the more common method is to create a special fund, to be controlled and managed by a special board or commission, and to be supplied out of the receipts of taxes.— Before the beginning of the eighteenth century the general practice in England was to provide a special tax for each new loan, so that the particular loan was said to be "funded," or provided for by a tax. In 1716, however, on the suggestion of the earl of Stanhope, Sir Robert Walpole carried a measure which rendered the taxes formerly distributed among the South sea aggregate and general funds perpetual, and consolidated whatever surplus might be collected by these taxes into a sinking fund, that was to be applied to the discharge of the national debt, and to no other purpose. This fund was still further augmented by what had been saved through successive reductions in the interest of the debt, and between the period of its formation and 1733 discharged £11,648,000 of the debt. Soon after, however, what should properly have gone into the sinking fund was applied to other purposes, and this practice became general. So that, according to the figures of Dr. Price, the amount of debt canceled by this fund between 1733 and 1775 was only £8,500,000. "On the whole," says Hamilton, in his "Inquiry concerning the National Debt of Great Britain," "this fund did little in time of peace, and nothing in time of war, to the discharge of the national debt. The purpose of its inviolable application was abandoned, and the hopes entertained of its powerful efficacy entirely abandoned." This fund was, in 1786, superseded by Mr. Pitt's new fund.— The rapid increase in the amount of the debt during the eighteenth century had directed attention to the burden, and not a few predicted national bankruptcy as a result. In 1713 the total debt, funded and unfunded, was nearly £35,000,000. The Spanish, the seven years' and the American wars ran the debt up to a total of £245,300,000. On the proposal of Dr. Price, a parliamentary inquiry into the national finances was instituted, and, as a result, a sinking fund was established, but on a different system from that embodied in the fund of 1716. Under this new system the sum of £1,000,000 was to be annually appropriated by parliament to the fund, and this amount was to be expended, either in the redemption of stock, if at par, or, if under par, in the purchase of it in the open market at the current rate. The interest arising from all stock so redeemed was to be added to the principal, and laid out in the same manner, until, by their joint accumulation at *compound* interest, they should amount to the annual sum of £4,000,000, when this fund should thenceforth continue to be laid out at simple interest only, leaving the amount of interest annually redeemed at the disposal of parliament. (26 Geo. III., cap. 31. See Speech of Mr. Huskisson, March, 1813.) The most extravagant expectations were formed of this law, and the writings of Dr. Price, which had wide circulation, tended to foster such beliefs. "The smallest *fund* of this kind," he wrote, "is, indeed, *omnipotent*, if it is allowed time to operate." In order to secure the inviolability of this fund, its management was intrusted to a commission composed of the speaker of the house of commons, the chancellor of the exchequer, the master of the rolls, the accountant general of the court of chancery, and the governor and the deputy governor of the bank of England. In 1792 a change was made in the manner of accumulating this fund, and at the same time a permanent provision was made for future debts by the framing of a permanent system of a sinking fund. "It was enacted," says Ricardo, "that, besides a provision for the interest of any loan which should thenceforward be contracted, taxes should also be imposed for a 1 per cent. sinking fund on the capital stock created by it, which should be exclusively employed in the liquidation of such particular loan; and that no relief should be afforded to the public from the taxes which constituted the 1 per cent. sinking fund, until a sum of capital stock, equal in amount to that created by the loan, had been purchased by it." The wisdom of this provision can not be questioned, as it tended to maintain confidence in the credit of the government, which was then at a low point. It made the government not only a seller of securities (while issuing loans), but also a buyer (while purchasing with the sinking fund). And while the expectation was, that every loan would, under the operations of a 1 per cent. sinking fund, be redeemed in about forty-five years, yet the lower the price of the securities fell, the more efficient would the fund become; so that in proportion to the depression existing at the time, would this sinking fund operate as a check to prevent a further fall, and as a lever to produce, at no distant period, a probable rise in the market. Mr. Huskisson said of Mr. Pitt's plan, that it was "framed with the specific view of holding out to the public a guarantee, that any future debts which the states might have occasion to contract, should from the moment of their being incurred, be placed in a course of liquidation, uniform and unalterable. This plan contained within itself a principle of permanency, which being applied to every loan at the time of making the contract, could not, from that moment, be varied or departed from, without a breach of such contract. * * That every future

loan should, from the moment of its creation, carry with it the seeds of its destruction; and that the course of its reimbursement should, from that moment, be placed beyond the discretion and the control of parliament." From 1786 to 1793 the fund effected some reduction in the debt; but in the following years, when through the war the expenditures of government greatly exceeded the income, it was attempted to maintain the annual reductions, it became a wretched piece of jugglery, although the form and machinery were continued. — It remained for Dr. Hamilton to expose the fallacies of such a sinking fund, and he showed that so far from reducing the debt it had really increased it. "The extent of the sinking fund is artificial, and may be brought, by a mere change in the arrangement of the public accounts, to bear any proportion to the amount of debt, without the slightest advantage, or any tendency to promote its discharge. In time of war we raise a certain sum by taxes for the expense of the year, and borrow what further is wanted. If a sinking fund be maintained, the sums appropriated are deducted from what would have otherwise been expended on the war, and a greater loan is required. We may throw into the sinking fund any share of the revenue we please. We have only to add as much to the loan, and we shall raise a larger sum in the form of loan with the same facility, by the effect of the sums thrown into the money market for the stock purchased by the commissioners. In time of war the sinking fund is nominal; in time of peace a large sinking fund will discharge the debt more quickly; but this amounts to no more than that a continuance of the taxes which we paid in war, after peace is restored, will be attended with a speedier reduction of debt than what would take place if a large part of these taxes were repealed." Hence he was led to assert that the excess of revenue over expenditure was the only fund by which any part of the public debt could be discharged. "The increase of revenue, or the diminution of expense, are the only means by which this fund (sinking) can be enlarged, and its operations rendered more effectual; and all schemes for discharging the national debt, by sinking funds operating at compound interest, or in any other manner, unless in so far as they are founded upon this principle, are completely illusory." — Dr. Hamilton's work was first published in 1813, the very year in which important changes were made in the fund under the administration of the finances by Mr. Vansittart. But the farce of borrowing to supply the requirement of the fund continued. In 1819 Dr. Hamilton's views were so far recognized as to induce the house of commons to resolve, that to provide for the exigencies of the public service, to make such progress in reductions of the national debt as may adequately support public credit, and to afford to the country a prospect of future relief from a part of its present burdens, it is absolutely necessary that there should be a clear surplus of the income of the country over the expenditure, of not less than £5,000,000. In 1822 the committee of public accounts recommended that the annual sinking fund loans be discontinued, and that the whole of the redeemed capital stock of funded debt remaining in the name of the commissioners be canceled. In the following year their recommendation was carried into effect, but the last remnant of the fund was not abolished before 1828. — This sinking fund had proved an unfortunate and costly experiment; but how costly it had been was not proved until 1869, when it was made the subject of parliamentary investigation. "During the whole period, from Jan. 5, 1793, when the French war broke out, up to 1829, there was only one year (1817) in which money was not raised by loan, in order to aid the sinking fund, besides what was required for war expenditure. After excluding the period from Aug. 5, 1786, to Jan. 5, 1793, during which £8,147,631 was applied to redeem £10,241,100 of 3 per cent. stock, bearing an interest of £307,263 per annum, there remains £321,902,824, which was applied between 1793 and 1829 to redeem £472,942,703 capital stock, carrying £14,488,388 annual interest, the mean rate on the sum paid being almost exactly 4½ per cent. per annum. During the same period the total sum of £702,168,075 was raised by loans, for which £1,052,586,700 capital stock of funded debt was created, carrying £35,301,392 annual interest, or a mean rate of about 5 per cent. per annum. The actual result of all these sinking fund operations, therefore, was, that the total amount of £330,050,455 was raised at 5 per cent. to pay off a debt carrying 4½ per cent. The difference in these two rates amounted, upon the total capital sum of £330,050,455, to £1,627,765 per annum, which may be set down as the increased annual charge of our funded debt, and a real loss to the public from this deceptive sinking fund system; without taking into account the expenses of the management of the sinking fund, and the increased amount of capital of debt consequent upon the practice of borrowing on less advantageous terms for larger sums than were required to meet the actual public expenditure." — I have described somewhat at length the English sinking fund, because the principles which governed its formation were early adopted in this country, under the leadership of Alexander Hamilton. In December, 1782, he introduced into the congress of the confederation the following resolution: "*Whereas*, It is essential to justice and to the preservation of public credit, that whenever a nation is obliged, by the exigencies of public affairs, to contract a debt, proper funds should be established, not only for paying the annual value or interest of the same, but for discharging the principal within a reasonable period, by which a nation may avoid the evils of an excessive accumulation of debt; therefore, *Resolved*, That whenever the net product of any funds, recommended by congress and granted by the states, for funding the debt already contracted, or for procuring further loans for the support of the war, shall exceed the sum requisite for paying

the interest of the whole amount of the national debt, which these states may owe at the termination of the present war, the surplus of such grants shall form a *sinking fund*, and be inviolably appropriated to the payment of the principal of the said debt, and shall on no account be diverted to any other purpose." Thus, four years before Mr. Pitt accepted the plan of Dr. Price, and ten years before he laid down the sound rules of finance embodied in the English act of 1792, the two important principles, that with the creation of a debt measures should be taken to insure its extinguishment, and that debt reduction is efficient only when made with surplus revenue, were clearly enunciated by Mr. Hamilton in the congress of the confederation. Circumstances, however, which chiefly arose from the weakness of the confederation, prevented any attempt to put into practice this resolution, and in the disordered condition of the finances little could be done before the return of peace. Even then the jealousy among the states prevented action, and it was not until the constitution was adopted and the national government formed, that a settlement of the debt question could be looked for. In his report on public credit, Hamilton proposed to apply the revenues arising from the postal service to the purposes of a sinking fund, and he again lays down as a vital principle the necessity of such a fund. "Persuaded, as the secretary is, that the proper funding of the present debt will render it a national blessing; yet he is so far from acceding to the position, in the latitude in which it is sometimes laid down, that 'public debts are public benefits,' a position inviting to prodigality, and liable to dangerous abuse, that he ardently wishes to see it incorporated, as a fundamental maxim, in the system of public credit in the United States, that the creation of debt should always be accompanied with the means of extinguishment. This he regards as the true secret for rendering public credit immortal. And he presumes that it is difficult to conceive a situation in which there may not be an adherence to the maxim." He recommended, as commissioners to administer this fund, the vice-president of the United States, the speaker of the house of representatives, the chief justice, secretary of the treasury and the attorney general. His propositions respecting the postal revenues were not accepted; but congress appropriated to the sinking fund the surplus revenues of the current year, and authorized the president to borrow $2,000,000 with which to purchase stock at its then low value. There was a considerable surplus revenue in 1790, which was applied to debt reduction, and in 1791 the sinking fund had already reached the sum of $1,000,000. The act of Aug. 12, 1790, which constituted this fund, provided, 1, that the surplus of the duties on imports and tonnage to the end of the year 1790 should be applied to the purchase of the debt of the United States, at its market price, if not exceeding par or true value thereof—said purchases to be made openly, and with due regard to the equal benefit of the several states; and 2, that, in addition to this fund, the president should be authorized to borrow any sum or sums, not exceeding $2,000,000, at an interest not exceeding 5 per cent., to be applied to purchases of public debt; provided that, out of the interest of the debt to be purchased, there should be appropriated, annually, a sum not exceeding 8 per cent. of the sums borrowed, toward paying the interest and reimbursing the principal of these sums. It will be seen that the compound interest scheme, which was so eagerly taken up in England, was not embodied in the plan of 1790, which was little more than a direct appropriation of surplus revenue to debt reduction. In 1792, however, an important change was introduced, and a permanent sinking fund was established, to be composed, 1, of the interest of the public debt, purchased, redeemed, or paid into the treasury, in satisfaction of any debt or demand; and 2, of the surplus, if any, which should remain of moneys appropriated for paying the interest of the public debt, after paying that interest. This fund was to be applied, first, to purchases of the debt, till the annual amount of the fund shall be equal to 2 per centum of the whole amount of the outstanding funded stock, bearing a present interest of 6 per centum; second, to the redemption of that stock; and lastly, to purchases of any unredeemed residue of the public debt. To January, 1795, the purchases of stock had amounted to $2,268,022. — The operations of this and of subsequent sinking funds are fully described in Elliot's "The Funding System of the United States" (28th Congress, 1st Session, Exec. Doc.) The principles so clearly laid down by Alexander Hamilton have been generally applied in this country both with respect to national and to local indebtedness, but the manner of constituting the sinking fund has varied greatly according to circumstances. In every instance, however, the main object was to provide for the extinction of the debt, and, by setting aside a stated sum which was to be inviolably applied to this purpose, to maintain confidence in the credit of the state or borrowing power. Whatever errors, either in the composition of the fund or in its administration, have been made, it has come to be recognized that debt can be canceled only when a state's income exceeds its expenditure. The surplus may with profit be applied to debt reduction. Some of the state constitutions specify the number of years in which a debt is to be redeemed. For example, that of Illinois says: "Any county, city, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same." (Constitution, 1870, Art. IX., § 12.) This would practically involve the maintenance of a sinking fund. The constitutions of other states are more particular. Thus, that of Pennsylvania (1873) recites, that, "to provide for the payment of the present

state debt, and any additional debt contracted as aforesaid, the general assembly shall continue and maintain the sinking fund, sufficient to pay the accruing interest on such debt, and annually to reduce the principal thereof by a sum not less than $250,000; the said sinking fund shall consist of the proceeds of the sales of the public works, or any part thereof, and of the income or proceeds of the sales of any stocks owned by the commonwealth, together with other funds and resources that may be designated by law, and shall be increased from time to time by assigning to it any part of the taxes or other revenues of the state not required for the ordinary and current expenses of government; and, unless in case of war, invasion or insurrection, no part of the said sinking fund shall be used or applied otherwise than in the extinguishment of the public debt. The moneys of the state, over and above the necessary reserve, shall be used in the payment of the debt of the state, either directly or through the sinking fund, and the moneys of the sinking fund shall never be invested in or loaned upon the security of anything, except the bonds of the United States or of this state." (Art. IX., §§ 11, 12.) And again. "Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt." (Art. XV., § 3.) — In addition to the writings mentioned in the course of the article, the following may be consulted: M'Culloch, *Treatise on the Principles and Practical Influence of Taxation and the Funding System; Reports of the Secretary of the Treasury; American State Papers, Finance; State Constitutions;* and *Congressional Debates.* WORTHINGTON C. FORD.

SINTOOISM. (See SHINTŌ.)

SLAVERY is the right of property of one man in another man, in his family, in his posterity, and in the products of his labor. — There is no injustice more revolting than slavery, and yet there is no fact so widespread in history. Hence slavery is as old as war, in which it had its origin. Both slavery and war are inexplicable in the eyes of philosophy, if we do not admit, with Christianity, an immemorial perturbation among the members of the human family. — In antiquity the system of labor was everywhere slavery. It was found in Rome, in Greece, in Egypt, in Assyria, in Gaul, among the Germans, and, it is said, even among the Scythians; it was recruited by war, by voluntary sale, by captivity for debt, and then by inheritance. It was not everywhere cruel, and in patriarchal life it was scarcely distinguishable from domestic service; in some countries, however, it approached the service of beasts of burden; the brutal insensibility with which Aristotle and Varro spoke of slaves is revolting; and the manner in which they were treated by the laws is even more so. These men, who were of the same race, who had the same intellect, and the same color as their owners, were declared incapable of holding property, of appealing to the law, of defending themselves; in a word, of demeaning themselves like men in any of the circumstances of life. Only the law of the Hebrew people tempered servitude by humanity. Doubtless, we might quote certain words of Euripides or of Terence, of Epictetus or of Seneca, colored with a more tender pity and evincing some heart; we find also both in Greek and Roman laws, on the monuments, and in the inscriptions and epitaphs which our contemporaries have so carefully studied; we find, I say, in these the proof that the granting of freedom to slaves, in individual cases, was frequent, and that it was inspired, especially at the moment of death, by religious motives. But the brutal fact of slavery is incontestable. The evil outweighed the good in an enormous measure; servitude remained from century to century, from country to country, during all antiquity, the universal fact, and the legitimateness of servitude the universal doctrine. — To the rare and barren protests of a few noble souls, Christianity finally added the power of its mighty voice. The brotherhood of men, the dignity of labor, the absolute duty of perfection: with these three principles, clothed with the authority of God himself, the human race entered a new phase, commenced the great battle of good against evil, and, little by little, forced back the scourges which, in the past, had reigned with undivided supremacy. Servitude was destined to be among the vanquished, but it was not without a long and grievous combat, which, at the present time, is not entirely terminated. — The learned labors of M. Edouard Biot and M. Janoski warrant the affirmation that servitude had almost entirely disappeared in Christian Europe from the tenth to the thirteenth century; but it is only too well known that after the discovery of the new world, the sixteenth and seventeenth centuries witnessed the re-establishment of this odious institution in all the colonial possessions of the nations of Europe. What do I say? The most Christian kings of France, Spain and England did not blush to place their signature at the bottom of treaties intended to assure to them the monopoly of the sale and transportation of millions of human beings. An entire continent, Africa, became like a mine to be worked, charged with furnishing the other continents with the living merchandise, called in diplomatic acts a *ton of negroes*, just as we say a ton of charcoal. — To the nineteenth century belongs the honor of waging against servitude a war which is not yet ended, but which has been distinguished, however, by remarkable victories. The revolution is complete as far as ideas are concerned. Morality spoke first, and all the sciences, little by little, came to agree with it. Philosophy gives to all slaves a soul equal to our own, which Aristotle, perhaps, refused to them. Physiology declares blacks and whites, despite important differences, to be members of the same family. History no longer discovers between slave owners and slaves the trace of any legitimate conquest. The law does not recognize any validity of a pretended

contract which has no title, the object of which is illicit, and one of the parties to which is not a free agent, and the other party to which is without good faith. Ethnology lifts to the dignity of a beautiful law the radical difference which places in the first rank the races which labor, like the European, and in the last rank the races who make others work for them, like the Turks. Political economy affirms the superiority of free labor to forced labor, and it condemns everything which deprives man of the family. Politics and charity, from different points of view, accept the same conclusion: charity, more tender, detests slavery because it oppresses the inferior race; politics, more lofty, condemns it, above all, because it corrupts the superior race. Thus the revolution above referred to, complete in the order of ideas, is far from being complete in the order of facts. — At the beginning of the present century England possessed nearly 800,000 slaves, scattered among nineteen colonies, to wit: more than 300,000 in Jamaica, 80,000 in the Barbadoes, 80,000 in Guiana, more than 60,000 in Mauritius, and the rest in the little colonies of Trinidad, Grenada, Antigua, St. Vincent, etc. France, in her colonies of the Antilles, Bourbon, Guiana and Senegal, had 250,000 slaves. There were 27,000 in the little colonies of Denmark, and about 600 in the island of St. Bartholomew, belonging to Sweden. Holland, which knew how to avoid servile labor in Java, preserved more than 50,000 slaves at Surinam and Curaçoa. But these figures are trifling, compared to the number of the enslaved population of the Spanish and Portuguese colonies, which amounted to at least 600,000 slaves; of Brazil, which is more than 2,000,000; and of the United States, which, before the American civil war, had 4,000,000 slaves. — France was the first to give the signal for the liberation of slaves, a liberation which unfortunately was sudden, violent, and did not last. In 1790–91 the constituent assembly, after much hesitation, admitted *free* people of color in the colonies to the rights of citizenship. The whites resisted, and when the convention tried to have the decree executed, the conflict between the blacks and whites led to the massacres which have been so falsely attributed to the emancipation of the slaves, proclaimed only at the end of 1793, and confirmed by the decree of Feb. 4, 1794, by which the convention decreed with enthusiasm the abolition of slavery in all French colonies. The result of the maritime wars was, to the colonies, disorder or conquest. At the same time, in the mother country, a reaction, aided by glory, carried men beyond the necessities of order. The year 1802, which witnessed the concordat, the life consulate, the peace of Amiens, the legion of honor, and the university, witnessed also the restoration of slavery and even the slave trade by the law of the 30th floreal, year X. — Commenced with more wisdom, and conducted with more perseverance, the movement of emancipation in England naturally triumphed more promptly than in France. In 1102 a council held in the city of London, under the presidency of St. Anselm, forbade the slave trade. In 1763 an odious treaty assured to England, on the other hand, the monopoly of this traffic. In 1773 a generous Christian, William Wilberforce, first wrote against this public scandal. In 1780 Thos. Clarkson proposed its abolition to parliament, and in 1787 Wilberforce renewed the proposition, which, after having been seven times presented and seven times rejected, finally triumphed in 1806, and became, at the congress of Vienna, a solemn engagement of all the European powers (Declaration of Feb. 4, 1815), which was followed by laws promulgated by each of these nations. May 15, 1823, Mr. Buxton proposed the abolition of slavery in all the English colonies. After long hesitation, the act of abolition presented in 1833, in the name of the government, by Lord Stanley, was promulgated Aug. 28, 1833. This memorable law, which devoted £500,000,000 to the ransom of 800,000 men, did not, however, accord them liberty until after an apprenticeship, which was to last from Aug. 1, 1834, to Aug. 1, 1840; but this uncertain system could not be maintained. Lord Brougham proposed its abolition in 1838, and the colonial legislatures spontaneously decreed complete emancipation in the years 1838 and 1839. — At the same time, 1838, M. Passy proposed to the French chambers a bill with the same end in view, and in 1840 a commission was charged, under the presidency of the duke de Broglie, to prepare the way for the abolition of slavery in the French colonies. At the same time, also, 1839, Pope Gregory XVI. published a bull, condemning slavery and the slave trade. The report of M. de Broglie is celebrated; we may call it a judgment by a court of last resort, which, for the most elevated, decisive and practical reasons, condemned slavery forever. However, the sentence was not executed on account of the hesitation of the government and the resistance of the colonies. Slavery was not abolished in the colonies of France until after the revolution of February, by the decree of March 4, 1848, which M. Schoelcher had the honor of proposing. — The result of emancipation in the French colonies was the liberation of the slaves in the Danish colonies, proclaimed July 3, 1848. Sweden had set the example of liberation as early as 1846. — We here give a résumé of the economic and moral results of emancipation in the colonies of England and in those of France. Before emancipation, the colonies of the West Indies produced 3,640,000 quintals of sugar. These figures had sunk during the apprenticeship to 3,480,000 quintals, and after the liberation to 2,600,000. In 1848 the production was 3,795,311 quintals; in 1852, 3,876,000; and in 1858, 3,499,171. The emancipation of the slaves was followed by a diminution in production and an increase in prices, but also in wages; the result of commercial freedom was an increase in production and a diminution in prices, but also in wages. Twenty years after these two great trials the old figures were reached, the net cost was diminished, and if certain isolated

colonies suffer still while others prosper, there is no one in England who could have foreseen that two such radical experiments would not be followed by more disastrous and more prolonged consequences. — Let us dwell a little further on the colonies of France. Despite a triple trial, the emancipation of the slaves, competition in the mother country and a radical revolution, the general movement of affairs of the French colonies was not lowered beyond one-half, while it was lowered more than a quarter so far as all the business transactions of France during the first period of five years were concerned; after another five years, the figures prior to emancipation were very slightly surpassed at Guadaloupe, nearly half at Guiana, more than a quarter at Martinique, and more than a half at Réunion. — If we look only at production, after 1854, the figures prior to 1848 were surpassed, even for sugar, excepting at Guiana, which was transformed into a colony of consumption. The increase is in slow progress at Guadaloupe, important at Martinique, and extraordinary at Réunion. Wages are very little higher, the price of sale and renting of lands has increased, credit is more easy, thanks to the banks; new resources of credit and laws which permit the importation of cereals, rice, and also of machinery, arrive opportunely with the reduction of the customs duties; the price of sale is higher, the movement of ships has increased one-third, at the same time that the material and methods of manufacture have been changed. To the honor of liberty and that of the colonists, be it said, that, since emancipation, they have courageously made up their minds what to do; they have ceased to sigh, and begun to act. At Réunion tools have been changed, methods of processes improved, and the revenue from colonist settlements doubled; there is no hesitation in hiring a laborer for five years at double the price received at London for the importation of 6,000 coolies; those who bought with colonist settlements in 1848 have realized enormous fortunes, progress has followed wealth, and the general exposition of agriculture in 1862 showed sugar from Réunion which did not need to be refined. In the Antilles people are no longer contented with cursing the indigenous sugar refineries; they imitate them; central refineries have been established where, in 1874, the produce from sugar cane rose from 5 to 13 per cent., and there is hope of still further improvement; machinery and manuring were introduced, drainage has been tried, patents are taken out, landed credit is demanded, agricultural credit is used, free trade is called for; in a word, those routine and ruinous traditions which are the sad accompaniments of slavery are being departed from; and an endeavor is being made to realize these first four conditions of all economic progress: the perfecting of processes, abundance of hands, facility for credit, and the widening of the market. — As far as the moral order is concerned, all the results of the English experiment may be summed up in the words of Lord Stanley, in 1842, which were substantially as follows: There has been progress in industrious habits, improvement in the social and religious system, and development in individuals of those qualities of heart and mind which are more necessary to happiness than the material goods of life. The negroes are happy and contented, they devote themselves to labor, they have bettered their way of living, increased their well-being, and, while crime has diminished, moral habits have become better. The number of marriages has increased. Under the influence of the ministers of religion, education has become more widespread. In short, the result of the great experiment of emancipation tried upon the whole of the population of the West Indies has surpassed the most ardent hopes. — In the French colonies, 40,000 marriages, 20,000 legitimate children, 30,000 acknowledged children, the population resuming a regular course and increase, the churches filled, the schools attended; at Guadaloupe and Martinique, 20,000 adults at the night schools; at Réunion, 23 societies of mutual aid among the freedmen, crimes against the person diminished (at least until the arrival of immigrants), justice and the clergy improved, peace maintained with garrisons less strong than before 1848: such are the gifts presented to French colonial society by the emancipation of its slaves. — It would be too long to show in detail, year by year, the economic and moral results of emancipation, since they became complicated by reason of the effect of political events and *attempts* at commercial liberty in France. Let it suffice to affirm that civilization has gained much, that wealth has lost little, that its losses have been repaired and more than repaired, at least in all the colonies in which the new régime has been accepted in good faith; finally, that the call of a million men to liberty, in distant lands, did not cause the tenth part of the trouble occasioned in the more civilized nations of Europe by the least important political question. — European nations quickly understood that the slave trade would never be completely abolished unless slavery itself was suppressed. Unfortunately, the United States of America did not understand this as quickly. The illustrious founders of the Union, fearing a dissolution of it at the very moment of its formation, and hoping, that to suppress the evil it would be sufficient to dry up its source, limited themselves to inserting in the constitution that the slave trade should be prohibited, beginning with the year 1808. As far as slavery was concerned, they had the weakness not even to mention its name, leaving to each state the task of ridding itself of the institution of slavery, which, at that period, was very little developed. In Washington's time, there were scarcely 700,000 slaves within the whole extent of the United States. Washington freed his own slaves by will, and we know from his correspondence with Lafayette that he busied himself with plans of emancipation. Many of the northern states successively freed their slaves; but the progress of the cultivation of cotton, the cession of Louisiana, the purchase of Florida and the conquest of Texas

had not been foreseen. Sixty years after Washington's time, the American republic had advanced with giant steps, slavery had grown with it, and the southern states contained 4,000,000 of enslaved blacks. A fact so enormous, so abnormal, produced in the bosom of the Union a profound perturbation. Not only did honor and morality suffer therefrom, but a terrible division took place between the north, which controlled the commerce, the shipping and the tariff of the Union, and the south, which, previous to the American civil war, controlled politics, the congress, and the laws of the Union. Without relating the long and lamentable history of this conflict, without speaking of the fugitive slave law, of the territorial question, of the debates on the right of search, of the projects for an invasion of Cuba, finally of all the electoral struggles for the presidency, let us recall that the question of slavery had become in 1856, and again in 1860, the sole stumbling block of the general elections. In 1856 the south triumphed for the last time in the person of Mr. Buchanan; in 1860 the north bore away the victory in the person of Abraham Lincoln, and the southern states immediately revolted, and declared war. This formidable war had the character of a war of independence; the north fought for the constitution, the south to obtain its autonomy. But for what purpose did the south thus wish to separate itself from a glorious nation? In order to perpetuate, maintain and extend slavery, and to have no more uneasiness as to the fate of that institution which its publicists dared to call the best system of labor. The north was led by circumstances to strike at the very root of the war, by attacking slavery. In its session of 1862, congress successively adopted: 1st, emancipation in the District of Columbia; 2d, the recognition of the republics of Hayti and Liberia; 3d, the measures proposed by the president for gradual emancipation in the states and immediate emancipation in the rebel states, beginning Jan. 1, 1863. We know that the defeat of the south assured the definitive abolition of slavery in the United States. Slavery having disappeared in North America, its foundations were necessarily shaken in South America. The republics separated from Spain have abolished it. Holland delivered its American colonies from slavery by a law of Aug. 8, 1862, and a law of December, 1871, paved the way for its suppression in Brazil. — This rapid review is confined to Christian countries. In Mohammedan and pagan countries, slavery exists almost everywhere; here more patriarchal, there more barbarous; maintained in the bosom of Africa by perpetual wars and a pitiless traffic. A Mohammedan sovereign, the bey of Tunis, however, abolished slavery in his states, even before France, in 1847; but the scourge of slavery will evidently never disappear from pagan nations, except from contact with, and the example of, Christian nations. We may hope that the nineteenth century will see servitude disappear; this would be its principal glory. The condition precedent to the disappearance of slavery is the persevering accord of all opinions, of all creeds, of all nations, that it should be abolished, and this accord is now an accomplished fact. (See SLAVERY, in U. S. History.)

AUGUSTIN COCHIN.

SLAVERY (IN U. S. HISTORY). It may be laid down as a fundamental proposition, that negro slavery in the colonies never existed or was originally established by law, but that it rested wholly on custom. The dictum, so often quoted, that slavery, being a breach of natural right, can be valid only by positive law, is not true: it is rather true that slavery, where it existed, being the creature of custom, required positive law to abolish or control it. In Great Britain, in 1772, custom had made slavery so odious that the Sommersett case justly held that positive law was necessary for the establishment of slavery there in any form; but the exact contrary of this rule, of course, held good in commonwealths where custom made slavery not odious, but legal. In these cases the laws which were passed in regard to slavery were only declaratory of a custom already established, and can not be said to have established slavery. The whole slavery struggle is therefore the history of a custom at first universal in the colonies, then peacefully circumscribed by the rise of a moral feeling opposed to it, but suddenly so fortified in its remaining territory by the rise of an enormous material interest as to make the final struggle one of force. In outlining the history of negro slavery in the United States, it seems advisable to make the following subdivisions: 1, the introduction of slavery, and its increase; 2, its internal policy; 3, the slave trade, foreign and domestic; 4 the suffrage clause and the "slave power"; and 5, slavery in the territories, including new states. The final abolition of slavery in each state, in the territories, and in the nation, is treated elsewhere. (See ABOLITION.) — I. INTRODUCTION OF SLAVERY, AND ITS INCREASE. When English colonization in North America began, Indian and negro slavery was already firmly established in the neighboring Spanish colonies; and from these, particularly from the West Indies, negro slavery was naturally and unconsciously introduced into the English colonies, the Barbadoes being the stepping-stone for most of them. Nevertheless, the first authentic case of introduction was from an entirely different source. In August, 1619, a Dutch man-of-war, temporarily in Virginia, landed fourteen negro slaves in exchange for provisions. This is the only colony in which a first case can be found. Everywhere else we find slavery, when first casually mentioned, an institution so long established as to have lost its novelty. In each of them there are three points to be noted: the first mention of slavery, its first regulation by law, and the establishment, by custom or positive law, of the civil law rule, *partus sequitur ventrem*, instead of the common law rule, *partus sequitur patrem*. The latter rule, making children take the condition of the father, was the natural rule for

English colonists, would have made negro slavery far more tolerable, and would have established a constant agent for its ultimate extinction, since any connection between a slave father and a free mother would have been comparatively rare. The former rule, that the children should take the condition of the mother, which was everywhere adopted by custom from the beginning, not only relieved the system from check, but even gave it an added horror, of which the variations in color among the inferior race are mute but indelible certificates. In summarizing the introduction of slavery into the original thirteen states, we will begin at Mason and Dixon's line, going first southward, and then northward: its introduction into the new states and territories comes under the fifth subdivision. — In Virginia the acts passed were at first for the mere regulation of servants, the legal distinction being between servants for a term of years (white immigrants under indentures), and servants for life (slaves). Dec. 14, 1662, the civil law rule, *partus sequitur ventrem*, was adopted by statute. Oct. 3, 1670, servants not Christians, imported by shipping, were declared slaves for their lives. Slavery was thus fully legalized in the colony. — In Maryland slaves are first mentioned ("slaves only excepted") in a proposed law of 1638. In 1663 the civil law rule was fully adopted by a provision that "negroes or other slaves," then in the province or thereafter imported, should serve *durante vita*, "and their children also." — In Delaware the Swedes at first prohibited slavery, but it was introduced by the Dutch. It was in existence probably in 1636; but its first legal recognition was in 1721, in an act providing for the trial of "negro and mulatto slaves" by two justices and six freeholders. With this exception the system rested wholly on custom in Delaware. — In Carolina, under the first union of the two provinces, the Locke constitution (see NORTH CAROLINA) provided practically for white slavery: the "leetmen," or tenants of ten acres, were to be fixed to the soil under the jurisdiction of their lord without appeal; and the children of leetmen were to be leetmen, "and so to all generations." This provision, like most of the others, was never respected or obeyed. The 110th article provided that every freeman should have "absolute power and authority over his negro slaves of what opinion or religion soever." This met with more respect, and became the fundamental law of North Carolina without anything further than statutes for police regulation. — In South Carolina the first slavery legislation, an act of Feb. 7, 1690, "for the better ordering of slaves," took place before the separation. Slaves are said to have been introduced by Gov. Yeamans about 1670. June 7, 1712, slavery was formally legalized by an act declaring all negroes and Indians, theretofore sold or thereafter to be sold, and their children, "slaves to all intents and purposes." The civil law rule was made law May 10, 1740. The police regulations of this colony were filled with cruel provisions, such as the gelding of a male slave who should run away for the fourth time; and yet an act was passed in 1704, and re-enacted in 1708, for enlisting and arming negro troops. — In Georgia slavery was prohibited at the establishment of the colony, in 1732. In 1749, after repeated petitions from the colonists, the trustees obtained from parliament the repeal of the prohibition. In 1755 the legislature passed an act regulating the conduct of slaves; and in 1765 and subsequent years the laws of South Carolina were re-enacted by Georgia. — In Pennsylvania slavery is first heard of in 1688, when Francis Daniel Pastorius drew up a memorial against the practice for the Germantown Quakers. It was not until 1696 that the Quaker yearly meeting was prepared to act favorably on the memorial. In 1700 the legislature forbade the selling of slaves out of the province without their consent. The other slavery legislation of the colony consisted of efforts, more or less successful, to check or abolish the slave trade; but, as soon as independence was fairly attained, arrangements were made for gradual abolition. So late as 1795, however, the state supreme court decided that slavery was not inconsistent with the state constitution. — In New Jersey slavery was introduced by the Dutch, but was not recognized by law until the "concessions" of 1664 (see NEW JERSEY), in which the word "slaves" occurs. In East Jersey slaves were given trial by jury in 1694; and in West Jersey the word "slave" was omitted from the laws. Acts for regulating the conduct of slaves began with the junction of the province with New York, in 1702; but these were never harsh, and the condition of the slave was more tolerable than in any other colony where the system was really established. — In New York slavery came in with the Dutch at an uncertain period, the Dutch West India company supplying the slaves. So early as 1628 the inhabitants were made nervous by the mutinous behavior of some of the slaves, but there was no legal recognition of slavery until 1665, when the duke of York's laws forbade "slavery of Christians," thus by implication allowing slavery of heathens. Full recognition was given by a proviso in the naturalization act of 1683, that it should not operate to free those held as slaves, and by an act of 1706, to allow baptism of slaves without freeing them. — In Connecticut slavery was never directly established by statute, and the time of its introduction is uncertain. In 1680 the governor informed the board of trade, that, "as for blacks, there come sometimes three or four in a year from Barbadoes, and they are sold usually at the rate of £22 apiece." They were considered as servants, rather than as chattels, could sue their masters for ill treatment or deprivation of property, and the only legal recognition of slavery was in such police regulations as that of 1690, to check the wandering and running away of "purchased negro servants." — Rhode Island passed the first act for the abolition of slavery in our history, May 19, 1652. In order to check "the common course practiced among Englishmen to buy negers (sic)," the act freed all

slaves brought into the province after ten years' service. Unfortunately, the act was never obeyed; custom was too strong for statute law, and existed without law until the final abolition. The only legal recognition of the system was in a series of acts, beginning Jan. 4, 1703, to control the wandering of Indian and negro slaves and servants, and another, beginning in April, 1708, in which the slave trade was indirectly legalized by being taxed. — In Massachusetts a negro is mentioned in 1633 as an estray, "conducted to his master." In 1636 a Salem ship began the importation of negro slaves from the West Indies, and thereafter Pequot slaves were constantly exchanged for Barbadoes negroes. In 1641 the fundamental laws forbade slavery, with the following cautious proviso: "unless it be lawful captives taken in just wars [Pequots], and such strangers as willingly sell themselves [probably indentured white immigrants] or are sold to us [negroes]." The explanations inserted will show that this was the first legal recognition of slavery in any colony. Under it slavery grew slowly, and the rule of *partus sequitur ventrem* was established by custom and court decisions. Public sentiment, after the year 1700, was slowly developed against the system. In December, 1766, a jury gave a negro woman £4 damages against her master for restraining her of her liberty. John Adams notes at the time that this was the first case of the kind he had known, though he heard that there had been many. In 1768 another case was decided for the master, and thereafter the decisions of juries varied to every point of the compass for twenty years; but it is known that many of the cases in which the slaves were successful were gained by connivance of the masters, in order to relieve themselves of the care of aged or infirm slaves. John Quincy Adams gives 1787 as the year in which the state supreme court finally decided, that, under the constitution of 1780, a man could not be sold in Massachusetts. — In New Hampshire there were but two legal recognitions of slavery, an act of 1714 to regulate the conduct of "Indian, negro and mulatto servants and slaves"; and another in 1718 to regulate the conduct of masters. There were but few slaves in the colony, and slavery had but a nominal existence.—Vermont never recognized slavery. (See ABOLITION, I.) — From all the cases it will be seen that slavery was the creature of custom. The only exceptions are a peculiar provision in the law of Maryland (1663) and Pennsylvania (1725–6) making the children of free-born mothers and slave fathers slaves to their father's master until the age of thirty; and the laws in a few states re-enslaving freedmen who refused or neglected to leave the state. This latter provision was the law of Virginia from 1705, and was put into the state constitution in 1850; and laws fully equivalent were passed during their state existence by North Carolina, South Carolina, Georgia, Alabama, Mississippi and Louisiana. In the white heat of the anti-slavery struggle, laws were passed by Virginia in 1856, by Louisiana in 1859, and by Maryland in 1860, providing for the voluntary enslavement of free negroes; but these were exceptional. Milder provisions, to the same general effect, to punish by fine or sale the coming or remaining of free negroes in the state, were inserted in the constitution of Missouri in 1820, of Texas in 1836 (as a republic), of Florida in 1838, of Kentucky in 1850, of Indiana in 1851, and of Oregon in 1857. (See the states named.) The most troublesome to the northern states were the regulations of the seaboard slave states, under which negro seamen of northern vessels were frequently imprisoned, and sometimes sold. In 1844 Massachusetts sent Samuel Hoar to Charleston to bring an amicable suit there for the purpose of testing the constitutionality of the South Carolina act. He was received in a very unfriendly fashion. The legislature passed resolutions requesting the governor to expel him from the state, and an act making any such mission a high misdemeanor, punishable by fine and banishment. Finally, on receiving unequivocal assurances of personal violence if he remained, Mr. Hoar left Charleston without fulfilling his mission. — However strongly custom may have established negro slavery in the colonies, it has been suggested that the validity of the system was at least made doubtful by the Sommersett case in England. In that country, in 1677, the courts held negro slaves to be property, as "being usually bought and sold among merchants as merchandise, and also being infidels." In 1750 custom had so far changed that the law was again in doubt. In 1771 Charles Stewart, of Boston, took his slave James Sommersett to London, where the latter fell sick, and was sent adrift by his master. Stewart, afterward finding Sommersett recovered, reclaimed him and put him on a ship in the Thames, bound for Jamaica. Lord Mansfield issued a writ of *habeas corpus*, and decided, June 22, 1772, that the master could not compel his slave to leave England, whose laws did not recognize "so high an act of dominion." If the colonies, by charter and otherwise, were forbidden to pass laws contrary to the laws of England, and if the laws of England did not recognize slavery, was slavery legal in the colonies? It must be remembered that the Sommersett decision was not that the laws of England forbade slavery, but that there was no law in England establishing slavery. There was no attempt to make an English custom override an American custom, and we can not draw any attack on the American system of slavery out of the Sommersett case. — The colonies, then, began their forcible struggle against the mother country with a system of negro slavery, recognized everywhere by law, moribund in the north, but full of vigor in the south. In the north, where there was a general consciousness that slavery was doomed, the slaves were generally regarded as servants for life, as persons whose personality was under suspension. In the south they were regularly regarded by the law and by private opinion as things, as chattels, with "no rights or privileges but such as those who held the power and the government

might choose to grant them," with all the consequences arising from the fact that they had not come to America voluntarily, as persons, but involuntarily, as property. In so far the Dred Scott decision correctly stated the feeling of our forefathers. But the feeling was in great measure a consequence of the unfortunate adoption of the rule *partus sequitur ventrem:* a race to which the rule was applied could be no other than animal, and a people among whom the rule prevailed could never be emancipated from the feeling. For this reason the revolutionary congress made no attempt to interfere with slavery, except in regard to the slave trade, to be referred to hereafter. The state of war itself did little real harm to the system. In Virginia, Nov. 7, 1775, Lord Dunmore proclaimed freedom to all slaves who would fight for the king, and negro soldiers were enlisted by Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Maryland, Virginia and North Carolina. South Carolina refused to follow the recommendation of congress, in 1779, to enlist 3,000 negro troops. A return of the continental army, Aug. 24, 1778, shows 755 negro soldiers, not including the New Hampshire, Rhode Island, Connecticut or New York troops. At the end of the war Rhode Island, New York and Virginia freed their negro soldiers, but the system remained as before. The treaty of peace bound the British not to carry away any "negroes or other *property* of the American inhabitants"; and this collocation of terms is repeated in the treaty of Ghent in 1814. All through the period of the confederation, slavery received no detriment, except in the action of individual states (see ABOLITION, I.), and in its exclusion from the northwest territory, to be referred to hereafter. The states and the nation began their course under the constitution with the same general system as before, but with three modifications: the apportionment of representation to three-fifths of the slaves; the power of congress to prohibit the slave trade after 1808; and the fugitive slave clause. The first of these made the system of slavery itself a political factor, represented in the government; the third offered a tempting and dangerous weapon to use against an opposing section; and the second was the death warrant of the whole system in the double event of the acquisition of foreign territory and the development of antagonistic sections. They are therefore treated in special subdivisions. — Until this time the difference in the slave systems of the north and of the south had been a difference of degree rather than of kind. The basis and the general laws were nominally the same everywhere; and there was a general agreement that the system was evil in itself, and that it was desirable to rid the country of it by gradual abolition. But, from the beginning, the masterful white race had found, in the colder north, that it was easier to do work for itself than to compel work from the black race, and, in the warmer south, that it was easier to compel work from the black race than to do the work for itself. In both sections the ruling race followed naturally the line of least resistance, and negro slavery increased in the south, and decreased in the north. The process may be seen in the number of slaves in the colonies north and south of Mason and Dixon's line, as estimated by the royal governors in 1715, as estimated by congress in 1775, and as ascertained by the first census, in 1790, as follows. *North*, (1715) 10,900, (1775) 46,102, (1790) 40,370; *South*, (1715) 47,950, (1775) 455,000, (1790) 657,527. Before 1790 the two sections had begun to show the contrasting results of pushing, self-interested free labor on the one hand, and shiftless, unwilling slave labor on the other. Gouverneur Morris, in the convention of 1787, thus spoke of slavery at the time: "It was the curse of Heaven on the states where it prevailed. Travel through the whole continent, and you behold the prospect continually varying with the appearance and disappearance of slavery. The moment you leave the eastern states and enter New York, the effects of the institution become visible. Passing through the Jerseys, and entering Pennsylvania, every criterion of superior improvement witnesses the change. Proceed southwardly, and every step you take through the great regions of slaves presents a desert, increasing with the increasing proportion of these wretched beings." Nor was the assertion denied by the southerners who heard it. George Mason, of Virginia, said: "Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a country. As nations can not be rewarded or punished in the next world, they must be in this. By an inevitable chain of causes and effects Providence punishes national sins by national calamities." And Jefferson, in the same year, after detailing the evils of slavery, added: "Indeed, I tremble for my country when I reflect that God is just, and that his justice can not sleep forever." But this substantial agreement in sentiment was very soon to be broken by an event which entirely altered the paths of the two sections. — Few influences have so colored the history of the United States and of negro slavery as the inventions of 1775–93 in England and America. In 1775 Crompton's invention of the mule jenny superseded Hargreaves' spinning machine; in 1783 Watt's steam engine was adapted to the spinning and carding of cotton at Manchester; in 1785 cylinder printing of cottons was invented; and in 1786–8 the use of acid in bleaching was begun. All the machinery of the cotton manufacture was thus standing ready for material. Very little had thus far come from the United States, for a slave could clean but five or six pounds a day for market. In 1784 an American ship which brought eight bags of cotton to Liverpool was seized on the ground that so much of the article could not be the produce of the United States; and Jay's treaty (see that title) at

first consented that no cotton should be exported from America. In 1793 Eli Whitney, of Connecticut, then residing in Georgia, changed the history of the country by his invention of the saw-gin, by which one slave could cleanse 1,000 pounds of cotton from its seeds in a day. He was robbed of his invention, which the excited planters instantly appropriated; and slavery ceased to be a passive, patriarchal institution, and became a means of gain, to be upheld and extended by its beneficiaries. The export of cotton, which had fallen from 189,316 pounds in 1791 to 138,328 in 1792, rose to 487,600 in 1793, to 1,601,760 in 1794, to 6,276,300 in 1795, and to 38,118,041 in 1804. Within five years after Whitney's invention cotton had displaced indigo as the great southern staple, and the slave states had become the cotton field of the world. In 1859 the export was 1,386,468,562 pounds, valued at $161,434,923, and the next largest export (tobacco) was valued at but $21,074,038. Was it wonderful that southerners should say and believe that "cotton is king," and that secession could never be attacked by blockade, since the great commercial nations, even the free states themselves, would not thus allow themselves to be deprived of the raw material of manufacture? The reader may judge the reasonableness of the belief, and the magnitude of the temptations to English intervention, by the value of the English imports of cotton from the United States and elsewhere, 1861–3, and the coincident rise in price: imports from the United States, (1861) $132,851,995, (1862) $6,106,385, (1863) $2,300,000; from other countries, (1861) $65,034,990, (1862) $148,358,840, (1863) $213,700,000; price per lb., (1861) 7 cents, (1862) 13¾ cents, (1863) 27½ cents. From a purely commercial and agricultural venture the cotton culture had taken a different aspect. Those who controlled it felt very much the same importance as a man might feel who had gained control of the magazine of a man of war, and could threaten to blow up the whole ship if he should be interfered with in any way. — This development of the culture of cotton was pregnant with consequences to both sections. In the north, manufactures and commerce were developed, and the remnants of slavery slid to extinction down a steeper and smoother descent. In the south, the price of slaves was steadily increasing, and the increased profit thus indicated was steadily stamping labor itself as slavery. It is not in financial matters alone that bad money drives out good: wherever slave labor was extended, it tended constantly to expel free labor from the market. Immigration shunned slave soil as if by instinct, and it was not long before the whole population of the slave states was divided into three great classes: the rich whites, who did no work; the poor whites, who knew not how to work; and the slaves, who only worked when compelled to work. The results on the economical development of the country may easily be imagined. No one was under any special incentive to work, to invent, or to surpass his neighbors; slaves, the only working class, could not be trusted to engage in any labor requiring care or thought; success in anything higher than the culture of cotton, tobacco or sugar, meant the inevitable freedom of the laborer; and long before 1850 "southern shiftlessness" had become chronic, hopeless and proverbial, even in the south. The reader who wishes for details will find them (from the census of 1850) in von Holst's third volume, or in Sumner's speech of June, 1860, as cited below; and an instructive description of affairs in 1860 is in Olmstead's two volumes. — Even on the culture of the soil the influence of the slave system was for evil. Only free labor can get large profits from a small surface, and the unwilling and unintelligent labor of slaves required so much larger area for its exercise that in 1850 there were to the square mile only 18.93 inhabitants in the southern states to 45.8 in the northern states. Slavery, like Tacitus' Germans, demanded empty acres all around it. In 1860 the acreage of improved to unimproved lands in Virginia was 11,437,821 to 19,679,215; in North Carolina, 6,517,824 to 17,245,685; in South Carolina, 4,572,060 to 11,623,859; and in Georgia, 8,062,758 to 18,587,782. The older slave states have been selected; in the new slave states the comparison is equally or more unfavorable. In the old free state of New York the comparison stood 14,358,403 improved to 6,616,555 unimproved; in the new free state of Illinois, 13,096,374 to 7,815,615. Of the free states, all but California, Iowa, Maine, Michigan, Minnesota, Oregon and Wisconsin had more improved than unimproved land in farms; of the slave states, only Delaware and Maryland. The comparison of the price of lands is still more unfavorable to slavery, varying in such near neighbors as Pennsylvania and Virginia from $25 per acre in the former to $8 per acre in the latter. The average value of northern farms in 1860 was $29 an acre; of southern farms, $9.80. This constant necessity for elbow room for slave labor was the ground reason for its constant effort to stretch out after new territory. A planter's policy was to take up as much land as possible, scratch the surface until his slaves could or would extract no more from it, and then search for virgin soil; for it was cheaper to pass the Mississippi, or invade Texas, than to cultivate a worn-out farm with slave labor. Scientific agriculture, and the revivification of so-called worn-out farms, were never attempted until the overthrow of slavery; and, since they have begun, we hear no more of the need for new territory for cotton. — The influence of slavery upon the section in which it existed was particularly evil in regard to the possibilities of warfare. Not only did it throttle commerce, manufactures, literature, art, everything which goes to make a people independent of the rest of the world: its influence in checking the natural increase of fighting men is plainly perceptible in the decennial census tables. Even when there is an apparent equality of numbers between the two sections, the equality is delusive,

so long as the southern scale is partly filled with a population not only non-combatant but actually to be distrusted as possibly hostile. For this reason, in the following table, taking separately the states which were free and slave in 1860, the population of the free states is given first, then the population of the slave states (excluding slaves), and finally the slaves.

	1790.	1800.	1810.	1820.
North	1,968,040	2,684,616	3,758,910	5,152,372
South	1,308,647	1,764,211	2,317,048	2,966,989
Slaves	657,527	857,105	1,163,854	1,518,930

	1830.	1840.	1850.	1860.
North	7,006,399	9,733,932	13,599,488	19,128,418
South	3,842,843	4,848,107	6,459,946	8,351,846
Slaves	2,005,469	2,486,226	3,204,051	3,953,594

Whatever causes may be assigned to explain the growing disproportion of free population and fighting men of the two sections, it is evident that the slave states were worse fitted at the end of each successive period for a forcible struggle with the free states, and that the sceptre was departing from the south. — It is not proposed in this article to touch on the moral aspect of slavery, or the absurd Biblical arguments for and against it: the rigid application of the *partus sequitur ventrem* rule, combined with the material interests of the cotton monopoly, will absolutely distinguish negro slavery in the United States from every system that has preceded it. We may summarize the economical evils of the system, in those points which no one can dispute, in a few words. It paralyzed invention and commerce; it prevented manufactures and the general introduction of railroads, steam machinery, or improved agricultural implements; it degraded labor by white as well as by black men; it stunted all the energies of the people, and deprived them of those physical comforts which were regarded elsewhere as almost necessaries; it dwarfed the military ability of the people, at the same time that it increased the military ambition of the ruling class, and kept the poor whites so ignorant that to them their state was a universe, its will sovereign, and its power irresistible. Every year increased the pile of explosives in the southern territory, and yet the force of events compelled slavery to grow more aggressive as it grew really weaker for war. That a people so situated, with no resources of their own and with little power to draw from without, should have waged the final war as they did, is almost enough to hide in the glory of their defeat the evil thing that went down with them. The enormous strides of the southern states from 1870 until 1880 show what the same people can do under free labor, and nearly all southern writers are agreed that the south was the greatest gainer by the overthrow of slavery. President Haygood, of Georgia, in a thanksgiving sermon of 1880, says: "For one illustration, take the home life of our people. There is ten times the comfort there was twenty years ago. Travel through your own country—and it is rather below than above the average — by any public or private road. Compare the old and the new houses. Those built recently are better in every way than those built before the war. I do not speak of an occasional mansion that in the old times lifted itself proudly among a score of cabins, but of the thousands of decent farm houses and comely cottages that have been built in the last ten years. I know scores whose new barns are better than their old residences. Our people have better furniture. Good mattresses have largely driven out the old-time feathers. Cook stoves, sewing machines, with all such comforts and conveniences, may be seen in a dozen homes to-day where you could hardly have found them in one in 1860. Lamps, that make reading agreeable, have driven out the tallow dip, by whose glimmering no eyes could long read and continue to see. Better taste asserts itself: the new houses are painted; they have not only glass, but blinds. There is more comfort inside. There are luxuries where once there were not conveniences. Carpets are getting to be common among the middle classes. There are parlor organs, pianos and pictures where we never saw them before. And so on, to the end of a long chapter. There are more people at work in the south to-day than were ever at work before; and they are raising not only more cotton, but more of everything else. And no wonder, for the farming of to-day is better than the farming of the old days, first, in better culture, second, in the ever-increasing tendency to break up the great plantations into small farms. Our present system is more than restoring what the old system destroyed." — II. THE SYSTEM INTERNALLY. The Louisiana civil code (Art. 85) thus defines a slave: "One who is in the power of a master to whom he belongs. The master may sell him, dispose of his person, his industry and his labor; he can do nothing, possess nothing, nor acquire anything but what must belong to his master." This comprehensive definition will show the status of the slave and the rights of the master sufficiently to obviate the necessity of any full statement of the slave laws of the states. For these the reader is referred to the authorities cited below. As slavery rested on custom, its regulation was uniformly by statute, the constitution usually ignoring it, and leaving it wholly in the power of the legislature. Slavery was never mentioned in the state constitutions of Delaware, Maryland (until 1837), Virginia (until 1850), North Carolina (except a mere mention of slaves in 1835), South Carolina (except a qualification of negroes for membership in the legislature in 1790), or Louisiana. In the new states slavery was legalized by that provision of their constitutions which forbade the legislature to emancipate slaves without consent of their owners, or to prevent immigrants from bringing their slaves into the state: such provisions were

inserted by Kentucky in 1792, Georgia in 1798, Mississippi in 1817, Alabama in 1819, Missouri in 1820, Tennessee in 1834, Arkansas in 1836, Maryland in 1837, Florida in 1838, Texas in 1836 and 1845, and Virginia in 1850; and these continued in force until the final abolition of slavery. Trial by jury for crimes above the grade of petit larceny was secured to the slave by the constitutions of Kentucky in 1799, Mississippi in 1817, Alabama in 1819, Missouri in 1820, and Texas in 1845, and by various statutes in Georgia, Tennessee, North Carolina and Maryland, but was denied in any case in South Carolina, Virginia and Louisiana. There were also provisions in most of the states for the punishment of the willful and deliberate murder of a slave. The benefit of both these provisions, however, was largely nullified by the universal rules of law that a negro's testimony could not be received against a white man, and that the killing of a slave who should resist "lawful authority" was justifiable homicide. As slavery grew more extensive the necessity for repressive legislation to act upon the slaves became more pressing, and the slave codes more severe, until every white person felt himself to be a part of a military force guarding a dangerous array of prisoners. Education of slaves was strictly forbidden, though this provision was frequently evaded or disobeyed in individual cases. The pass system was in full vigor everywhere, and even the younger girls of the master race did not hesitate to stop a strange negro on the road, examine his pass, or order him to a particular house for examination. It was a strange society, always on the alert, always with its hand on the sword, and cruel and evil things were done in it. The burning of negroes as a punishment for heinous offenses was not an uncommon thing, nor was it by any means the most shocking of the crimes in the punishment of which George Mason's prophetic words of 1787 were rigidly fulfilled. Many of the evils had a reflex influence upon the men of the dominant race; but the women, shielded from personal contact with most of the evil, and trained from childhood in the daily exercise of the heroic virtues, developed an unusual force of character, to which much of the stubborn endurance of the war was due, and even more of the sudden rejuvenation of the south after the war.—*Black Codes*, or *Black Laws*. These penal laws of the slave states had a very direct influence upon the legislation of several of the free states, particularly of those to which there had been a large southern migration. Ohio, in 1803, forbade negroes to settle in the state without recording a certificate of their freedom; in 1807 passed an act denying to negroes the privilege of testifying in cases in which a white man was interested on either side; and followed this up by excluding them from the public schools, and requiring them to give bonds for their good behavior while residing in the state. In 1849 these "black laws" were repealed as a part of the bargain between the democrats and free-soilers. (See OHIO.) The legislation of Illinois in 1819, 1827 and 1853, imitated that of Ohio, and in 1851 Indiana inserted similar provisions in her state constitution, which the state courts, in 1866, held to be void, as repugnant to the constitution of the United States. The same provisions were adopted by Iowa in 1851 by statute, and were made a part of the state constitution of Oregon in 1857. Wherever the state constitutions prescribed conditions of admission to the militia, as in Indiana in 1816, Illinois in 1818, Iowa in 1846, Michigan in 1850, Ohio in 1851, and Kansas in 1859, negroes were excluded; and in the states where the composition of the militia was left to the legislature the exclusion was as fully attained by statute. As a general rule, most of this legislation was swept away as rapidly as the republican party obtained complete control of each state, after 1856.—*Insurrections.* No slave race has organized so few insurrections as the negro race in the United States. This can hardly be due to the natural cowardice of the race, for its members have made very good soldiers when well organized; nor to the exceptional gentleness of the system, for it was one of increasing severity; nor wholly to the affection of the negroes for their masters, for the great plantation system, under which there could be little affection on either side, had been fairly established in 1860, and yet there was no insurrection throughout the rebellion. It is encouraging to believe that the race, by long contact with the white race, has imbibed something of that respect for law which has always characterized the latter, so that the negroes, however enterprising when backed by the forms of law, patiently submitted to legal servitude. It is certain that revolt, during their history as slaves, was regularly individual, and that most of it was only revolt by legal construction. In 1710 a negro insurrection is said to have been planned in Virginia, but it was balked by one of the conspirators, who revealed the plot, and was rewarded by emancipation. In 1740 a local insurrection broke out in South Carolina, but it was stamped out instantly by the militia. In New York a negro plot was unearthed in February and March, 1741, and as a consequence of the intense popular excitement a number of negroes and whites were hung, and several negroes burned; but the whole story of the "conspiracy" seems now of the flimsiest possible construction. In 1820 Denmark Vesey, a St. Domingo mulatto, organized a negro insurrection in Charleston. It was revealed, Vesey and thirty-four others were hung, and a like number were sold out of the state. In August, 1831, the most formidable of all the insurrections broke out in Southampton county, near Norfolk, Virginia, led by Nat Turner. He believed that he had been instructed by Heaven, three years before, to rebel, the sign being an eclipse of the sun in February, 1831; but, oppressed by a sense of the greatness of the task, he fell sick, and did not begin until August. With fifty associates he then began a massacre of the whites, sparing neither age nor sex. The insurrection was at once suppressed, and Turner, after several weeks' concealment, was

captured and executed in November. The total loss of life was sixty-one whites and over a hundred negroes. The Seminole war in Florida partook very much of the character of a negro insurrection. While Florida was under Spanish rule, very many fugitive slaves had taken refuge there and intermarried with the Indians; and the desire of reclaiming them was the secret of many of the Indian difficulties of that region. In 1816 American troops blew up the "negro fort" on the Appalachicola, which was the headquarters of the fugitives. On the annexation of Florida (see ANNEXATIONS, II.), slave hunting increased in eagerness, and the fugitives were pursued into the everglades. In 1833 the Seminoles had about 200 slaves of their own and 1,200 fugitives. One of the latter, the wife of Osceola, was seized while trading at Fort King, and her enraged husband at once began open war. It was conducted with inhuman cruelty on both sides, the most prominent example being the massacre of Major Dade's command, Dec. 28, 1835. The American commanders hardly ever made any secret of the great object of the war, the recapture of the fugitives; and, as the Seminoles refused to make any treaty in which the fugitives were not included, the war was long and expensive. In 1845 a treaty was arranged for the removal of both Seminoles and fugitives beyond the Mississippi, but the claimants pursued the latter with every form of legal attack, secured some of them, and, in 1852, obtained payment from congress for the remainder. The Harper's Ferry insurrection (see BROWN, JOHN) closed the list of negro revolts. — III. THE SYSTEM EXTERNALLY; THE SLAVE TRADE. 1. *Foreign Slave Trade.* It has long been a general belief that the colonies, before the revolution, were anxious to prohibit the slave trade, but were prevented by the crown's instructions to the governors to veto any such laws; and the Virginia declaration of June 29, 1776, denounces the king for "prompting our negroes to rise in arms among us, those very negroes whom, by an inhuman use of his negative, he had refused us permission to exclude by law." The case is complete enough against the crown. From the time of Hawkins' slaving cruise in 1562 the British government was an active partner in the slave trade. By the treaty of Utrecht, in 1713, it secured for one of its monopolies the slave trade from Africa to the West Indies; in 1750 it beneficently threw open the trade to all its subjects; and its consistent policy is well stated in the official declaration of the earl of Dartmouth in 1775, that "the colonies must not be allowed to check or discourage in any degree a traffic so beneficial to the nation." But it is not so easy to clear the skirts of the colonies. The assertion of their desire to suppress the trade rests on the passage of a great number of acts laying duties upon it: the titles of twenty-four of these acts in Virginia are given in Judge Tucker's Appendix to Blackstone. But almost invariably these acts were passed for revenue only, and the Virginia act of 1752 notices in its preamble that the duty had been found "no ways burdensome to the traders." It was not until the opening of the revolution that any honest effort was made to suppress the trade, except in Pennsylvania, where bills to abolish the slave trade were passed in 1712, 1714 and 1717, and vetoed. The Massachusetts general court passed a bill to prohibit the slave trade, March 7, 1774, and another, June 16 following; but both were vetoed. It was prohibited further by Rhode Island in June, 1774; by Connecticut in October, 1774; and by the non-importation covenant of the continental congress, Oct. 24, 1774, as follows: "We will neither import nor purchase any slave imported after the first day of December next, after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it." This covenant, ratified by the states, north and south, checked the trade for the time. No further attempt was made by congress to interfere with the trade, and the ratification of the articles of confederation in 1781 gave the states the power to regulate this and all other species of commerce. — In the formation of the constitution the question of the regulation of the slave trade offered a great difficulty. The three southern states demanded its continuance, alleging that Virginia and Maryland desired to prohibit it only to secure a domestic market for their own surplus slaves. The matter was compromised (see COMPROMISES, III.) by allowing congress to prohibit it after 1808. In the meantime the act of March 22, 1794, prohibited the carrying of slaves by American citizens from one foreign country to another; the act of May 10, 1800, allowed United States war vessels to seize ships engaged in such trade; and the act of Feb. 28, 1803, prohibited the introduction of slaves into states which had forbidden the slave trade by law. Virginia had done so by statute in 1778 and 1785, Georgia by constitutional provision in 1798, South Carolina by statute in 1787 (repealed in 1803), and North Carolina by statute in 1798. Finally, congress, by act of March 2, 1807, prohibited the importation of slaves altogether after the close of the year; the acts of April 20, 1818, and March 3, 1819, authorized the president to send cruisers to the coast of Africa to stop the trade; and the act of May 15, 1820, declared the foreign slave trade to be piracy. It can not, however, be truly said that the slave trade was abolished: it never really ceased before 1865. The census of 1870 assigns Africa as the birthplace of nearly 2,000 negroes, and it is impossible even to estimate the number illegally imported from 1808 until 1865. The sixth section of the act of March 2, 1807, allowed negroes confiscated under the act to be disposed of as the legislature of the state might direct; and southern legislatures promptly directed the sale of the confiscated negroes. This absurd section, which introduced slaves into the south, while punishing the importer, was repealed March 3, 1819, and the con-

fiscated negroes were ordered to be returned to Africa. The claim of British naval officers on the African coast to visit and search vessels flying the American flag, but suspected of being slavers, was steadily resisted by the American government, and led to an infinite variety of diplomatic difficulties and correspondence, which the reader will find detailed in William Beach Lawrence's volume, cited below. It was finally compromised by articles eight and nine of the Webster-Ashburton treaty, Aug. 9, 1842, by which the two governments agreed to maintain independent squadrons on the African coast, to act in conjunction. Difficult as this made the slave trade, it by no means suppressed it; and, as the price of negroes in the south rose higher, importations increased, and so did the difficulties of obtaining convictions from southern juries. The most notorious case was that of the Georgia yacht Wanderer, in December, 1858, but it was not the only one. According to the "Evening Post," of New York city, 85 vessels were fitted out from that port for the slave trade during eighteen months of 1859–60, the names of the vessels being given; and another newspaper of the same city estimated the cargoes introduced by these New York vessels alone at from 30,000 to 60,000 negroes annually. Said a Georgia delegate in the Charleston convention of 1860: "If any of you northern democrats will go home with me to my plantation I will show you some darkies that I bought in Virginia, some in Delaware, some in Florida, and I will also show you the pure African, the noblest Roman of them all. I represent the African slave trade interest of my section." In 1858 an ingenious attempt was made to evade the law. A Charleston vessel applied for a clearance to the African coast "for the purpose of taking on board African emigrants, in accordance with the United States passenger laws." Howell Cobb, secretary of the treasury, refused to give the clearance. — As we approach the year 1860 we find growing apprehensions of the reopening of the foreign slave trade. It must be remembered that congress was only permitted not directed, to abolish the trade after 1808, and that a simple repeal of the law of 1807 would have made it as legal as any other branch of commerce. The inherent weakness of the system of slavery, which grew weaker as it widened, imperatively demanded the repeal. To retain political power it was necessary to introduce the custom of slavery into the new territories in order to prepare them to be slave states. For this the domestic supply would not suffice; and Alex. H. Stephens, in his farewell speech to his constituents, July 2, 1859, says that his object is "to bring clearly to your mind the great truth that without an increase of African slaves from abroad, you may not expect or look for many more slave states." The repeal of the law of 1807, and the revival of the foreign slave trade, were advocated by the southern commercial convention in 1858 and 1859, by De Bow's "Review," and by a great and growing number of leading men and newspapers. It was even taking the aspect of a new phase of a distinct southern political creed, an effort to repeal that which was a standing condemnation of slaveholding and slaveholders. Before anything definite could be attempted, secession intervened. The constitution of the confederate states forbade the foreign slave trade, and "required" congress to pass such laws as should effectually prevent the same. How long this prohibition would have endured, if independence had been achieved, can not be conjectured, but it is certain that a slaveholding government would have found far more difficulty in enforcing such a prohibition than the government of the United States had found. — 2. *The Domestic Slave Trade.* Even barring secession and rebellion, negro slavery had always a possible danger in the undoubted power of congress to regulate commerce "between the states." Should this power ever find a majority in congress ready to apply it in an unfriendly spirit to the sale of slaves from state to state, and thus to coop up each body of slaves in its own territory, the system would be injured in a vital point. For this reason the ninth section of the act of 1807 allowed the transfer of slaves from point to point along the coast in vessels of not more than forty tons burden. After the abolition of slavery in the British colonies, American coasting vessels with slaves on board would occasionally be forced by stress of weather into British West India ports, when the authorities at once liberated the slaves. Diplomatic complications followed, of course; but the British government steadily refused to pay for the slaves liberated, except in cases which had occurred before the abolition of slavery in the colonies. (See CREOLE CASE, and the authorities there cited for the other cases.) The domestic slave trade by land was never interfered with until the abolition of slavery, except by the unavoidable operations of war during the rebellion. A bill was introduced by Sumner in 1864 to prohibit it, but it came to nothing. A bill to repeal the sections of the act of 1807 permitting the coastwise slave trade was added as a rider to an appropriation bill, and became law July 2, 1864. — IV. THE SUFFRAGE CLAUSE AND THE "SLAVE POWER." The constitution (see COMPROMISES, I.) gave to the states in which slavery existed legal representation in the lower house of congress for three-fifths of their slaves. In this provision there was innate an influence which was as potent on the political aspect of the slave system as the cotton culture was upon its material aspect. It must be remembered, that, in spite of the number of slaves in the south, slave *owning* was not at all general in that section. In 1850 the white population of the south was 6,459,946, and De Bow, superintendent of the census, and a proslavery southerner, gives the number of slaveholders as only 347,525, classified as follows: holders of 1 slave, 68,820; 2 to 5 slaves, 105,688; 6 to 10 slaves, 80,765; 11 to 20 slaves, 54,595; 21 to 50 slaves, 29,733; 51 to 100 slaves, 6,196; 101 to 200 slaves, 1,479; 201 to 300 slaves, 187; 301 to 500 slaves, 56; 501 to 1,000 slaves, 9; over 1,000 slaves,

2. But even this statement, De Bow admits, has an element of deceptiveness, for most of the small holders were not slave owners, but slave hirers; and he estimates the actual number of slave owners at 186,551. In 1850, 90 of the 234 members of the house of representatives were apportioned to the slaveholding states. If we omit from their population three-fifths of the number of their slaves in 1850, they would have been entitled in round numbers to but 70 representatives. The other 20 members represented only the 186,551 slave owners, and the loosest examination of the majorities by which bills passed the house of representatives during the anti-slavery conflict will show that the introduction of these 20 votes was usually the decisive factor down to 1855. This consequence was apparent from an early date. The repeal of the suffrage clause was demanded in 1814 (see CONVENTION, HARTFORD); and the demand grew still stronger after 1833, and never failed to excite the hottest wrath of southern members. Perhaps the occasion which roused the most intense feeling was the presentation by John Quincy Adams in congress, Dec. 21, 1843, of a formal proposal from the democratic legislature of Massachusetts to amend the constitution by repealing the three-fifths clause. In congress it was denounced unsparingly, and refused the privilege of printing, and out of congress the fervor of denunciation was unreportable. — But the direct operation of the three-fifths clause was far less than its indirect influence. It must be remembered that the 200,000 slave owners necessarily included in their ranks almost all the governors, judges, legislators, and leading men of the slave states, and their senators and representatives also, since the purchase of one or more slaves was the first step of any man who began to acquire wealth; and that all these men were united by a common purpose, the protection of property, which was superior in its every-day operation to almost any other claim. Practically, then, the 200,000 slave owners, recruited from time to time by new accessions, formed a dominant class; and the ninety representatives and thirty senators (in 1850) not only represented them, but were selected from their number. Such a political force as this had never before appeared in American politics: the utmost conceivable evils of the influence of corporations must pale their fires before it; and it is no wonder, that, as it rose gloomier and more threatening upon the southern sky, the instinctive political sense of the people gave it the name of the "slave power." In the nature of things this power could not be conservative: it must be aggressive, for the interest represented by it demanded extension to obtain profit; and yet, as it grew wider, it grew weaker, and needed still warmer support. The general, double-acting rule was: the more slaves, the more territory; the more territory, the more slaves. It was not in human nature for the men who made up the slave power to resist an influence so constant, so natural, so silent and so powerful, and the vicious twist given by it to the whole southern policy grew stronger yearly. No influence, even that of honor, could resist its undermining or escape being argued away. It was progressively successful in transplanting the custom of slavery beyond the Mississippi, in swinging the whole force of the nation upon Mexico for the acquisition of new slave territory, and in violating the condition precedent on which it had obtained the admission of Missouri as a slave state; and it was partially prepared in 1861 to shock the conscience of civilization by reopening the foreign slave trade, to whose suppression the good faith of the nation was pledged. But, before this last effort could be made, its time had come. The internal defects of the combined cotton-slave system could not remain stationary. Nothing is more certain than that, from 1850 to 1860, the number of slave owners was diminishing, particularly in the gulf states, the plantations were growing larger, the cotton culture was becoming less and less patriarchal and more and more of a business, and the slave power itself was growing more compact, grasping and reckless. It might have been that, without secession, this concentrating process would have gone on until the non-slaveholding whites of the south would have united against it; but that possibility was never tried. In 1860 the rising anti-slavery tide of the north and west came into flat collision with the rising tide of the slave power, and equilibrium was at last restored by violence. — It was not alone the inherent grasping nature of the slave power which affronted the non-slaveholding states and helped to bring about the final catastrophe. It is no reflection upon southern legislators of the present to say that the slaveholding member of congress until 1861 was in general an exceedingly unpleasant personage. His faults of thought, feeling, expression and manner, were long ago explained by Jefferson. "If a parent had no other motive, either in his own philanthropy or in his self-love, for restraining the intemperance of passion toward his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose rein to his worst passions, and thus nursed, educated and daily exercised in tyranny, can not but be stamped by it with odious peculiarities." However unjust it may be in theory to wage a political crusade against bad manners, it is as certain as anything can be that the political union of the free states in 1860 was largely brought about by the "odious peculiarities" of slaveholding members of congress in debate. Their boisterous violence, their willingness to take liberties of language, contrasted with their unwillingness to allow the same liberty to opponents, their disposition to supplement discussion with actual violence or threats of it, the indescribable and merciless assumption of an acknowledged superiority, made the debates of 1850–60 a shameful record, and are still remembered by their old opponents, with a certain sore-

ness, as "plantation manners." It was bad enough that a senator should be clubbed into unconsciousness for words spoken in debate (see BROOKS, P. S.); it was, if anything, worse that his first speech on his return to the senate should be answered by a South Carolina senator with the remark that "we are not inclined again to send forth the recipient of punishment howling through the world, yelping fresh cries of slander and malice." Southern writers will never fully understand the election of 1860 until they come to study, in the light of the new training, the debates which preceded it. — A power so situated, in a constantly weakening minority in the nation, and yet supreme in influence in its own states, was necessarily particularist in theory. Where it ruled, the forefathers had said state sovereignty and meant state rights, while their descendants said state rights and meant state sovereignty. (See that title.) And the development of the great cotton interest made state sovereignty even worse than it was by nature: instead of the jarring and comparatively innocuous demands of state sovereignty, it banded together a number of states by a common controlling interest, and evoked the deadly peril of sectional sovereignty. (See NULLIFICATION, SECESSION.) State rights could never have caused a blow; even state sovereignty would have died a harmless and natural death; but slavery and sectional state sovereignty each so acted and reacted upon the evil points of the other that the combined tumor was at last beyond reach of anything but the knife. But, during its existence, slavery never hesitated upon occasion to drop state sovereignty for the time, and use the nation and the national idea as political forces for its advancement; and yet it never did so, except in the case of the acquisition of Florida, without injuring itself. In its infancy it acquired the territory west of the Mississippi (see ANNEXATIONS, I.) by a process which was only defensible on the ground that the powers of the government were given by a nation, and not by sovereign states; and out of this territory grew its subsequent difficulties. (See COMPROMISES, IV.; KANSAS NEBRASKA BILL.) It flung the nation upon Mexico, and the disputes over the territory thus acquired first put the anti-slavery sentiment into political shape. It forced the passage of a fugitive slave act fatally adverse to state sovereignty and state rights in compensation for the admission of California as a state (see COMPROMISES, V.; FUGITIVE SLAVE LAWS), an act whose operation made its moving power the object not only of dread but of abhorrence in the free states. Finally, by transferring theoretical state sovereignty into practical secession, it compelled such an extensive showing of national power that the effects will be felt for generations to come. — V. SLAVERY IN TERRITORIES AND NEW STATES. It is certain that slavery in the original states was founded on custom only, and the same foundation, if any, must be found for slavery in territories and new states. The modern states of Kentucky and Tennessee, for example, were never colonies or territories of their parent states: they were integral parts of Virginia and North Carolina, and the custom of slavery was established at Nashville or Harrodsburgh on just the same basis as at Beaufort or Richmond. When their separation from the parent states took place, the custom of slavery remained, and they entered the Union as slave states. Granting that no opposition to slavery was felt by the nation at large, the same process might have been repeated anywhere, and custom, unopposed, might have made any territory slave soil, and brought it into the Union as a slave state. It is, therefore, impossible to admit fully the dogma, so popular and useful in the anti-slavery conflict, that the national territory was free soil without any statutory enactment. It might be free, and it might be slave, according to custom. In the cases of Kentucky, Tennessee, Mississippi and Alabama, the cessions of their territory were accepted by the United States from Virginia, North Carolina, South Carolina and Georgia, under a pledge not to interfere with the existing custom of slavery. The rights of all these states to the territory which they professed to cede, like the rights of New York, Connecticut and Massachusetts to the northwestern territory, were exceedingly doubtful (see TERRITORIES, I.); nevertheless, the pledge was honorably fulfilled. — The slaveholding states always denied that any act of congress could prohibit the custom of slavery in a territory. But this is as impossible of acceptance as the free soil dogma above stated. The territories were certainly not without law. Their inhabitants were not the law-making power, for then there would have been no distinction between territories and states. On any other subject than slavery, no one, in court or congress, denied that congress was the law-maker for the territories. But slavery was only a custom; and, while no one denies that a custom is valid until abrogated by statute, this has been the only case in which it has been seriously asserted that any custom is above and beyond abrogation by statute. So evident was this in 1787 that the ordinance of that year (see ORDINANCE of 1787) abolished slavery in the territory northwest of the Ohio, in whose case no restraining pledge had been given. The articles of confederation, which were then in force, gave congress no power to so prohibit slavery, or, indeed, to hold or govern territory at all. The whole act was so obviously a consequence of the national power to hold and govern its own territory, and was so plain a parallel to the proposal to similarly prohibit slavery in the Mexican annexations (see WILMOT PROVISO), that southern writers have endeavored to avoid it in two ways: 1. They assert that the ordinance was merely an expression of the will of the several states, a new article of confederation, so to speak. This is impossible. The state vote on the ordinance of 1787 was indeed unanimous, but this fact has no bearing on the matter, for the ordinance of 1784, which covered much the same ground (excepting the

prohibition of slavery), was not adopted by unanimous vote, South Carolina voting in the negative, and yet its validity was never impeached on that account. Further, the articles of confederation were to be amended by state legislatures only: however we may admit the power of a national convention to override them, we can hardly acknowledge the power of congress itself to amend them. 2. Judge Taney, in the Dred Scott decision, holds that the ordinance of 1787 "had become inoperative and a nullity upon the adoption of the constitution." If this was so, and if it was true, as the same decision holds, that the power of congress to "make all needful rules and regulations" for the territory of the United States was intended to be confined to the territory then owned by the United States, and not to be extended to territory subsequently acquired, the fugitive slave law of 1850 was in a large degree unconstitutional. It was based on the fugitive slave clause of the constitution: but this only allowed the reclamation of slaves from one *state* to another *state*. (See FUGITIVE SLAVE LAWS.) During the territorial existence of the northwest the ground was covered by this proviso to the prohibition of slavery by the ordinance of 1787: "provided always that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid." If the power to make "rules and regulations" for the territories only applied to the territory owned in 1789, and was intended to supply the place of the fugitive slave clause in the superseded ordinance of 1787, it follows that the fugitive slave law of 1793 exhausted the constitutional powers of congress to provide for the reclamation of fugitive slaves to a territory. All the trans-Mississippi territory was subsequently acquired; and, if the Dred Scott decision was correct, the fugitive slave law of 1850 was unconstitutional in providing for the reclamation of fugitive slaves from it. The consequence must have been that the trans-Mississippi territories, whether slavery were allowed or prohibited in them, would have been a sort of Alsatia, a safe refuge for fugitive slaves; and slavery would have been at a greater disadvantage than under the ordinance of 1787. —The custom of slavery was already in existence in Louisiana and Florida at the time of their annexation, but the responsibility for its enlargement is directly upon congress. The act of March 26, 1804, provided that no slaves should be introduced into the territory, *except* "by a citizen of the United States, removing into said territory for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves"; and the act of March 30, 1822, while forbidding the importation of slaves from without the United States, by implication allowed the domestic slave trade. Both acts confirmed the laws then in force in the territories, and not inconsistent with the acts; and as the territorial laws recognized slavery, it continued in force, and Louisiana and Florida entered the Union as slave states. Upon the admission of Louisiana as a state, the continuance of the custom of slavery in the rest of the purchase was practically provided for by the sixteenth section of the act of June 4, 1812, continuing the territorial laws of Louisiana in the new territory of Missouri. Again, when the new territory of "Arkansaw" was created by the act of March 2, 1819, a similar provision continued in the new territory the laws of Missouri, which recognized slavery. The consequences of this long *laches*, this omission of congress to prohibit the custom of slavery, which had been recognized by French, Spanish and territorial law, had now become apparent in the application of Missouri for admission as a slave state, and the tardy attempt in congress to attack the evil raised a political storm. On the one hand, since the new state had not the ability to compel a recognition of its existence, its recognition was clearly a matter of favor, on which congress could impose such conditions as it should consider needful. On the other, it was hardly just that congress should permit the existence of even an evil custom during its own responsibility for government, and only undertake to abolish it at the instant of giving the state professed self-government. The settlement of the case is elsewhere given (see COMPROMISES, IV.); it resulted in the abolition of slavery in the rest of the Louisiana purchase, above 36° 30′ north latitude, and the admission of Missouri as a slave state. As there was no abolition of the custom of slavery in the territory of Arkansas, we must consider the custom left still in existence there. On the application of Arkansas for admission as a slave state in 1836, there were some symptoms of a renewal of the Missouri struggle; but John Quincy Adams and other anti-slavery men agreed that the admission of Arkansas was fairly nominated in the Missouri bond, and the state was admitted. At the same session an increase in the area of Missouri (see that state) made a considerable addition to the slave soil of the United States. Here the extension of slavery stopped, with the exception of the admission of Florida and Texas as slave states in 1845. (See ANNEXATIONS, III.) The area of Texas had been free soil under the decree of Guerrero, the Mexican dictator, in 1829, afterward ratified by the Mexican congress; and slavery is not recognized in the constitution of the Mexican state of Coahuila and Texas, or in the provisional Texas constitutions of 1833 and 1835. But American settlers had brought their slaves with them, and fairly introduced the custom of slavery; and the constitution of 1836 formally declared all persons of color slaves for life, if they had been in that condition before their emigration to Texas, and were then held in bondage. This, though the state was not in the Union as yet, was the only instance of the professed establishment of slavery by the organic law of an American state, unless we are to take the Massachusetts code of 1641 as the first. The basis of the system is clearly expressed in a

section of the Kentucky constitution of 1850, as follows: "The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same and as inviolable as the right of the owner of any property whatever." It was no more necessary, then, to declare a constitutional right of property in the case of slaves than in the case of horses: in both cases the legislature was to accept and defend the right without question. A slave state was regularly declared such, at its admission, only by the provision forbidding the legislature to emancipate slaves without consent of owners, or to forbid the domestic slave trade. — As slavery reached the limits of its state extension in 1845, it only remains necessary to recur to its attacks upon the territories. Here the customary basis of slavery makes manifest the weakness of the claims for its extension after 1845. It is one thing to acknowledge the validity of a recognized and unopposed territorial custom in Louisiana, Missouri and Arkansas: it is a very different thing to admit, as pro-slavery advocates required, that the custom could not be abolished by statute, or prohibited where it did not exist. Nevertheless, in this respect, the compromise of 1850 (see COMPROMISES, V.) gave the slave states all they then asked. It refrained from prohibiting the custom, and gave the territorial legislature a general right of legislation, subject, of course, to the veto power of congress. But this last was now a meaningless form: it was impossible to obtain the passage of an act by congress and the president, annulling a territorial law recognizing slavery. Congress practically gave loose reins to the territorial legislatures, and they took advantage of it. New Mexico (then including Arizona) passed an act in 1851 recognizing peonage, or white slavery, and another in 1859 recognizing negro slavery; and Utah (then including Nevada) passed an act in 1852 maintaining the right of slaveholding immigrants to the services of their slaves. None of these acts was annulled until 1862. (See WILMOT PROVISO.) The Kansas-Nebraska bill (see that title) in 1854 went a step further. It took off the Missouri prohibition of 1820, and allowed the introduction of the custom into all the territories. It is at least doubtful, leaving out the good faith of the repeal, whether a custom could properly be introduced in that way; but the climax of doubtfulness was reached when the Kansas struggle showed that the custom had no chance of practical introduction in that territory. The pro-slavery claim (see DRED SCOTT CASE; DEMOCRATIC PARTY, V.; COMPROMISES, VI.) was then advanced that both congress and the territorial legislatures were bound to defend slavery in the territories. If negro slavery was based on custom, and not on organic law, this claim was certainly a novelty in jurisprudence. We can easily understand the recognition or the prohibition of a custom by statute, but the establishment of a custom by statute is beyond conception. Yet this is the sum of the southern demand, when divested of verbiage and reduced to its real essence; and secession was based on the refusal of the demand. — For the political influence of slavery, see DEMOCRATIC PARTY, WHIG PARTY, AMERICAN PARTY, REPUBLICAN PARTY. For the extinction of the system, see ABOLITION, EMANCIPATION PROCLAMATION. — See, in general, Williams' *History of the Negro Race;* Wilson's *Slave Power in America;* Hildreth's *United States;* von Holst's *United States;* Kapp's *Geschichte der Sklaverei;* 1 Draper's *History of the Civil War;* Jay's *Miscellaneous Writings on Slavery;* Cobb's *Historical Sketch of Slavery;* Goodell's *Slavery and Anti-Slavery;* Nott's *Slavery and the Remedy;* Weston's *Progress of Slavery;* and, on behalf of slavery, *The Pro-Slavery Argument*, including Hammond's *Letters on Slavery*, and Dew's *Review of the Virginia Debate of* 1832; Adams' *South Side View of Slavery;* Fitzhugh's *Sociology for the South;* and Sawyer's *Southern Institutions.* — (I.) 3 Bancroft's *United States*, 415; Hildreth's *Despotism in America;* Hurd's *Law of Freedom and Bondage;* H. Sherman's *Slavery in the United States;* Stroud's *Laws of Slavery;* Goodell's *American Slave Code;* Poore's *Federal and State Constitutions;* authorities under the states named, particularly Moore's *Slavery in Massachusetts;* Ambler's (*Chancery*) *Reports*, 76; 11 *State Trials*, 340, and Lofft's (*K. B.*) *Reports*, 1 (Sommersett case); Livermore's *Historical Research on Negroes;* 5 Elliot's *Debates*, 392; Jefferson's *Notes on Virginia* (edit. 1800), 164; 1 Bishop's *History of American Manufactures*, 355, 397; Pitkin's *Statistical View of American Commerce*, 110; *Cotton is King* (1855); Kettell's *Southern Wealth and Northern Profits;* Turner's *History of Cotton and the Cotton Gin* (1857); Donnell's *History of Cotton* (1872); 3 von Holst's *United States*, 563; 5 Sumner's *Works*, 1, or Lester's *Life of Sumner*, 311; Helper's *Impending Crisis;* Olmstead's *Cotton Kingdom; Census Reports*, 1850–70; King's *The Great South* (1875); Haygood's *The New South* (1880). — (II.) The general authorities; the first seven authorities under preceding section; Horsmanden's *New York Negro Plot of* 1741; *Atlantic Monthly*, June, 1861 (Vesey), August, 1861 (Turner); Giddings' *Exiles of Florida.* — (III.) Clarkson's *History of the Slave Trade*, 52; Copley's *History of Slavery*, 113; Andrews' *Slavery and the Domestic Slave Trade;* Carey's *The Slave Trade, Domestic and Foreign;* 1 Draper's *History of the Civil War*, 418; Foote's *Africa and the American Flag; Continental Monthly*, January, 1862 (Slave Trade in New York); 2 Tucker's *Blackstone, Appendix*, 49; 1 *Journals of Congress*, 24; 1 *Stat. at Large*, 347 (act of March 22, 1794); 2 *Stat. at Large*, 70, 205, 426 (acts of May 10, 1800, Feb. 28, 1803, and March 2, 1807); Quincy's *Life of Quincy*, 102; 3 *Stat. at Large*, 450, 533, 600 (acts of April 20, 1818, March 3, 1819, and May 15, 1820); W. B. Lawrence's *Visitation and Search;* Cleveland's *A. H. Stephens in Public and Private*, 647; Sprott's *Foreign Slave Trade.* — (IV.) The general authorities; Cairnes' *The Slave Power;* 2 Olmstead's *Cotton Kingdom*, 192; *Census Report*, 1850. — (V.) 1 *Stat.*

at Large, 106, and 2 *ib.*, 70, 235 (cessions by North Carolina and Georgia); 4 *Journals of Congress*, 380 (ordinance of 1784); authorities under ORDINANCE OF 1787; Fisher's *Law of the Territories;* 2 Benton's *Debates of Congress*, 221, and 16 *ib.* (index under *Slavery*); for the acts in regard to the states and territories, see authorities under their names.

ALEXANDER JOHNSTON.

SMITH, Adam. The name of Adam Smith is the greatest in political economy. He has had the singular fortune to stamp his impress ineffaceably on the intellectual world as well as on the world of facts. Adam Smith is not only the acknowledged founder of economic science, but the authority appealed to, and who inspired Sir Robert Peel and Huskisson, those dauntless ministers of his ideas. His life, wholly devoted to study and thought, passed away modestly and peacefully. The information we possess regarding him is small. We shall endeavor more especially, within the limited space allowed us, to bring into relief the facts calculated to make known the character of the man and to explain the works of the thinker. — The little village of Kirkaldy, in Fifeshire, in Scotland, had the honor of being the birthplace of Adam Smith, who was born there, on June 5, 1723. His father, who was comptroller of the customs, had died several months before Adam Smith was born. His mother watched over his childhood, and she more than once had cause to fear for his life; for his constitution was frail and sickly. When he was only three years old, he was playing before his uncle's house, when a band of gypsies passing by kidnaped him. The alarm was given; his uncle gathered his friends together, overtook the kidnapers in a neighboring wood, and rescued his nephew. — From the school in Kirkaldy, in which he received his early education, Adam Smith went, in 1737, to the university of Glasgow. He there attended the lectures on moral philosophy of the illustrious head of the Scotch school, Hutcheson, whose teaching made a decided impression upon the mind of Adam Smith. He appreciated the solid and practical worth of it, and all his writings show that he adopted its exalted spiritualism, its solid common sense and its strong morality. He always retained a filial feeling for Hutcheson, and never spoke of him but with the expression of the sincerest admiration and the deepest gratitude. — Intended by his family for the church, Adam Smith was admitted to Baliol college, at Oxford. The future philosopher at first applied himself, with marked preference, to the study of mathematics and of the physical sciences. He knew not only the theory of these sciences, but had devoted much time to their history. These successive endeavors of the human intellect in the search of truth had a charm which delighted his investigating mind. From the sciences he passed to literature, and, after a stay of seven years, he read with equal facility the Latin, Greek, French and Italian poets. He frequently exercised himself in translating from the French, with a view to his improvement in the art of writing. He regarded this exercise as eminently calculated to perfect one's style. — After completing his studies at Oxford, he returned to Kirkaldy. Determined to give up the ministry, he decided to live with his mother, in the peace which she alone could bring him, and to limit his ambition to the uncertain hope of obtaining one of those modest offices to which literary talent then led in Scotland. In 1748 he began to put his projects into execution, by opening at Edinburgh, where he came to establish himself, a public course of rhetoric and belles lettres. These lectures attracted a large number of hearers, and in a short time gave him substantial fame; for in 1751 he was appointed to the chair of logic in the university of Glasgow, and the following year to that of moral philosophy, left vacant by the death of Thomas Craigie, the successor of Hutcheson. He filled this chair for thirteen years, and always looked upon this period of his life as the most useful to his fellow-men as well as the happiest to himself. The brilliancy of his reputation gathered around him a crowd of students eager to hear him. The subjects of his course became the fashionable study; and his opinions the principal object of the discussions which entertained literary societies. Certain inflections of the professor's voice even, and certain favorite expressions of his, became matters of imitation. The talents of Mr. Smith, said one of his hearers, appeared nowhere to so great advantage as in the exercise of his duties as professor. In delivering his lectures he relied almost entirely upon his readiness in extemporizing. His style, though lacking, it is true, in grace, was clear, and free from affectation, and as he was seen to be interested in his subject, he never failed to interest his hearers. Each discourse consisted commonly in distinct propositions, which he made it his study successively to prove and explain. These propositions, stated in general terms, had often, from the very extent of their subject, an appearance of paradox. In his endeavors to develop them, it was not unusual to see him at first appear as if embarrassed and not thoroughly master of his subject, and even speaking with a kind of hesitation. But as he went on, the subject seemed to grow before him; his manner became warm and animated, and his expressions easy and flowing. In delicate points susceptible of controversy, you would have recognized without difficulty that he secretly entertained the thought of some opposition to his opinions, and that he consequently felt obliged to maintain them with the greater energy and vehemence. The abundance and the variety of his explanations and illustrations threw light upon his subject, as he handled it. — He divided his course into four parts; the first three included natural theology and moral philosophy, and particularly the moral principles which relate to justice. In the first part of his course he examined the various political regulations which are not founded upon the principle of justice, but upon

that of expediency, and the object of which was to increase the wealth, power and prosperity of the state. From this point of view he considered the political institutions relating to commerce, to finance, and to ecclesiastical and military establishments. What he taught upon these various subjects forms the substance of the work since published under the title "An Inquiry into the Nature and Causes of the Wealth of Nations." This exact evidence proves, that, since 1753, although this part of his course was limited to the consideration of economic legislation, Adam Smith had formed an opinion on the fundamental questions of political economy. It is impossible to determine wherein the opinions of the professor of moral philosophy differed from those of the author of the "Wealth of Nations," since nothing remains to us of his teaching but this indication of one of his disciples. However, Adam Smith only followed the example of his master whom he reverenced, in introducing the consideration of economical order into his course of moral philosophy, and it is perhaps to the single chapter of the "Manual of Moral Philosophy" of Hutcheson, in which he treats of value, of exchange, etc., that we owe the "Wealth of Nations." — From this period also his friendship with Hume, who had just published the second part of his "Essays" (1752), dates. In the nine discourses on political economy contained in this work, Hume, in attacking the erroneous theories of the mercantile system and of protective duties, determined the true principles of the nature of wealth, the profit of capital, and the solidarity of interests. This friendship, precious to both of them, kept up by their daily relations, to which Adam Smith brought profound convictions and an ardent love of humanity, and his friend a cold and jesting skepticism, which took away nothing from the sincerity of his affection, this friendship, which is a eulogy for both of them in this age of irritable vanity and literary jealousies, lasted until the end of Hume's life, and it is permissible to believe that the author of the "Essays" exercised an influence over his friend favorable to the direction of his thoughts toward political economy. This we know certainly, that the principal merchants of Edinburgh, then a very commercial town, shared Smith's views in the matter of customs, and that he himself drew from their conversation on the subject that knowledge of facts which characterizes his great work. — Half a century later, the most illustrious propagator of his doctrines, J. B. Say, crossed over to Glasgow. I wished to see, he wrote, the place which was the cradle of sound doctrines in political economy. I was conducted to a long, narrow room, where everything still remained as in Smith's time. An arm chair of old black eather towered between two of the windows, and I confess that I could not seat myself in it without very strong emotion mingled with respect. It is my inmost conviction that sound ideas of political economy will change the face of the world; now, can a man look coolly at the source of a great river? Remarkable coincidence! At the same period at which, in his Glasgow attic, Smith was uttering his first principles on political economy; under the chateau of Versailles, the same ideas were germinating in the head of Quesnay, and prompting his articles in the *Encyclopédie* (1756). — It was after he had been for seven years professor of moral philosophy at Glasgow, that Adam Smith published his "Theory of the Moral Sentiments." The fundamental principle of this theory is, that the actions of others are the only source of our moral perceptions. The judgments which we pass as to the morality of our own acts, are but a personal application of the judgments which we pass on the acts of our fellow-men. It is this moral approbation which Smith calls *fellow-feeling*. In the first part of his book he explains how we learn to judge of the conduct of others; in the second, how, in applying this judgment to ourselves, we rise to the idea of a duty to be performed. "Smith is in the right," well says M. Cousin, "when he develops the charms of sympathy, when he urges us to have ceaselessly before our eyes the conditions upon which others sympathize with us, and bestow upon us all that is sweetest to the human heart, to wit, the approbation and good will of our fellow-men. Smith's mistake is to have believed, or to have appeared to believe, that fellow-feeling is itself the good. The two differ in principle; and it is of consequence that this difference should be made manifest, firstly, for the truth's sake, then for the sake of virtue itself; for virtue is impaired at its very foundation, if it pursues an end not its own; and it is all over with virtue, if, when by reason of a going astray of opinion, it comes to be wanting in fellow-feeling, and it is no longer able to maintain itself by its own power, and to be sufficient unto itself." For, indeed, sympathy or fellow-feeling, a noble and entirely personal feeling, are only a result of our organization; and Adam Smith, by assigning it the first place as the source of human actions, sacrificed to it the principle itself of which it is only the sign, conscience itself, that rule which subsists invariably and sovereignly obligatory above the caprices of the imagination and of the heart, and above the force of circumstances. — Singular inconsistency of the spirit of system; it is the philosopher of sympathy, the too exclusive defender of the sentiments of benevolence and commiseration, whom the opponents of political economy have accused of selfishness and of implacable hardness to the misery of his fellow-men! If these blind traducers of economic doctrine did not recall that the economist of Glasgow had written and proved that those who feed, clothe and lodge the entire body of the nation, should have a large enough share in the product of their work to be sufficiently fed, lodged and clothed, they should at least have been careful that their attacks were directed against the philosopher who had made sympathy the only motive of our actions and the law of duty. — Toward the end of 1763

the wish to visit the continent, and the liberal offers which were made him, determined Smith to accompany the young duke of Buccleugh in the travels which he contemplated undertaking. He sent to the rector of the university of Glasgow his resignation of the office he had filled for thirteen years. Universal regret was felt, and the university recorded its thought upon the register, and said that "the university could not refrain from expressing its sincere regret at the removal of Dr. Smith, whose distinguished virtues and amiable qualities had won for him the esteem and affection of his colleagues, and who had honored the university by his genius and the extent of his knowledge. His elegant and ingenious 'Theory of the Moral Sentiments' had won for him the esteem of men of taste and letters all over Europe. His happy talent of throwing light upon the most abstract subjects, his assiduity in communicating useful knowledge, and the exactness in discharging the duties of his position, which characterized him as a professor, were for the young men intrusted to his care a source of enjoyment as well as of sound instruction." Smith and the duke of Buccleugh embarked for the continent in March, 1764. After a stay of ten or twelve days at Paris, they took up their residence at Toulouse, which had just witnessed the execution of the unfortunate Calus. They spent eighteen months here in the society of the principal members of the parliament of that city. From Toulouse they proceeded toward Geneva, crossing by a circuitous route through the southern provinces of France; after a sojourn of two months in this city they returned to Paris. This was in December, 1765, and they remained there until October of the following year. — Smith had long been familiar with French literature. He was acquainted with the works of J. J. Rousseau, and from a letter of Hume's we learn that he had read Helvetius' *l'Esprit*, and Voltaire's *Condide*. Furnished with letters of introduction from Hume, the Scotch philosopher met with the most flattering reception from Alembert, Helvetius, Marmontel and Madame Riccoboni. He was admitted to the society of the Duchesse d'Anville, and became especially intimate with a son of the Duc de La Rochefoucauld. This noble and generous mind began later a translation of the "Theory of the Moral Sentiments," which he did not finish, and the grateful philosopher, who had in his first edition associated the name of the author of the *Maximes* with that of Mandeville, took care to drop from the second his criticism on the grandfather of his friend. — The physiocratic school was at this time in all the ardor of the strife against the partisans of the mercantile and restrictive system. It had been for several years in possession of the doctrine which made it what it was; for in 1758 Quesnay had published his *Tableau économique*, printed at Versailles, under the eye of the king. The very year in which Smith left England, Le Trosne, then king's advocate at Orleans, publicly professed the master's principles in a discourse on the decadence of the magistracy; and during his sojourn in Paris, the *Ephémérides du Citoyen*, for the purpose of opposing the principles of Quesnay, and the *Journal de l'agriculture, du commerce et des finances*, under the direction of Dupont de Nemours, to defend them, were established. At this same time one of the most enlightened economists, Abeille, published a pamphlet on exclusive privileges in matters of commerce, which was very favorably received. Thus Smith was witness, during his stay in Paris, of the contest of economical systems. Unfortunately, no details of this period of his life, so interesting in the history of science, have come down to us. We learn from Dugald Stewart that he took pleasure in conversing with Turgot, and that he corresponded with Quesnay, but nothing further. Dupont de Nemours is more explicit, and represents him as having been his condisciple at Quesnay's. "Dupont de Nemours," says J B. Say, "told me that he often met Adam Smith in that society, perhaps the most respectable in Europe, and that he was there regarded as a judicious and simple man, but as one who had not yet shown what he was capable of." What is beyond all doubt, is the profound esteem which Smith always preserved for the ingenious and thoughtful founder of the physiocratic school. He intended to dedicate his great work to him, and only the death of Quesnay (1774) prevented the realization of this noble thought. It is certain that Turgot conceived a high opinion of his ability, and Condorcet relates, that, after his retirement from the ministry, he kept up a correspondence with Smith. These two great minds, the beauty of whose characters vied with the loftiness of their intellect, were worthy to understand each other, but there remains no trace of this interchange of letters. The papers left by Turgot have revealed none; those of Adam Smith were destroyed before his death by his own order, and his most intimate friends never had any knowledge of this correspondence. — It is, nevertheless, difficult to suppose, that, during the nine months which he spent in Paris, in society where economical topics were the order of the day, the conversation of so many men in whom he recognized great learning and distinguished ability, and of whom he declared that their doctrine approached the nearest to the truth, should have been without influence on the formation of his principles. But to what extent it is impossible, in the absence of any written document, to determine. Must we infer, as have some, from the solicitous and minute care taken by Smith shortly before his death to have his manuscripts—among which were the lectures delivered at Glasgow on economic subjects—destroyed, that he had an especial interest in leaving nothing from which the succession of his ideas could be conjectured? This is a pure hypothesis, as well as a most improbable one, and does nothing but complicate a problem, the solution of which it is impossible to give. — Back in England in October, 1766, Smith returned to Kirkaldy, where he lived for ten years near his mother, and in the

society of some of the friends of his childhood. His friend Hume, then librarian of the faculty of advocates at Edinburgh, strove several times, but in vain, to draw him away from his solitude. "I want to know what you have done," Hume wrote to Smith, in 1769, "and I intend to exact a strict account from you of the use you are making of your time in your retreat." Four years later, he added: "I will not accept the excuse of your health, which I regard only as a subterfuge invented by indolence and love of solitude. In truth, if you continue to listen to those two little evil advisers, you will end by breaking completely with society, to the detriment of both the parties interested." — It was from this stubborn meditation of six years that the great work came which was to immortalize his name. The "Inquiry into the Nature and Causes of the Wealth of Nations," which he had begun to write in 1771, and which appeared in March, 1776, disclosed the secret of his long retreat. A month afterward Hume congratulated him in the following glowing terms: "My dear Mr. Smith, your work has afforded me the greatest pleasure; and in reading it, I emerged from a state of painful anxiety. It is a work, the expectation of which kept in such suspense yourself, your friends and the public, that I trembled to see it appear; but at last I am relieved. Not that—reflecting how much attention this reading exacts, and how little disposed the public is to bestow such—I must not still distrust for some time the first breath of popular favor; but there are in it depth, solidity, subtle penetration, and a multitude of curious facts: such merits should, sooner or later, fix the attention of public opinion. If you were here, at my fireside, I should contest some of your principles. But this and a hundred other things can be discussed only in conversation. I hope that it will be soon, for the state of my health is very bad, and will not admit of a very long delay." These sad presentiments were not long in being realized. Four months later, Hume was no more; Smith felt his death keenly, and has left us, in the touching account which he gave of his friend's death, and in the merited eulogy of his character, the trace of his bitter regrets. — Hume simply anticipated the judgment of posterity, which, in its admiration, has associated the name of Smith with those of Grotius and Montesquieu. Smith indeed gave to economic science the character of certitude, which these two great men had impressed upon international law and political science. He placed it upon a basis which the progress of the human mind may perhaps enlarge, but never displace. The great principle which is the starting point of all economic phenomena, he lays down in the beginning of his work: The annual labor of every nation is the fund which originally supplies it with all the necessaries and conveniences of life which it annually consumes, and which consist always either in the immediate produce of that labor or in what is purchased with that produce of other nations. These words contained a revolution in the order of economic ideas. Breaking with the opinions generally received in his own age, he at the same time separated himself from the partisans of the mercantile system, who made all wealth consist in the precious metals, and from the physiocrates, who regarded the soil as the only source of it. Instead of gold and silver, and the fertility of the land, what does he place at the summit of his science? Man, of whom labor is the manifestation; man with his productive powers, the potency of which is immeasurably increased by the division of employments and the accumulation of capital. The classes of producers who had been regarded by the physiocrates as tributaries of landed property, raised by him to the rank in which their services class them in society, are henceforth respectable and useful by the same title as the others. He invites all, under the rule of the law of labor, to the exploitation of the material world, to the enrichment of individuals and nations, to the fusion of interests, and in subjecting them to the same obligations toward the state, he claims for them liberty in the choice of their work, in the movement of capital and the circulation of products. — In this framework, in the order which he assigns to them in it, and in a series of searching and concise arguments, his ingenious and profound analyses of the division of labor, the price of goods, the power of saving and the action of capital, credit, banks and duties, range themselves. These different elements of economic science, several of which had already been successfully studied by Locke, Hume, Verri and Turgot, had new light thrown on them by Smith, a light which is diffused over all the parts of the subject of which he treats. Everything is treated with the supreme composure of superior reason and immutable good sense, which, carried thus far, amounts to genius. No contemporary passion disturbed the serenity of his judgment. The principles which he teaches are not a weapon in his hand, but only the generalized expression of facts conscientiously observed. One thing alone inspired him with an indignation which he could scarcely restrain; the spirit of monopoly. — No one before Smith had shown with more clearness and foresight the advantages of economic liberty, from the point of view of the conciliation of individual and general interest. But the honor of having extolled the principle of liberty, and of having established it upon its true basis, belongs to the physiocratic school. Smith, in his "Wealth of Nations," faithful in this to the ideas which he had indicated in his course of moral philosophy, considers liberty as necessary to the complete development of the productive forces, and justifies it by economic usefulness and *expediency*. Quesnay and Turgot demand it as a right, and present it to us as the expression of justice. In fact, liberty, from the economic point of view, is a right, because it has its source in more freedom, and ends in personal responsibility and positive duties; it is just, because it alone is able to insure to man the remuneration which is really due to his efforts, and to the goods, as a consequence, the

price which belongs to them. In the eyes of the physiocrates, liberty is not only the most favorable manner of making an equitable division of the fruits of labor and the most powerful stimulant to man's activity, but the manifestation of his conscience, the sign of his right, and the source of his duties. Notwithstanding the deviations into which they have allowed themselves to be drawn by a vicious method rather than by an error of principle, notwithstanding their adventurous incursions into the domain of natural law, it will be the everlasting honor of these worthy heirs to the Cartesian tradition, to have given as a foundation to political economy the grand principles of property, liberty, and individual and collective responsibility, with which all economic questions are necessarily connected. Smith regarded man as a being exclusively productive; and just as in his system of moral philosophy he did not rise to the superior idea of the good, of which sympathy, or *fellow-feeling*, is but the result, so in political economy he did not ascend to the idea of the just, that is to say, to the first data upon which the economic life of man and of society rests. — The fault has been found, and justly, with the "Wealth of Nations," of a lack of proper arrangement of the various parts, which prevents the whole of the doctrine from being clearly discerned from the beginning: questions of the greatest importance are often treated there incidentally and *à propos* of questions which should have been presented only as secondary ones. Thus the author's ideas on the price of things are intercalated in a dissertation on the value of the precious metals during the last four centuries; his notions on money in the chapter on the treaty of commerce; his principles of commercial liberty in the examination of the mercantile system. But if this great work offends by a lack of method, it none the less remains the finest monument raised to political economy. What a treasury of true ideas, of ingenious and profound observations, does it not offer us! It is by drawing inspiration from the thoughts of the master that his successors have accomplished all the progress which has since marked the advance of economic knowledge. It was by declaring themselves as his disciples that Malthus, by his theory of population, J. B. Say, by that of outlets, and M. Dunoyer, by his valuable studies on productive services, enlarged the domain of science; and the commercial policy of England, which will one day be that of all nations, was inaugurated under his auspices, and triumphed by the help of his arguments. — Smith passed the two years which followed the publication of the "Wealth of Nations" in London, in the society of the most distinguished men of England, and in frequent intercourse with Gibbon, Burke and Pulteney. In 1778, having been appointed, through the influence of the duke of Buccleugh, commissioner of customs in Scotland, he returned to Edinburgh. It was in this city that the last twelve years of his life glided away. The leisure allowed him by the business of his office was employed to a great extent in the revision of his works, the successive editions of which he superintended with great attention. He had, it is said, the intention of publishing a critical examination of *l'Esprit des lois*. This study was undoubtedly connected with a treatise on civil and political law which he had undertaken to write. The death of his mother, whom he lost in 1784, and, four years later, that of a cousin of whom he was very fond, were the cause of a grief from which he never wholly recovered. In 1787 the university of Glasgow conferred the title of rector upon him, an honor which he appreciated very highly. From that time his strength gradually failed. When he felt the first attack of the painful malady which was to carry him to the grave, he ordered all his papers to be destroyed. "I intended to have done more," said he to his friends, "and there are materials in my papers which I might have turned to account; but that is out of the question now." His resolution with regard to this had long been taken, as a letter addressed to Hume in 1773 shows. In the month of July, 1790, after severe suffering, borne with courageous resignation, this great man was taken away from science and the world. — His character was at once affectionate and reserved, frank and lively, and his habits of a simplicity from which he never deviated at any period of his life. His generous and impetuous soul, under an outwardly cold appearance, rose to enthusiasm, when there was question of the great interests of humanity. He spoke little, and when he was forced into his intrenchments, his speech was embarrassed, and his expositions assumed, without his knowledge, a dogmatic form which gave them the semblance of a lesson. This manner of expressing himself was a result of the habit contracted in his public courses on the science, and not of pretension, which was far from his mind, for never was there any one whose modesty was more easily alarmed than his. He was profoundly versed in the philosophic knowledge of the human heart and mind; but he lacked penetration in his judgment of individuals. The studious and retired life which he had led had familiarized him but little with the character and passions of men. His memory was prodigious, but very far from being a ready one. If Adam Smith did not share the brilliant qualities which fell to the lot of several of his contemporaries, he at least had, in the highest degree, that penetrating exactness and firmness of opinion which are perhaps more useful to the progress of the human mind, and which at the same time confer glory on their possessor.* M. MONJEAN.

* While he occupied his chair at Glasgow, Smith was in the habit of giving certain lectures on the elements of political economy, as it was understood in his time, *i. e.*, upon those artificial regulations and restraints of civil society which statesmen conceive to be necessary or expedient. Here he was accustomed to draw those inferences in favor of a policy of freedom which he afterward expanded into his celebrated work. Neither he, nor, indeed, any one else, had ever elaborated at this time the laws under which the production of wealth is effectually secured.—The modern science of political economy has been developed from a host of nega-

SMUGGLING. The offense of importing prohibited articles, or of defrauding the revenue by the introduction of articles into consumption, without paying the duties chargeable upon them. It may be committed indifferently either upon the excise or customs revenue. — *Origin and Prevention of Smuggling.* This crime, which occupies so prominent a place in the criminal legislation of all modern states, is wholly the result of vicious commercial and financial legislation. It is the fruit either of prohibitions of importation, or of oppressively high duties. It does not originate in any depravity inherent in man; but in the folly and ignorance of legislators. A prohibition against importing a commodity does not take away the taste for it; and the imposition of a high duty on any article

tive inductions. Statesmen, misled by the selfish misrepresentations of reputed experts, have from time to time controlled and misdirected trade in the fancied interests of trade. They have attempted to be wiser than nature. They have seen that order and government have been necessary to the well-being of society, and that confusion and mischief are the invariable result of uninstructed self-interest. But, forgetting that the business of government is to check aggression only, and to secure every man a fair field for the exercise of his own labor, they have unconsciously aided aggression, curtailed liberty, and narrowed the field in which labor could exercise itself. There is of course a border, for the occupation of which the advocates of liberty and control constantly contend. The wisdom of government in the days of Adam Smith, and frequently enough in our own time, is to extend the area of government, and, with it, to assert the just control of an administration over the innocent acts of individuals. Such a line of action on the part of a government may be adopted with the best possible intentions, as Smith shows in the ninth chapter of his fourth book, where he sketches the policy of Colbert. Such a policy found its earliest and most complete refutation in the reasonings which are contained in the "Wealth of Nations." * * It has been objected to Adam Smith and Hume, that they did not foresee the French revolution, intimately as they were acquainted with the state of France. But the objection is shallow. What is called political prophecy is often mere guess work, which no wise man will seriously indulge in. The easiest way in which weak men think they can gain a reputation is by sinister predictions of political events. No one can anticipate the conservative forces of society, no one can gather enough information to make a safe induction as to the resistance which may be made to change, or, indeed, as to the forces which will compel change. But there is such a thing as political prescience. It is not difficult to discover the inevitable consequences induced by certain kinds of political action. This faculty Smith possessed in the highest degree, in a far higher degree than Hume, whose sagacity and acuteness he admired so much. Of this prescience his great work is the most noteworthy illustration. No person has ever pointed out with more exactness the effects of a mistaken commercial policy, the invariable reaction from a course of legislation which does not commend itself to the moral sense of a nation, and the mischievous consequences which ensue when a public law gives its sanction to private selfishness. * * The range of the subjects treated in Smith's work is very wide. Social history and the politics of commerce occupy his attention as much as mere abstract reasonings. His educational theories have been generally accepted. His rules of taxation are classical. His vindication of free trade is complete. His criticism of the great company has been the basis of the latest legislation on the Indian empire. His conception of the mutual relations in which nations stand, is as comprehensive as it is generous. It should not be forgotten that Smith did not propose to himself the discovery of a scheme which should make any one country wealthy or prosperous at the expense of the rest of mankind, but how the wealth of nations should be developed. He rose far above the peddling maxim, that the gain of one people is the loss of another. Hence his work is international, and has formed an effective protest against those shams of a sordid self-interest which masks itself under the name of patriotism. — Among economists, Smith possesses the inductive mind in the highest degree. His work not only displays a wealth of varied reading, but is full of facts. Considering, too, how inexact were the statistical data on which he could in his time rely, his sagacity is remarkable. No example of this quality seems to me more striking than his inference that the precarious occupants in the ancient manor must have passed through a métayer tenancy before they reached the independence of the fifteenth-century yeoman, as described by Fortescue. Such was actually the fact, as I have been able to discover from a very large investigation of farm accounts during the epoch referred to by Smith. But, in fact, to be scientific, political economy must be constantly inductive. Half, and more than half, of the fallacies into which persons who have handled this subject have fallen, are the direct outcome of purely abstract speculation. In consequence, though he was the progenitor of the science, and necessarily left it incomplete, Smith is far more frequently in the right than his critics are. Almost every blemish in his work (some few inaccuracies of expression excepted, which arise from a somewhat loose use of terms,) is due to his exaggerated sympathy with the economic theories of his French friends and teachers. It is to this influence that we can trace his errors as to the nature and causes of value, and whatever is defective in his exposition of rent. Even here, however, he seems to me to be much more in the right than Ricardo, who accounts for the origin of rent on grounds which have absolutely no warrant in fact. His most adverse critics have, however, united with his warmest admirers in his vindication of private liberty against the interference of government; that is, in his advocacy of what are called free trade principles. To the modern reader, who recognizes the vast services which the merchants and manufacturers of Great Britain have done for such principles as Smith advocated, the language which the author uses about the mercantile classes seems singularly harsh and bitter. "The passionate confidence of interested falsehood"; the policy of a "great empire" being guided by the policy of "shopkeepers"; "impertinent badges of slavery, imposed by the groundless jealousy of merchants and manufacturers"; "illiberal and oppressive monopolies"; "the mean and malignant expedients of the mercantile system," and similarly pungent comments on the machinations of the trading classes a century ago, are expressions of active animosity against interests which Smith must have thought hostile to the public good. But, at that time, the leading merchants deserved little sympathy from any person who considered this public good as the paramount object of economy and legislation. Their intrigues had prevented the establishment of bonded warehouses. The mercantile classes drove Walpole into the war of the right of search. The real or reputed interests of the same order precipitated and prolonged the seven-years war. The costs of that war, and the sustentation of the East India company, whose conquests had made it bankrupt, led to the uprising of the American colonists, and the war of independence. The merchants who stimulated, and the nabobs and planters who continued, these costly struggles, were no doubt powerful in 'Change alley. They were, moreover, ready to make the highest biddings for rotten boroughs. But they were detested by the people, and especially by those freeholders in whom, as Smith thought, the strength and hope of the nation resided. Macaulay has given, in a few words, a statement of how public opinion estimated these people, in his "Life of Lord Clive," the greatest of the race. — The most energetic attack, however, which Smith made on any institution of his time, was that on the East India company. To us the company is a thing of the past. In Smith's day it was the most brilliant phenomenon that the world had ever witnessed. A very few years had created the Indian empire; had changed a few timid and servile traders into a force of heroes, by whom successes had been achieved more amazing than those of Cortes and Pizarro. In the face of this extraordinary prestige, which affected the whole western world, the author of the "Wealth of Nations" dissected the pretensions of the great company, showed that it failed as a trader, and failed as a ruler; and proved that its government was mischievous to its subjects, and its monopoly a wrong upon the English people. — THOROLD ROGERS.

occasions a universal desire to escape or evade its payment. Hence the rise and occupation of the smuggler. The risk of being detected in the clandestine introduction of commodities under any system of fiscal regulations may be always valued at a certain average rate; and whenever the duties exceed this rate, smuggling immediately takes place. Now, there are plainly but two ways of checking this practice: either the temptation to smuggle must be diminished by lowering the duties, or the difficulties in the way of smuggling must be increased. The first is obviously the more natural and efficient method of effecting the object in view; but the second has been most generally resorted to even in cases where the duties were quite excessive. Governments have almost uniformly consulted the persons employed in the collection of the revenue with respect to the best mode of rendering taxes effectual; though it is clear that the interests, prejudices and peculiar habits of such persons utterly disqualify them from forming a sound opinion on such a subject. They can not recommend a reduction of duties as a means of repressing smuggling and increasing revenue, without acknowledging their own incapacity to detect and defeat illicit practices; and the result has been, that, instead of ascribing the prevalence of smuggling to its true causes, the officers of customs and excise have almost universally ascribed it to some defect in the laws, or in the mode of administering them, and have proposed repressing it by new regulations, and by increasing the number and severity of the penalties affecting the smuggler. As might have been expected, these attempts have, in the great majority of cases, proved signally unsuccessful. And it has been invariably found, that no vigilance on the part of the revenue officers, and no severity of punishment, can prevent the smuggling of such commodities as are either prohibited or loaded with oppressive duties. The smuggler is generally a popular character; and whatever the law may declare on the subject, it is ludicrous to expect that the bulk of society should ever be brought to think that those who furnish them with cheap brandy, geneva, tobacco, etc., are guilty of any very heinous offense. "To pretend," says Adam Smith, "to have any scruple about buying smuggled goods, though a manifest encouragement to the violation of the revenue laws, and to the perjury which almost always attends it, would, in most countries, be regarded as one of those pedantic pieces of hypocrisy, which, instead of gaining credit with anybody, serve only to expose the person who affects to practice them to the suspicion of being a greater knave than most of his neighbors. By this indulgence of the public the smuggler is often encouraged to continue a trade which he is thus taught to consider as, in some measure, innocent; and when the severity of the revenue laws is ready to fall upon him, he is frequently disposed to defend with violence what he has been accustomed to regard as his just property; and, from being at first rather imprudent than criminal, he at last too often becomes one of the most determined violaters of the laws of society." ("Wealth of Nations," p. 406.) To create by means of high duties an overwhelming temptation to indulge in crime, and then to punish men for indulging in it, is a proceeding completely subversive of every principle of justice. It revolts the natural feelings of the people; and teaches them to feel an interest in the worst characters—for such smugglers generally are—to espouse their cause, and avenge their wrongs. — A punishment which is not proportioned to the offense, and which does not carry the sanction of public opinion along with it, can never be productive of any good effect. The true way to put down smuggling is to render it unprofitable; to diminish the temptation to engage in it; and this is not to be done by surrounding the coasts with cordons of troops, by the multiplication of oaths and penalties, and making the country the theatre of ferocious and bloody contests in the field, and of perjury and chicanery in the courts of law; but by repealing prohibitions, and reducing duties, so that their collection may be enforced with a moderate degree of vigilance; and that the forfeiture of the article may be a sufficient penalty upon the smuggler. It is in this way, and in this way only, that we must seek for an effectual check to illicit trafficking. Whenever the profits of the fair trader become nearly equal to those of the smuggler, the latter is forced to abandon his hazardous profession. But so long as prohibitions or oppressively high duties are kept up, or, which is in fact the same thing, so long as *high bounties* are held out to encourage the adventurous, the needy and the profligate to enter on this career, we may be assured that armies of excise and customs officers, backed by the utmost severity of the revenue laws, will be insufficient to hinder them. — It would be useless to enter in this place into any lengthened details to prove the truth of these statements. Unluckily, the entire financial and commercial history of all countries abounds with instances in point, many of which must be familiar to every reader. The prohibition of foreign products, or the imposition of heavy duties on foreign or native products, does not take away the taste for them. On the contrary, it would seem as if the desire to obtain prohibited or overtaxed articles acquired new strength from the obstacles opposed to its gratification.

> Per damna, per cædes, ab ipso
> Ducit opes animumque ferro.

The prohibition of foreign silks which existed in England previously to 1826 did not hinder their importation in immense quantities. The vigilance and integrity of the custom house officers were no match for the ingenuity, daring and *douçeûrs* of the smugglers. And at the very moment when the most strenuous efforts were made to effect their exclusion, the silks of France and Hindostan were openly displayed in Almack's, in the drawing rooms of St. James', and in the

house of commons, in mockery of the impotent legislation by which it was attempted to shut them out. There is, in truth, great room for doubting whether the substitution of an ad valorem duty for the whole system of prohibition was at first productive of any material increase in the imports of foreign silks. The repeal of the prohibition was a most judicious measure; but the duty being unfortunately fixed at too high a limit, it gave an overwhelming stimulus to smuggling. Before the abolition of the duty on silks, the expense of their clandestine importation from France was roughly estimated at about 15 per cent. ad valorem; and as the duty on silks, down to 1845, was double that amount, or 30 per cent., we need not wonder that it was estimated, by well-informed parties, that from a third to a half of the total quantity of imported silks escaped the duty. Indeed, every one is aware that their clandestine importation was carried on, to a great extent, within the port of London, and in the custom house itself, by the corruption and connivance of the officers. And this, we may be assured, was not a solitary instance. The corruption of the officers, is, in truth, an inevitable consequence of the over-tax system. — The enormous duties that were imposed in England previously to 1823 on home-made Scotch and Irish spirits, produced an extent of smuggling and demoralization of which it is not easy for those who have not attended to such matters to form an idea. At present, however, the duties in that country on tobacco, brandy and hollands, but especially the first, are the great incentives to smuggling. The preventive water-guard is kept at a great expense for little other purpose than to hinder the clandestine importation of these articles. But notwithstanding its efforts, considerable quantities of them find their way into the country without being subjected to any duty. And how should it be otherwise? The price of tobacco in the contiguous continental ports may, on an average, be taken at from 8d. to 10d. per lb.; and as the duty on tobacco is from 3s. 6d. to 5s. per lb., need we be surprised to learn, that, allowing for the expenses of smuggling, if one cargo out of three be safely landed, the business is as profitable as it is adventurous and exciting? "But it is not so much by the introduction of tobacco from abroad as by its admixture or adulteration with other articles, that the contraband dealers endeavor to defeat the duty." It may, however, be right to state that it must not be imagined that the mere diminution of an oppressive duty on any article will put down the smuggling to which the duty may have given rise. The diminution may not be sufficiently great; and if so, it will have but little influence. — These considerations show the degree of weight which should be attached to the statements of those who endeavor to excuse or apologize for exorbitant duties by showing that they have sometimes been reduced without any material increase taking place in the consumption of the articles on which they are laid, or any material diminution of smuggling. In exemplification of this it has been stated that though the duty on tobacco was reduced in England in 1825 from 4s. to 3s. per lb., the consumption was not increased in anything like the same proportion; and that, notwithstanding the rapid growth of population, a period of ten years elapsed before the tobacco revenue rose to its former level. But no one acquainted with the facts could have anticipated any other result. Taking the cost of tobacco on an average at 6d. per lb. (which is beyond the mark), the duty previously to and since the reduction has been respectively 800 and 600 per cent. ad valorem. And it is needless to say that the least of these duties holds out an overwhelming temptation to smuggling and fraud. The truth is, that the reduction of duty in 1825 was an ill-advised measure; and there is perhaps no great reason to conclude that the further reduction of the present duty of 3s. per lb. to 2s. would be much wiser, or that, while it sacrificed revenue, it would be at all sufficient to suppress illicit practices. It is idle, therefore, by referring to instances of this sort, to endeavor to make it be believed that an adequate diminution of taxation is not followed by a corresponding increase of consumption. Had the duty on coffee, instead of being reduced in England in 1808 from 1s. 8d. per lb. to 7d., been reduced to only 1s. 3d. (the proportion in which the tobacco duty was reduced), the effect would have been all but imperceptible; and instead of the consumption being immediately increased from about 1,000,000 lbs. to 9,000,000 lbs., the presumption is, it would not have been increased to 1,500,000 lbs. In taxation, as in everything else, unless the means be adequate to the desired ends the result will be nothing. If you offer a premium of eight to one on smuggling, do you imagine you will abate the nuisance you have called into existence by reducing the premium to six to one or four to one? It will be found in every case in which a reduction of duty is not followed by a more than corresponding increase of consumption, that the article continues to be overtaxed, or that the duty left upon it either exceeds the cost of smuggling or places it beyond the reach of those who might otherwise become its consumers. We are bold to say that no instance can be found in the financial history of any country of an adequate reduction of the duty on an over-taxed article not being followed by a cessation of smuggling and a great increase of consumption. J. R. M'CULLOCH.

SOCIALISM AND SOCIALISTS. It is with these words as with all others which express, at a given date, a definite situation, but which, in the long run, either because facts or the state of men's minds has changed, are transformed, and no longer convey their original meaning.* Hence, to

* "The assailants of the principle of individual property," says John Stuart Mill ("Principles," book ii., § 2), "may be divided into two classes: those whose scheme implies absolute equality in the distribution of the physical means of life and enjoyment, and those who admit inequality, but grounded

fix their meaning, at their true date, is essential. An analysis of such meaning may be reduced to this: In every human society, whether it advances or retrogrades, modifications more or less profound are always going on, modifications which are more or less perceptible, and which, with or without the knowledge of such society, act upon its economy. Apparently such a society remains the same; but in reality it is daily affected by changes of which it becomes entirely conscious only after time has fixed them in the habits and customs of the people, and marked them by its sanction. This is the course of civilizations which are being perfected or which are declining. The honor of a generation is to add something to the inheritance it has received, and to transmit it improved to the generation which comes after it. To employ what has been acquired as an instrument of new acquisition, to advance from the verified to the unknown: such is the idea of progress as it presents itself to well-ordered minds. But such is not the idea of the socialists. In their eyes the situation given is a false one, and the process too simple. Reforms in detail do not seem to them worthy of attention. They have plans of their own, the first condition of which is to make a *tabula rasa* of everything that exists, to cast aside existing laws, manners, customs, and all the guarantees of person and property. It seems to them that we have lived thus far under the empire of a misconception which it is urgent should cease; our globe, according to them, is an anticipated hell, and our civilization a coarse outline only. What is the remedy? There is only one —to try the treatment of which the socialists hold the secret. That treatment varies according to the sect. There are socialists with mild remedies, and socialists with violent remedies: the only difficulty is in the choice. But with all their differences, there is one point on which they agree — the formal condemnation of human societies as they are at present constituted, and the necessity of erecting on their ruins an order of things more conformable to the instincts of man and to his destiny here below. In exchange for our real world, the socialists offer us worlds of the fancy. This is their distinguishing trait, and one which makes of them a family apart. — In this pursuit they have had so many precursors that to enumerate them would be to write the history of the adventures of the human mind. At one time, we have philosophers engaging in that chase in solitary speculations; and at another, sects, trying in abortive essays to realize their dreams; now, a whole population stakes in that chase its existence and repose; here, we find the idea of mysticism prevailing, and curbing instinct to the profit of a system; there, instinct gets the upper hand and breaks therein which all regular government puts on it: everywhere we witness an effort to destroy the old mould, and to obtain a new one. Revolts and factions beget one another while copying one another. First we find Plato with the most captious of models. He invented an imaginary community, which Sir Thomas More reproduced in his Utopia. In both cases, goods were to be in common, and the fruits of labor distributed by means of arbitrary combinations. Campanella went farther. With Plato he admits promiscuity; but, bolder than Plato, he regulates its exercise. Morelli, not content with recommending a community, would force it on men. He establishes for labor a species of obligatory conscription, and condemns to perpetual imprisonment the partisans of property, under pretext of their dangerous dementia. Babœuf treats them as conspirators, and spares them as little as Morelli. For the sake of good example, he expels them from among men when he does not deliver them to the executioner. Willingly or by force, he would have all distinctions of class and all appropriation of goods disappear. He would tolerate only one costume, one table, one ordinary. The great centres of population trouble him, and, with a stroke of his pen, he suppresses them. Luxury has its birth in cities, and of luxury he will have nothing. Homes should be as uniform as possible, in order not to excite jealousy by comparison. There should be like care for the education of all citizens. The state takes possession of them, and abandons them only at death. It makes laborers and workmen out of them. Useful services, and not acts which serve for pleasure, are demanded of them. What is not communicable to all, he says, in his imperative language, must be severely retrenched. The science of government, he says, is to suppress whatever may act as an obstacle, and the best régime is that which is so contrived as to meet with no opposers. It is not difficult to see what advance the idea of the community had now made. With Plato it was only an idyl; with Babœuf it is a yoke of iron; from an ingenuous dream and one far from being ironical, we pass to the dreariest and most degrading servitude; Plato confines himself to advice, Babœuf would act with living force; Plato admits categories, Babœuf endures none of any kind; he takes the lowest level, and wishes to reduce everything to it. This contrast is intelligible: Plato remains in the imaginary, Babœuf enters the real; with a view to the end,

on some principle or supposed principle of justice or general expediency, and not like so many of the existing social inequalities, dependent on accident alone. At the head of the first class, as the earliest of those belonging to the present generation, must be placed Mr. Owen and his followers. M. Louis Blanc and M. Cabet have more recently become conspicuous as apostles of similar doctrines (though the former advocates equality of distribution only as a transition to a still higher standard of justice, that all should work according to their capacity, and receive according to their wants). — The characteristic name for this economical system is 'communism,' a word of continental origin, only of late introduced into this country. The word 'socialism,' which originated among the English economists, and was assumed by them as a name to designate their own doctrine, is now, on the continent, employed in a larger sense; not necessarily implying communism, or the entire abolition of private property, but applicable to any system which requires that the land and the instruments of production should be the property, not of individuals, but of communities, or associations, or of the government." — It is in this latter sense, evidently, that M. Reybaud uses the word "socialism" in this article.—Ed.

he thinks of the means, and fearing defeat, determines on the most energetic means. — Examples of a common régime were no more wanting in antiquity than the speculations in which such a common régime was offered in perspective. The conventual organization, with its exploitation of mortmain and vows of renunciation, was nothing else. But those who submitted to it were out of the world, not in the world; they lived for heaven rather than for the earth. As much may be said of the Essenes, whose life was almost that of monks. The Moravians preserve more affinity with regular society; their community is neither as narrow nor as exclusive as that of the Jewish sect; they admit of marriage and of the intermingling of the sexes, while the Essenes preserved the strictest celibacy; they recognize private property side by side with collective labor, while the Essenes had nothing of their own. In the Paraguay missions, likewise, the community partook of a mixed character; each Indian had his field and his flock; only a separate domain, the Possession of God, was reserved for cultivation in common, and its produce was intended to meet the expenses for the support of the infirm, for the purposes of worship, and the payment of the tribute sent each year to the king of Spain. Moreover, in these various modes of grouping, there was neither revolt nor formal protest. They were combinations suggested at one time by a particular creed, at another by expediency of a local character. In the case of the Indians of Paraguay, their community was a beginning of civilization; in that of the Moravians and Essenes, as well as in that of the monks and anchorites, it was a means of sanctification. Under these conditions all government is easy; its point of departure is the spirit of discipline and the suppression of the instincts. From these partial communities to a general community the distance is a great one—the distance between the exception and the rule, between a special state of men's minds and the dispositions which animate the other members of the human family. Such cases must be noted, but there is no conclusion to be drawn from them. — The community of goods has had less offensive apostles, like the Jacques in France and the Lollards in England. The former did not confine their pretensions within the walls of a monastery or the limits of a nation's territory. They had pretensions to empire, and they disguised projects of partition and spoliation under the mask of political rights. Neither did the Anabaptists admit that they entertained similar pretensions. Their religious schism was only a pretext to lead the populace to an assault on property. What a sad memory the Anabaptists have left! They filled with their crimes and their names two full centuries of the history of Germany. Münzer was their first corypheus; he invited the poor to the partition of the spoils of the rich; Mathias, in turn, ordered the sacking of the houses of the bourgeoisie; John of Leyden proclaimed polygamy a law of the state, and was the first to conform to that law by marrying seventeen women. The execution of such bandits did not suffice to extirpate their sect, and after they had disappeared, the ruins with which the land was strewn showed what is engendered, in popular interpretation, by the utopia of the community, and what vestiges it leaves after it. Socialism has no more formidable formula; and, in the end, it is the only one which is susceptible of application. All other formulæ escape the intelligence of the crowd because of their subtlety; this one is as clear as it is powerful. To take from those who have, in order to give to those who have not, is a concise and intelligible proposition; to reduce all positions and fortunes to a level, is one not less so. Both find in the heart of man a bad passion, which answers to them. When they are heard, passion leaves the vague to enter the world of realities; it knows what it wants, and whither it goes. There is no longer a mere anathema falling in a vacuum, but a campaign to be undertaken against society, with the booty in prospect. — We have now cast a rapid glance at the men and the sects which, in the past, may be considered as the equivalents of socialism and socialists. With those who in our day are so named, the spirit is the same; only their procedure is different.* The

* Among the forms of socialism, German writers on political economy mention what they call *staatssozialismus*, or state socialism, understanding by the term "that system which would have economic relations regulated as far as possible by the state, and which would substitute state help for self-help." Prince Bismarck has shown a decided leaning to this form of socialism. The French have the expression *socialisme d'état*, which is the exact equivalent of *staatssozialismus*, or state socialism. That such a form of socialism has been finding favor with large classes of the people in recent times can not be doubted. Hence it has been not inappropriately styled by Professor Fawcett, "modern socialism;" and much of what he says on its growth and probable consequences in certain countries of Europe is true as to its growth and consequences in the United States, but of course not to the same extent as in Europe. He writes: "It is each day becoming more evident that in every European country an increasing number of the laboring population are giving an enthusiastic adherence to certain social and economic principles, which, if carried into effect, will introduce even more fundamental changes than those brought about by the first French revolution. Never, perhaps, was there a time when it was more important to dispassionately consider the ideas, the wants and the aspirations of the workmen who are engaged in this movement, which may be described under the general title of modern socialism. Without such dispassionate consideration, there is certain to arise, instead of a kindly and intelligent sympathy, the rancorous enmity of bitter class prejudice. Those who are prepared to show this sympathy may have some chance of directing to purposes of inestimable good this new movement, which, if met with blind and unreasoning opposition, will at last gradually gather so much strength as to pass beyond control; Europe may then find herself involved in a terrible war of classes. It has been repeatedly shown that the friends of revolutionary changes derive their motive power from the bigoted opponents of progress, and from the stubborn upholders of unwise laws and unjust privileges. It might as well be supposed that the railway engine would move if it were deprived of steam, that wheat could grow without soil, or that man could live without food, as to imagine that a revolutionary propagandism could be maintained if it were not kept alive by the recollection of some wrong inflicted, and by the continuance of some grievance unredressed. It is perfectly vain to expect that there will not be threatenings of coming convulsions so long as the social and economic condition of great masses of the people remains what it is at the present

feeling of bitterness against established civilizations is at least as great, and if there be not as much violence in act, it is because moral force has resisted in time. We must add, that, in the case of almost all, the visions of the brain have been tempered by upright intentions. This is true of Robert Owen, who was the first to open the way. In Owen, there were two men, the man of fact and the man of an idea; the one superior, the other mediocre. A manufacturer in New York, he had the opportunity to found, aided by a benevolence without limit and by the sole power of

time. England is constantly being glorified as the wealthiest of all nations. From every platform in the kingdom orators delight to parade the well-known statistics about our vast and growing commerce. Each quarterly return from the board of trade shows an augmentation of exports and imports. In spite, however, of all these evidences of accumulating wealth, the majority of our people have a severe struggle for existence, and no inconsiderable minority live in abject misery and in degrading poverty. The more wealthy the nation is admitted to be, the more perilous does it become, and the more ominous of future trouble, that one out of twenty of the nation should be a pauper; that to a great proportion of our laboring classes a life of incessant toil yields no other result than an old age of dependent mendicancy; that millions are so entirely uneducated as to be cut off from every intellectual enjoyment; that in many rural districts horses are stabled far more comfortably than laborers are housed; and that in our largest and wealthiest cities the poor are so crowded and huddled together, that in a countless number of instances all the members of a family herd together in a single room. Can any one who reflects on such facts be surprised that a wide-spread spirit of unrest and dissatisfaction is abroad? Ought it not to be regarded as almost incredible that a social structure resting on such a basis should have stood so long? But it may be said that if things are not as rapidly improving as can be desired, they are certainly not getting worse. Why then, it is urged, should there be this new outburst of discontent? No new laws vexations to the industrial classes have been imposed; many, on the contrary, have been repealed; taxation is not more burdensome, and duties on many of the necessaries of life which added greatly to their cost have been remitted. May it not, therefore, be fairly concluded that things will gradually improve; that the present dissatisfaction is unreasonable, and that the demands of those who are so discontented with society as it is now constituted should be simply met by undeviating resistance? As there is only too much reason to fear that many will assume this attitude of resistance, it is important to give the most emphatic warning as to the consequences which the adoption of such a policy may involve. As it is so frequently supposed that the movement in favor of organic social and economic changes has no solid foundation in reason or in justice, and that it is rather a temporary aberration of certain unsettled and mischievous people who love revolution for revolution's sake, it becomes important, in the first instance, to attempt to discover whether this is a true interpretation of the sentiments now widely prevalent among the industrial classes. — As previously remarked, it no doubt, at first sight, appears somewhat difficult to account for the fact that this desire for change should have grown up with the repeal of many unjust laws, with the remission of many burdensome taxes, with a great stimulus in the productive industry of the country, and with the more wide-spread desire among those who are in comfortable circumstances to be good, kind and charitable to the poor. But does not the fact that all these circumstances have been in operation without producing any more marked effect upon the general well-being of the people, suggest an explanation of the phenomenon which we are seeking to elucidate? Scarcely any other result can be expected than that there should arise a feeling of angry disappointment, unreasoning distrust and unjust suspicion when favorable agencies like those just mentioned are contrasted with such facts as those previously enumerated, which are only too truly typical of the social and economic condition of the country. For a long time the people were led to believe that the elevation of their class would be secured by bringing into operation various favorable material agencies. At one period it was supposed that the application of steam to manufactures, and the improvement of locomotion by the introduction of railways, would so stimulate production as to bring to the laborer an age of golden plenty. At another time it was confidently stated that by the abolition of protection the markets of the world would be thrown open to us, and the supplies of cheap food thus procured would yield an increased store of comfort to every humble home. In one respect these predictions have been fulfilled, in another respect they have been cruelly falsified. Production has been stimulated beyond the expectations of the most sanguine, and supplies of food have been obtained from even the most distant countries in much greater quantities than could have been anticipated. Still, however, so far as the laborer is concerned, the age of golden plenty seems as remote as ever, and in the humble homes of the poor a not less constant war has to be waged against penury and want. From the bitter disappointment thus engendered, there has not unnaturally arisen a feeling of deep distrust of the fundamental principles on which society is based. A wide-spread opinion has grown up that it is no use relying upon the old remedies and the old nostrums. Resort must be had to far more radical changes; the very foundations on which our social system rests must be altered. This feeling of unrest, this desire to do away with the existing order of things, is sure to arise when the mass of the people become dissatisfied with their condition. On many previous occasions they had more reason than now to attribute their misfortunes to political causes. Unjust and vexatious taxation, combined with a reckless expenditure of a profligate and corrupt court, at length accumulated such misery upon the French people that an irresistible movement arose to sweep away every established institution. The first French revolution ought not consequently to be regarded as an uprising to substitute a republican for a monarchical form of government. The people, driven to a frenzy of despair by physical suffering, were not in a frame of mind calmly to reason upon well-devised schemes of relief. They wished to see everything changed, and they consequently waged an unrelenting war with the existing state of things. Again, the revolutionary movement in 1848, although it caused the fall of so many dynasties, was not so much a political as a social and economic movement. The dissatisfaction which prevailed at this period was not mainly due either to unjust laws or vexatious taxation. It was the manifestation of an intense desire fundamentally to change the principles from which the vast industrial system of the present time has been developed. *Competition and the separation of capital from labor may be regarded as the most prominent characteristics of modern industry.* It might, therefore, have been almost foreseen that these characteristics would be singled out for special reprobation, when the general condition of the industrial classes became unsatisfactory, and the great mass of the people in every country felt that they had to bear an undue amount of suffering, the hardest toil yielding to them a most inadequate share of comfort and enjoyment. There consequently arose a determination to substitute for the industrial system then existing one from which not only competition would be absent, but one in which capital and labor would be united, instead of being separated by the rivalry of hostile interests. The industrial ideas which were thus sought to be carried into practical effect may be described under the general name of socialism or communism. The very mention of these words will no doubt to many minds suggest much that is ominous of danger, and much which is opposed to the well-being of society. Prejudice, however unfounded, often spreads so fast that it becomes most formidable to combat. To many, socialism and communism are supposed to be synonymous with confiscation and spoliation. A socialist exists vaguely in the minds of the comfortable classes as a sort of abandoned creature who wishes to live by robbing other people of their property, and who desires to see general pillage introduced. *In the present state of mankind, socialism would do nothing to increase the well-being of the people, and the socialistic schemes which have been propounded would inevitably end in disastrous failure. But, although this may be fully proved, yet nothing can be*

example, one of the most flourishing industrial colonies that have ever been known. The basis of his system was the thought, borrowed from J. J. Rousseau and Bentham, that the practice of virtue has enough in it to fully indemnify those who devote themselves to it. So far the idea is a correct one, and no kind of success was wanting to the man who put the principle in practice; the error consisted in presuming, that, applied to humanity as a whole, it would succeed, as it had succeeded in a manufacturing centre. The great human family can not be governed as a small flock

more unjust than to throw aspersions upon the character of socialists, and to misinterpret their motives. They no doubt have been mistaken enthusiasts, but it is impossible to deny that their motives have been pure and their aims lofty. They have been animated by a desire which must have been felt by all who are not depraved by selfishness, to lighten poverty, to alleviate human suffering, and to diffuse more general happiness among mankind. The injustice which is so generally done to socialists will be perhaps more clearly perceived when attention is directed to the origin of the socialistic sentiment. — It has been often remarked that the more a country advances in wealth, the wider and deeper seems to be the gulf between the rich and the poor. Not only is this shown by the fact that the augmentation in the number of the very wealthy is not accompanied either by a corresponding decrease in the number of the very poor, or by a proportionate diminution of their sufferings; but the separation between classes seems to become intensified in other ways. The time was when those who were engaged in any industry, master, foreman and workmen, dwelt near to each other, and between them there were often intimate personal relations, which have now completely passed away. Although the introduction of steam and the application of various mechanical inventions have completely revolutionized the conditions on which industry is carried on, yet there has probably been a not less marked change in the social and industrial life of the country. The supplanting of hand-loom weaving and pillow-lace making by vast manufactories filled with complicated and costly machinery, does not represent a greater change than that which is indicated by a comparison between the present mode of life of men of business and that which was adopted by them formerly. The merchant and the manufacturer used to reside close to where the daily work of their lives was carried on. Now, however, each year a greater distance separates the homes of the master and his workmen. Many who have accumulated princely fortunes seldom go within miles of the homes of any of their workmen. All these considerations show that the relations between employers and employed have gradually lost their personal character, and have become more and more commercial. This being the case, there can, of course, be little friendship or comradeship; there is too little of that personal sympathy which often arises among those who are fellow-workers at a common object; but, on the contrary, labor being bought and sold in the same way as any commodity of commerce, the only feelings between employers and employed are too often those which exist between the buyers and sellers of merchandise. It must not, however, be supposed that the present has thus been contrasted with the past with the object of implying that there has been no improvement, nor must it be imagined that it would be desirable to restore a state of things which would in many respects be incompatible and incongruous with the requirements of modern times. But being perfectly ready to admit that there has been progress, yet this should not cause us to lose sight of those drawbacks associated with commercial development, which make the present in some of its aspects compare unfavorably with the past. It is, of course, far more prudent carefully to consider these drawbacks with the view of reaching the causes which produce them; for if this can not be done, if commercial progress is always to be presented to the mass of the people in no other aspect than that in which they now see it, there will certainly arise not only dissatisfaction, but a desire to effect organic changes in the constitution of society. Some idea may be formed of the extent to which discontent must be engendered, when every workman must be constantly reminded of the fact, that, while numbers are unable to obtain a sufficiency of the necessaries of life, others have so much superfluous wealth that they are able to squander it in useless and mischievous luxuries, and never devote themselves to one hour's useful employment. The more the distance widens between the rich and the poor, the more the belief is certain to gain ground that there is something radically wrong in the laws which regulate the distribution of wealth. It can not be wise and just, it is plausibly said, that the produce which the earth yields should be so apportioned among its inhabitants that, whereas many have far more than they need, others have to endure the bitter pangs of want. It is urged that if there was more equality in this distribution, there would be enough for all; if superfluities were taken away from the rich, and given to the poor, all would then enjoy adequate comfort. Those who are influenced by such ideas as these are at once, by natural sequense, led to the conclusion that the circumstances which produce inequalities in wealth are chiefly responsible for all the social and economic evils under which a nation suffers. It is consequently proposed that society should be regulated on principles which would, as far as possible, prevent inequalities in wealth. A feeling thus arises in favor of either abolishing, or greatly curtailing the rights of private property. Various schemes have, from time to time, been propounded with the object of giving effect to these ideas. Those who would not shrink from applying what they conceive to be a complete remedy, propose that society should be reconstituted on an entirely communistic model; associations being established in which there should be no private property, the wealth produced being the joint property of the community. Others suggest less thorough remedies, and propose, that, after a due maintenance has been guaranteed to all the members, any surplus which may remain might be appropriated as private property. St. Simon and Fourier in France, and Robert Owen in England, have identified their names with these communistic experiments. It is scarcely necessary to remark that all such attempts have hitherto failed to obtain any practical success. In fact, it is not too much to say that in the present state of mankind failure is inevitable. Men are not yet sufficiently advanced to work with as much zeal for the good of others as for their own advantage. Those who are industrious will not long remain content if they see that a considerable portion of the fruits of their labor is devoted to the support of those who are as well able to work as themselves, but who are so indolent and improvident that they rely upon others for their maintenance. — It must, however, be remembered that such men as St. Simon, Fourier and Owen never proposed the confiscation of other people's property. They always contemplated that their communistic societies should legitimately acquire the land and other property upon which they first commenced operations. Robert Owen, in fact, purchased an estate in Hampshire for a considerable sum of money, upon which he attempted to give practical effect to his socialistic ideas. Although these schemes have completely failed, yet failure has done little to weaken the sentiment which gave them birth. The ideas from which they have originated have not been and probably will not be ever extinguished. Each fruitless endeavor to carry them out not only stimulates a fresh development, but also causes them to assume another form. Unlike the socialists of former days, those who are at the present time under the influence of the socialistic sentiment are beginning to place their chief reliance upon state intervention. They seem to think that if individual efforts have been unable to achieve success, this provides the most cogent argument in favor of an appeal to the state. This is the reason which induces me to ascribe such grave importance to modern socialism. There was no cause to feel alarm or misgiving as long as socialism simply caused certain experiments to be tried by enthusiasts, against whom no other charge could be brought than that they showed too much zeal in their efforts to improve society. Even their failure did something to benefit mankind. It can scarcely be doubted that in these first socialistic schemes were sown the germs of a social and economic movement which has already effected great good, and which promises more for the future than any other agency

is governed. It was not long before Robert Owen perceived this. He himself, by exaggerating it, had changed the nature of his method for the worse. From a paternal administration he was imperceptibly led to the abandonment of all social restraint. He not only ended in the community, but he took from the community the only guarantee it possessed, the responsibility of the individual. If we believe him, man, having come accidentally into this world, and being the plaything of accidental circumstances through life, could not, without injustice, be declared responsible for his acts. Fatality alone determined good and evil; with the individual, there could be neither merit nor demerit. Why, then, punishment or reward? It was better to let man and society follow their bent, removing all the circumstances which might lead to evil, and increasing those which might lead to good. So much for this world; and, as to the other, why trouble one's self about it? It escapes our means of knowledge; it is an enigma which no one has been able to solve. Such was Owen's conclusion. Never was negation more absolute stated with greater candor. During fifty years he presented it to rebellious human societies as their only means of salvation; in colonies, in plans, in publications, in voluntary subscriptions, he spent a vast amount of money, without his personal sacrifices being able to make his desolating maxims advance a serious step. They wounded men's souls at too many points to be able to make any great ravages. The inventor of them lived long enough to assist at the obsequies of his doctrine. — The doctrines of Saint-Simon permitted more consideration to be

yet brought into operation. It is well known that some of those who were the most strongly imbued with the teaching and doctrines of Robert Owen were the founders, and afterward the managers of our most prosperous co-operative institutions. Co-operation is as yet only in its infancy; it has hitherto been generally applied to the distribution of wealth, but rarely to its production. Enough, however, has been seen of its effects to justify a confident belief that its general adaptation to industrial undertakings would probably mark the greatest advance ever yet made in human improvement. Labor and capital, instead of being hostile interests, will be united, and by this union an incalculable stimulus will be given to production. * * *—Until quite recently there was one most marked and important difference between the continental and the English workman. The former placed his chief reliance on the state, whereas it was the aim of the latter to free himself as much as possible from government control. One of the first uses which the French workmen made of their success in the revolution of 1848, was to compel the government to establish national workshops, and to advance loans to co-operative associations. One of the first things which the English workmen did, when they obtained political power by the reform bill of 1867, was to call upon parliament to repeal all the laws which interfered with the formation of voluntary trade combinations. The continental workman was constantly looking to the state as he would to a powerful friend or benefactor to aid and reward him. The attitude of the English workman has, until recently, been one rather of hostility toward the state. His habit has been to claim freedom from government control, so that he might have a free and open field for the exercise of his energies. This difference, however, between English and continental laborers is becoming less marked. It can scarcely have escaped notice that during the last two or three years English workmen have with much greater frequency asked for government assistance; and the demands for state intervention are constantly enlarging. There are many circumstances which have contributed to bring about this change. In the first place, it is probable, as previously indicated, that the growing tendency shown by so many of our artisans to rely upon the state may be traced to the false hopes excited, some years since, by those who taught the people to believe that the great end to be striven after was a larger production of wealth. This augmented production of wealth has taken place, and when it is found to be unaccompanied by the predicted improvement in the condition of the poor, there is naturally aroused keen disappointment, and there is diffused through the industrial classes a general feeling of distrust. They get into just that frame of mind which causes them to give a ready acceptance to any doctrines differing from those by which they suppose they have been deceived. The opinions in favor of state intervention so current among continental workmen now consequently find a more ready acceptance in this country; these opinions are, in fact, transplanted to our shores under such favorable circumstances that, for a time at least, they seem to have taken root among us. * * *—Fully, however, admitting that among those who hold these opinions are still to be found some of our ablest artisans, yet it can scarcely be denied by any who observe the signs of the times that, so far as England is concerned, the demands for state assistance are each year assuming more formidable proportions. This will be sufficiently shown by enumerating some of the many things which the state is, with increasing urgency, asked to supply for the people. It is now, for instance, often said that the government should pay the passage-money of emigrants; should furnish work at good wages for the unemployed; and should secure for laborers comfortable houses and wholesome food at a reasonable rate. Such proposals as these represent the opinions of those who may by comparison be regarded as moderate in their demands. * * *—In one respect this growing tendency to rely upon the state is fraught with greater danger to England than to many other countries. This is not an appropriate place to discuss the advantages and disadvantages of government by party. There is, however, one aspect in which party government may be viewed, as having a very direct bearing upon the subject we are now considering. The two great political sections who contend for place and power have a constant temptation held out to them to bid against each other for popular support. [May not the same be said of political parties in the United States?] When, therefore, it is perceived that any particular set of opinions has obtained a great hold upon the masses, place and power will seem to be the lot of the political party which promises to do most to give effect to these opinions. Under the pressure of this temptation, it may, consequently, any day happen that statesmen will accept doctrines and pursue a policy against which, if their judgment was unbiased, they would be the first to protest. This is a peril which hangs over this country, and recent events have shown that I am not conjuring up an imaginary vision of coming danger. During the last year [this was written in the early part of 1872] direct encouragement has been given to some of the most mischievous and alarming features of modern socialism by one who is, and by another who has been, a responsible minister of state. The budget of 1871 was framed in accordance with some of the financial principles of the international association; and no member of this organization ever made more reckless promises to the proletariat than did Sir John Pakington, when, as president of the social science association, he told the workmen, in his address at Leeds, that parliament ought to secure for them comfortable homes and wholesome food at reasonable prices. A few months before Sir John Pakington enunciated these mischievous doctrines, the people had been virtually told by the chancellor of the exchequer, that if they make some demand, the granting of which involves additional expenditure, the majority shall avoid contributing a single shilling toward the outlay, and shall be enabled to throw the whole burden upon the payers of income tax. Under such fostering care it is not surprising that there is rapidly growing up in this country an abnormal development of that new form of socialism, the cardinal principle of which is that all social improvements must be effected by state agency, and must also be carried out by public money." — HENRY FAWCETT.

UNIVERSITY OF CALIFORNIA

paid them; the basis of his system was a purely sacerdotal government. No more division between the temporal power and the spiritual; the time had come to confound them. Instead of a pope and an emperor, men were to have a *father*, who would unite the functions of both, and govern in the *forum internum* and the *forum externum*, in things spiritual as well as temporal. Thus would cease, between the body and the spirit, a struggle which has lasted from the beginning of the world, and which has maintained disorder in the world. A natural hierarchy would follow on this change. Society would be divided into three classes: savans, artists, and those engaged in industrial pursuits; and the chiefs of these three classes would be the greatest savans, the greatest artists, and the greatest workers in the industrial world. These latter would need no investiture but that of the consciousness of their force. They would not be chosen; they would install themselves in their own position. The human family would know them by their works. Moreover, the new bond of society would be, under this régime, not fear, but affection; and the most loving, placing themselves above others, would necessarily impart their tone to all others. The chain of positions being thus formed, everything would follow in the most natural manner imaginable; each one would take rank in proportion to his capacity, and each capacity would be served in proportion to its works. Thenceforth humanity was to be only one family, and the earth to constitute only one great farm, the fruits of which were to be divided in proportion to rank and services. Such was the Saint-Simonian law, and it added, on the condition of woman and the relation of the sexes, certain not over-edifying precepts summed up in the expressive words, rehabilitation of the flesh. We know in what this strange morality ended, so far as the principal disciples of Saint-Simon are concerned. Its public profession cost them a suit in the courts and a sentence. Their religion did not survive this scandal, and was dispersed to the music of hisses. Everything considered, it was not worth the noise made about it. A political papacy invested with discretionary powers, with the sovereign disposal of the lot and rank of individuals in society, preaching the reign of the senses under the lying cover of the equality of the sexes, was not a system, and did not advocate a doctrine, which could long resist the revolt of men's consciences and the decrees of public opinion. — The same fate was reserved, after a longer defense, for the doctrine of Charles Fourier. Substantially it had the same foundation; but the mode of procedure of Fourierism was different. Fourierism, like Saint-Simonism, wished to substitute a world of the fancy for the real world, and an artificial order for the course of things. Fourier started out with the idea, that from the earliest ages to our own time the passions have been the source of so many evils only because they have been unskillfully suppressed. God, according to Fourier, can not have made anything essentially bad or essentially useless. If the passions, in their actual play, are the source of many disorders, it is not with the passions themselves that we must find fault, but with the medium in which they move, a human medium, and therefore susceptible of modification. "Attractions," says Fourier, "are proportional to destinies," which means that it would be all gain for men to yield to their inclinations. Hence they must be satisfied in an association freely agreed to, and in which all the instincts of man may have room for the fullest play. These formulas of association are the ingenious part of Fourier's work. The association is in groups, which end in series, and these in phalanxes. The group is the cell of the human hive; it is composed of seven or nine persons; it has a centre and wings, and a harmony which results as much from its identities as from its contrasts. The series comprise from twenty-four to thirty-two groups. The phalanx is Fourier's commune; consisting of 1,800 souls, it lives in a palace which he calls the phalanstery, divided in such a manner as to procure the greatest possible number of pleasures, while avoiding all the prejudices which result from the arrangement of actual households. As to property, it does not incorporate itself in individuals; it is collective. Its value circulates only under the form of coupons, and becomes susceptible of appropriation; products are divided among the three direct agents of production: capital, talent and labor. Let us add, that in Fourier's system no repugnance attaches to this labor; it is attended by a love for it, taste and buoyancy; it is done in short sessions, in holiday clothes, with passion and spirit; the task is taken up or dropped at will, and varied so as to produce neither monotony nor weariness. Nor is this all; to these wonders of earth Fourier adds the joys of a heaven of his own. He has his own cosmogony and his own transmigration of souls; he walks his system through the spheres, and requires of our planets the most singular services. The whole of Fourier's system may be summed up thus: a universal government, a perfect world adorned by a perfect society. Beyond this, imagination can not soar. In this land of vertigo, nothing is to be found but glare. Again, we have a world to be made over, a civilization to be reconstructed, man and humanity to be renewed in a confused amalgam of the marvelous and the real. — Here stops the series of socialists at first hand; after them come the plagiarists, and, first of all, Cabet. Like Campanella and Sir Thomas More, Cabet has given us, in his "Icarie," an imaginary community, which unites all perfections in itself, and which found, in the streets of Paris, more than one partisan whom time has disabused. When it became a question to pass from ideas to acts, he perished in the attempt, and learned what becomes of dreams when brought to wrestle with realities. And so it was with Louis Blanc. In the silence of his study he had imagined an administrative workshop which would cure industry of the leprosy of competition. He

would have the state become entrepreneur (see ENTREPRENEUR) and universal producer; he would have it carry out, at the expense of the public treasury, an experiment in relation to the economy of manual labor. In the workshops which were to be established, the workmen were to share in the profits of exploitation, and these workshops, of different kinds, were to be associated among themselves in such a way that the profits of some might serve to cover, if need were, the losses of others.* Nothing could be more ingenious on paper; each of these workshops would become a type and a model; free industry would be forced, under pain of death, to draw inspiration from them, and this idea of the absorption and destruction of free industry was discoverable in the spirit of the project. Private activity was destined to disappear before official activity. We know what these specious plans became in the execution of them: by forced deviation the administrative workshop became the national workshop (see ATELIERS NATIONAUX), with an elective head, and a minimum of wages, two features borrowed from the combination of Louis Blanc. A false idea led to applications still more false, so false that the author of the idea vehemently and justly repudiated them. Proudhon was no happier. Is it proper to rank Proudhon among socialists? No one battled them more fiercely than he; he produced the evidence of their contradictions, the emptiness of their plans, and the poverty of their doctrines; he left nothing standing, neither their arguments nor their combinations; and he warmed against them even to the point of invective. But if he was brutal toward the community, he was no less so toward property; and he remains a socialist spite of himself. From the core of what he denies we need only disengage what he affirms, to become convinced of this. Thus, he sacrifices the idea of property to I know not what species of imaginary possession floating *in vacuo*. And so, after an at-random dissertation on the determination of value, he arrives at imagining a general and uniform tariff for it, both for labor and products, by measuring the price of these latter by the number of hours employed in producing them! Lastly, as a consequence, he proposes to replace money made of gold and silver, by orders payable in kind, in such a manner as to return from gold and silver money to barter, and to deprive capital of one of its most evident powers, the power to produce interest. On all these points Proudhon remains on the staff of the socialistic legion which he so maltreated. To the same staff belongs also Pierre Leroux, as he appeared with a plan of human society in his hand. He admits the family, fatherland and property only on certain conditions. He finds that the fatherland has the drawback of recognizing a chief or head; the family, of recognizing a father and children; and the institution of property, of recognizing rich and poor. Pure despotism! It is all a question of finding a combination in which the family, the fatherland and property shall be such that man may develop in them without being oppressed by them; in other words, that the family should not produce an heir, that the fatherland should have no subjects, and property no proprietor. Such is the problem, such the solution: if to it we add a little of theurgy and metempsychosis, we shall have all the baggage of Leroux, so far as things serious are concerned. — We have reached the end of those systems, and may judge in what they agree, and in what they differ. Under the names we have mentioned, there now remain but the men for whom socialism was a tool or a pedestal, and the political parties who took up the standard of socialism without seeking to define it. Socialism, indeed, has had its day; many were attracted by it as men are attracted by novelty; then the crowd mixed with it with the obscure feeling that it would find its advantage in it, and that in the absence of conviction they should adhere to it from pure calculation. And how could the crowd defend itself against socialism? It was promised higher wages in return for less labor, a quarry to hunt in a society in dissolution, the leveling of conditions, the humiliation of the higher classes, and a general division of private fortunes among all. Is it to be wondered at that such vertigo was contagious, and that it became in some countries, for an instant, an object of alarm? Yet socialism did not deserve so much honor. As a theory, it could not stand examination; as a fact, it was not able to succeed under any circumstances or at any point. The name of Owen is connected with the failures of New Harmony and Orbistan; that of Cabet, with the Nauvoo failure in the state of Illinois; with Fourier's, a series of discomfitures which followed on the heels of each other at Condé-sur-Vesgres, Citeaux, in the valley of the Sig, and in America. From the ideas of Louis Blanc, there proceeded only the *ateliers nationaux* (national workshops), the paternity of which he excepted to; of the boldness and rashness of Proudhon, all that remains is the memory of the *bank of exchange* or *bank of the people*, made famous by the most untoward catastrophe. The history of contemporary socialism is but one continual abortion. The principal actors on its stage have disappeared from the scene, and left their places to a few confidants who stammer out their parts. All that socialism and socialists have done is reduced to a few plans of association, to a few commonplaces which are only the weakened echo of their first timorous ideas, to a few formulas whose meaning time changes, and which have become fixed in language as problems or bugbears. — Thus, all these chimeras gradually depart into the regions of oblivion. It may be that the same vertigo will appear again under other forms and another name; our globe is the seat of an eternal revolt and of an eternal wail. But then as now, unless the hour of an irrevocable decline has struck for humanity, the result of.

* This is almost the system extolled by the famous German agitator, Ferdinand Lasalle. What is said lower of Proudhon applies to some extent to Karl Marx.

such errors can not be doubtful. True, these errors are covered with a mask · the love of the people, the interest of the suffering, the feeling of human perfectibility, the advance of generations to a better state and one less full of shocking inequalities. But behind this mask we find a more living physiognomy. That living physiognomy is the truth of things, whether the inventors of systems be conscious of it or not. Behind the truth of things the public conscience always retreated and always will retreat. This, to its honor, we must hope. The question is of a war to the knife against established civilizations, to the profit of imaginary civilizations; it is a question of destruction for the sole purpose of building up again; it is a question of giddily abandoning ourselves to systems which, scarcely fledged, give battle to one another, and which die out in the shock of rivalry and the weakness of isolation. It would seem, indeed, that socialists supposed that society, such as it exists, is only so much stage scenery which might be made to disappear at the wave of a wand. And what is proposed in its place? Servitude in all its forms. Take all these systems; they have one feature in common, which is to stifle, by their artificial forms, the taste for and the use of liberty. They condemn human activity to carry a yoke of iron. Here man is enticed into a world of fancy, and there he is condemned to devote himself to others without the merit of that devotion being allowed him. He can no longer dispose of the fruits of his labor, nor regulate the employment of his hands or his brain. The state takes possession of his entire person, of his goods, of the products he creates, and determines the portion of them which he shall receive back. Under the régime of socialism the individual disappears, and is absorbed by a collective being. He ceases to be a body or a soul, and becomes a piece of mechanism. Slavery does not more completely than socialism destroy the personality of man. (Compare ATELIERS NATIONAUX, COMMUNISM, FOURIERISM, PROPERTY.) LOUIS REYBAUD.

SOCIAL CONTRACT. Is society a human institution? or, is it of natural institution? These are the two questions which must be solved in order to form a clear and exact idea of the rights and duties of man in the civil and political order. Of course I here suppose that man is a free being, for every system that denies human freedom thereby denies the possibility of a binding moral law. I suppose it to be admitted, also, that there is an order of the universe, for otherwise creation would be unintelligible, and the destiny of man an enigma; that this order is so imperious that every reasonable creature should respect it and accomplish it in himself and out of himself, which gives his rights and duties the sanction of natural law. *Non scripta lex, sed nata.* I suppose, finally, that the conception of the ideas of liberty, order and harmony, however high they may be, and precisely perhaps because they are high, are not the final term of human intelligence; that these ideas cause him to take one more step and lift him to the very substance of universal order, to God who gave to each being its constitution and its end. — If I am met by a refusal to admit these hypotheses as the bases of my investigation, I declare myself powerless, I will not say to solve, but even to discuss, the problem placed before me, for, as a man can not walk on the ground without a point of support, neither can the intelligence move if the very bases of all reason are lacking it. I affirm, therefore, the existence of two laws: one natural, or divine; the other positive, or human; the former immutable, the second variable; from this distinction flows the solution of the problem of man and society. — God, when creating man, gave him a nature proper to himself. By reason of this nature relations are established between him and his fellows which bind them together and form of them a whole, which is the *social state.* Society is, therefore, the aggregate of the different beings bound together by the relations which spring from their respective natures, and which constitute the law of order. Hence the obligation of every reasonable and free being to regulate his conduct in conformity with these relations. This is what Montesquieu has so well expressed in the following definition, which is a flash of genius: "Laws are the necessary relations which spring from the nature of things." And he indicates by the following phrase what he understands by *necessary relations:* "Before there were intelligent beings, such beings were possible; they had, therefore, relations, and, consequently, possible laws." In fact, a thing to which laws could not be given would not be a possible thing. Then Montesquieu adds: "God made these laws, because they have a relation to his wisdom and his power." Hence the consequence that when man was created, he was created for society, which was a necessary, fundamental law of his nature; for he was not created alone, he found himself face to face with a being similar to himself, and directly of these two beings there was one of them who owed something to the other, and another to whom something was due. Thence arose immediately between these two beings the right and duty which followed from their respective natures, which last, being equal and identical, necessarily engender equal rights and duties. — I therefore most energetically deny the social contract in so far as it is affirmed to be a pact entered into at the origin of human society to establish its laws. It was nature, or rather Providence, that willed the establishment of society; it was the wants of man which afterward made the laws after the notions of a superior law, which speaks to the heart of all men, the divine imprint of which is found everywhere the same. "*Nec erit,*" says Cicero, "*alia lex Romæ, alia Athenis, alia nunc, alia posthac, sed et omnes gentes et omni tempore una lex et sempiterna et immortalis continebit.*" If this law sometimes varies among different nations, it always retains that which is of its essence. Burke

expressed the same idea when he said that there are in nature sources of justice from which civil laws flow like so many streamlets; and that just as waters take the tint and the taste of the soils through which they run, civil laws vary with the regions and the governments of different countries, although they all proceed from the same source. — The hypothesis of an anti-social state, and of an organization of society according to an agreement entered into, is a system in contradiction with the nature and destiny of man; it would logically imply the right to break the contract, for the benefit of the contracting parties, should it become inconvenient or burdensome to them, and to leave the bosom of society to return to the state of nature, which would be the negation of the sacred and eternal idea of order toward which all free and reasonable creatures inevitably gravitate, and also the negation of an obligatory law anterior and superior to the wills or caprices of man. — Hobbes was the first modern philosopher who professed the doctrine of a state of nature anterior to the social state; man left this state of nature only because it was a state of war; whence the celebrated axiom, "War is the state of nature." But what is society in such a system? It is the creation of a force great enough to substitute peace for war. Peace, therefore, being the end of society, it follows that there are two modes of the formation, or two possible origins, of society. The first is the contract by which a collection of men, or of families, agree to constitute a force superior to individual forces, a force capable of crushing them out and thus of establishing peace at any price. The second mode is to lose no time in collecting the votes of persons interested in putting an end to the state of war, to enter into this so necessary contract. It is sufficient that a man, by force or artifice, succeed in establishing his power over a collection of men, and be able to maintain it, in order to establish straightway the social bond. The right of the stronger establishes this bond as completely as a contract. And this latter method is even the better form of society; for power concentrated in a single hand, affords more guarantees of strength and durability, and is consequently more perfect; its mission being to crush out all individual forces by all possible means, and to maintain the state of peace by the destruction of the state of war which is found in the existence of individual forces; hence the more unlimited power is, the better it is. From this it follows that all limitation is contrary to the end of power and of society, and that, whatever the despot may wish, it is the duty of his subjects to obey, and they have no right to resist. Such, in a few words, is the celebrated system of Hobbes. — Admitting that men are really what Hobbes pretends they are, that is, famished wolves which devour each other—*homo homini lupus*—it might be maintained against him that the contract which binds them together, whether based on consent or on force, could have no possible existence. The laws would be merely heavy chains, and the sole aspiration of each and every individual would be to break them, to escape from his cage and rush on the chief chosen or imposed on him, who would soon and necessarily succumb to numbers. Whatever be the opinion held concerning the original nature of man, it is evident that the consequences which Hobbes draws from his premises are open to discussion, since, starting from the same point, J. J. Rousseau arrives at opposite conclusions. — Rousseau considers the state of nature as the ideal of man, and the social state as a contract state. Nature, therefore, "took little care to bring men together by mutual wants; she did little to pave the way for society; she put little of her own into all that men have done." Nevertheless, Rousseau acknowledges that the social state was an advance on the state of nature; he admits, that, instead of destroying natural equality, the fundamental pact, on the contrary, substituted a moral and legitimate equality for whatever inequality nature might have placed among men, and that, it being possible for them to be unequal in force or in genius, they all become equal by convention and of right. Thus the contract was entered into to the improvement of the lot of humanity. Not that the law of nature is not superior to positive law, for it comes from God. "Whatever is good and comformable to order is such by the nature of things and independently of human conventions. All justice comes from God, he alone is its source; but if we knew how to receive it from so exalted a source we would need neither government nor law. Doubtless there is a universal justice emanating from reason alone; but this justice, to be admitted by us, must be reciprocal. To look at things from a human point of view, in default of a natural sanction, the laws of justice are powerless among men. * * Therefore conventions and laws are necessary to unite rights to duties, and restore justice to its object." — We now perceive the profound difference between the system of Rousseau and that of Hobbes. Rousseau elevates man; Hobbes degrades him. The former leads to liberty; the latter to despotism. Applied to governments, the philosophy of Hobbes creates in the bosom of political society the domination of a single will. Around this will are grouped the instruments of obedient and blind forces, which it moves as it pleases. The general will must become an immense holocaust; the caprice of a single man must lead and govern all. It is the image under which we may represent Satan, that rebel angel, seeking eternally to combat against light, that is to say, liberty. Such a system would be the greatest degradation of humanity, a really infernal work from which Christ has saved the world. It is useless for Hobbes to say that power, such as he conceived it, is alone capable of ending the state of war which is at the foundation of society. The society which he depicts is not a hive of men, but a den of wild beasts. The despot whom Hobbes places at the summit of his edifice, far from giving energy to the sentiments which constitute the dignity of the human

race, would seek, on the contrary, to stifle them. Liberty! he would dread its smallest spark; for everything must be a piece of mechanism, the motive power of which is held by one. The condition of the subject is to obey; the right of commanding belongs to the despot alone; the man who deliberates is from that very fact a rebel. The certain effect of the arts and sciences is to elevate man's immortal soul, and to give it noble aspirations; the despot is careful to prevent the growth of these aspirations; he therefore paralyzes public education. Under this régime equality is an unknown word; favor is everything, merit nothing. Security does not exist. Everything belongs to the sovereign master—person and property. This want of security destroys all culture, all emulation, all industry. The object being to inspire terror, the severity of penalties bears no proportion to the crimes committed. No; this strong power, which Hobbes praises, can never found a prosperous and peaceful society, for despotism is not a creative but a destructive force. — Strange contradiction between two philosophers, two thinkers of rare power! While Hobbes deduces from the social contract which he imagines the despotic type, Rousseau infers from it the democratic type. Reason, good sense, if we were obliged to admit this pretended contract, would evidently be on the side of the French philosopher as against the English philosopher; for it is difficult to suppose that men would come together, to agree on a social state which, instead of making them free citizens, would turn them into slaves. Rousseau imagines a people who give themselves laws, in which they realize all their powers as an artist of genius does in his domain. Tendencies are free in it, objects free, actions free. Proportions are perfectly expressed in that empire. Each organ is a complete whole, which preserves its integrity in the sphere in which it moves. It has its specific force in accordance with which it exercises the functions entrusted to it, though it still obeys a general law, from which, in the aggregate, there results a simple and magnificent harmony. Such is the ideal of Rousseau as opposed to that of Hobbes.— Why have Hobbes and Rousseau, in starting from the same point, arrived at results so different? Because both constructed a work, not of reason, but of imagination. Instead of constructing this marvelous product called *society* from the immutable elements of humanity, they constructed it of the changing elements of history. Hobbes lived at the time of the great English revolution. Chance, and perhaps his character, threw him into the party of absolute right. He saw the head of a prince he loved fall under the rage of factions. The sight of the revolution and of its excesses stirred his soul. He thought he beheld the dissolution of society, because he witnessed the birth of a new order of things. He concluded from this that a power strong and able to command the waves was necessary in order to curb the popular flood. Rousseau had under his eyes the exact opposite of this. He had seen royalty abusing its power, oppressing peoples, living by the sweat of the people's brow, exhibiting every species of immorality and scandal. Right, everywhere ignored, needed an avenger. Rousseau became this avenger, and thereby lost his country. Hobbes and Rousseau started from a false principle; they ignored the rules of natural law, and they expiated their error by the low estimation into which their doctrines have fallen in the eyes of posterity. Instead of going astray in the regions of the imagination in order to find the origin of society, it would be much simpler to say, with a modern philosopher: "The society of beavers is formed by virtue of the laws of the nature of beavers; the society of men is formed by virtue of the laws of human nature; to reach the true idea of the formation of human society, we must therefore start with a true idea of human nature; all light is there; beyond that, there is nothing but hypotheses and contradictions." Let us therefore seek that light. — The right considered in its root and its ultimate reason can be found neither in the world of sense nor in the sphere of experience and of history. Right in itself is eternal; it is independent of manners and customs, of religions and climates. Owing to this independence it must extend its sceptre over all the earth, without distinctions of epochs or races. Thus is explained the sovereign power of law. From the fact that law exists, it follows that there is a being to whom it applies, and that that being is a man, that is to say, a moral being, with reason and freedom, and not a brute outside the bounds of reason and of liberty. Now, the sphere of the application of law or right is society. Society, then, is contemporary with man. Why did man institute this power, this product? It was not alone from the point of view of his security. The right to security originates the moment that a certain number of men have taken possession of a corner of the earth, and are confronted by the same wants and dangers. Side by side with the ideal of right and law, there is the ideal of duty. A society has of necessity, from its birth, moral rules which precede positive law, and which may be summed up as follows: Law or right, like duty, spring from conscience, and consequently whatever wounds the conscience is neither a right nor a duty. Freedom, as a source of action, is the foundation of right and duty, that is to say, of morality. The circle of rights and duties is as broad as that of the necessary relations which may bind together free beings. Society having an object, each one of its members should divest himself of the rights the personal and independent exercise of which would hinder society from attaining this object. He should accept all the duties which society imposes on him for the attaining of this object; for there would be no society, properly speaking, where there was no constraining power to compel co-operation to attain the final object of society.— Considered from this point of view, society is as eternal as right, as conscience. History shows us great catastro-

phes, nations and races which have been swallowed up in the abyss of time; the earth also shows us on every side traces of great physical revolutions, which have ravaged, transformed and renewed it; in like manner the present division of nations bears witness to great political perturbations, which at different times so profoundly influenced the destinies of nations; we everywhere tread on ruins and funeral couches. But did society itself ever perish? Did not its living and sacred image always escape destruction? When Troy, abandoned to the flames, was about to become a pile of ashes, Eneas fled, bearing with sadness into exile the venerated images which represented immortal society, and approaching a new land, he cried out: "Italiam! Italiam!" then, placing his precious relics on a fruitful soil, he founded Rome, the future heiress of the world. Civilizations are thus superimposed one upon another, are amalgamated together, are made or unmade, advance or recede; but society, and an ever better society, rises always up amid the ruins of extinct civilizations, because society is above civilization itself. — If society were the result of a contract, it might be dissolved by withdrawing the consent which formed it. Otherwise there would be an implied contradiction. Do we not see then what an upheaval would result from such a state of affairs? Do we not see the perturbation that would be caused in the scale of rights and duties? Do we not see that binding moral law would disappear from the world, and that the social force would disappear before individual force? If men who had learned all the advantages of social life, renounced it at once, and retired into forests and deserts, these men would obey the caprices of a disordered imagination and the inspirations of wandering reason, but we could not admit that they acted in virtue of a right. The state of society is therefore an impulse of the moral nature of man, and not the impulse of his intelligence; it is spontaneous, and not the result of deliberation. It comes from above, not from below; it is not of man, but of God, who, in creating man intelligent, also created the earth to satisfy the wants of his intelligent creature, and who distributed among the countries different products, in order to oblige men to exchange the different kinds of wealth of the countries they inhabit, in such a way that they might be forced to labor for each other, and that, from the selfish efforts of a single man, the good of all should necessarily flow, as the system of the universe results from the force of attraction.

EUGÈNE PAIGNON.

SOCIAL SCIENCE. Society is ruled by natural laws, like the human body and every living organism. The laws of an organism determine the relations between its different parts, between its members and organs; social laws should establish, therefore, the nature of the relations which exist between men, as well as their causes and their effects; and social science should co-ordinate these laws in a systematic manner. — Social science must not be confounded with political science. The latter has to do with the relations between states, between governments and subjects, and between citizens; while social science takes cognizance only of men, to the exclusion of the external bond which is called the state. — Now, of what nature are the relations among men? They answer evidently to our needs, which are of two kinds, material and moral. Thus, on the one hand, they answer to the necessity of food, clothing, shelter and defense; and, on the other hand, to man's desire for instruction, and, in general, to a whole series of faculties and passions, which draw men together and put them in contact. — Society is composed of individuals, and everything that contributes to their preservation helps the preservation of society. But although man is a "sociable animal" or a "political animal" we can, strictly speaking, conceive of the absence of all human society. Many savages live in an isolated manner, in couples or in very small families; they have only material wants to satisfy. But of society may it be said that it "does not live by bread alone," for it is principally the moral wants of men which create and maintain its bonds. In a word, material wants preserve the individual, and moral wants society; to the former correspond the egotistical sentiments, to the latter the affective sentiments, abnegation and self-control. The egotistical sentiments and the affective sentiments (or the faculty of self-sacrifice) are capable of attaining an equal degree of strength. Before the existence of society the affective sentiments acted in a scarcely perceptible manner; later, with the development of civilization, their strength gradually increased, and the more intense they became, the more the bonds of society were strengthened. It even happened at times that these sentiments, or some of them, degenerated into destructive passions, and produced evils great in extent and intensity. — We have already suggested, that, in our opinion, the affective sentiments are the first cause of abnegation, self-control and sacrifice; paternal and maternal love, filial piety, patriotism, military honor, *esprit de corps*, furnish numerous examples of this. Abnegation, once disengaged or isolated from the sheaf of human sentiments, develops, and is not slow to offer a counter-weight to every act of egotism. This counter-weight is not always sufficient, far from it; but it is rarely entirely powerless. Its effect is often aided by numerous circumstances, which we can not enumerate here, but it becomes completely of no avail when it consists only of a word, that is to say, when the abnegation is not founded upon a want of our nature. — Thence comes, also, the inanity of those new social systems, hatched in the brain of a man who pretends to foresee everything, to measure everything, and to assign to everything its relative importance; in other words, in the brain of a man who wishes to reorganize society according to the ideas of his own idiosyncrasy. For if society is really governed by natural laws, and it would be

absurd to doubt it, arbitrariness could have no power over it; to influence it, one would have to begin by submitting himself to those laws which he can control only by making use of their power. — There is a science which concerns itself with the means of satisfying our material wants; there is another which has to do with our moral wants; the one is political economy, the other moral science; it is, therefore, the union of the two which constitutes *social science*. An endeavor has been made to establish the relations which exist between political economy and morality by seeking, among economic propositions, those which resemble certain precepts of morality. For example, political economy and morality show, each from its own point of view, the utility of labor and saving; by the aid of comparisons of this nature, it has been easy to show the morality of economic principles. It seems to us that here a wrong road has been followed. The sciences are not moral or immoral; they state laws. Has it ever been examined whether mathematics or chemistry has any relation with morality or with religion? Such preoccupations might lead some ardent believer to excommunicate the earth because it allows itself to revolve about the sun! The sciences have no relation with religion, nor with morality, and a science which studies what may be called the base side of nature or of man, is no less noble than any other. Must we despise the physician because he is occupied solely with disease? Or must we despise the judge because he has to do only with criminals? And supposing that the economist studies the selfish sentiments of man, it does not follow that he is selfish himself. Turgot, Adam Smith and J. Stuart Mill were generous men. The man who studies toxicology is not a poisoner. Man is more or less selfish, according to his temperament or his education. Moreover, we must not speak too ill of selfishness kept within the bounds of justice, of the love of self, since it is a *universal sentiment*, INDISPENSABLE *to the preservation of our species*. The economist proves that our wants make us work, and this, not because morality recommends it, but because the satisfaction of these wants is an imperative necessity of our nature. Man must eat or die. The economist, in investigating the laws of labor, permits us to render it more productive and less arduous. The economist establishes also the action of supply and demand. Has he created this action? Does he approve it? No more than the natural philosopher created or approves of the rain. Does one approve or disapprove of a natural law? Would you disapprove of the horse because he walks on four legs, or of the bird because it flies, or of the fish because it swims? Such is their law, and whether it pleases you or displeases you, you can do nothing to change it. Besides, we create nothing; we ascertain facts, and in our relations with these animals, we take into account the established facts, and act accordingly. In the same way, the economist has not created the law of supply and demand, a law which we consider as the most characteristic and strongest expression of selfishness. What is supply and demand, if not a sentiment which can be formulated thus: you *need* my superfluous goods, well, you shall pay for them, and the more dearly in proportion as your need is the more intense, so long as you are able to give me an equivalent for them? This sentiment is so general that we find it quite simple that the price of an article should rise in proportion to its relative rarity. We are convinced that this action of supply and demand, which is so cruel, renders, upon the whole, great services to society. Are not arsenic, belladonna and many other poisons of service? But were the action of supply and demand an evil without compensation, we ought to study it, and the economist will have deserved well of humanity for having thoroughly examined its mechanism. — It would be then the task of the moralist to derive advantage from the truths discovered by the economist. He would inculcate on man his precepts protective of society; he would teach him abnegation and self-control. He would say to him: Without doubt your wheat is in great demand, and you can obtain such and such a price for it; but think also of the evil you will produce by using your right in its entire fullness. The moralist will be able to call to his aid every other honest sentiment, capable of counterbalancing selfishness, and in primitive times men did not fail to appeal to the religious sentiment. The conclusion must not be drawn from this division of labor, this partition of powers, that the moralist is above the economist; it suffices to recall the fable once related to the Roman people on the Aventine hill. Morality, even religion itself, may be pushed beyond the limits which healthy reason approves; they may become passionate and fanatical at the expense of very high material interests, and for the good of humanity, the two branches of social science should exercise a perfectly equal influence, and thus establish that equilibrium which is the sign of health. — Many publicists cultivate both sciences together, and combine political economy and morality; we are glad to be able to state this, but all do not succeed equally well in this combination of studies. MAURICE BLOCK.

SOCIETY. "Man," says Aristotle in the beginning of his "Politics," "is a social being." This definition is in some sort the point of departure of political science. It destroys at once all the false hypotheses which make society a mere convention. It has been truly said that such a convention presupposes the existence of a state of society in some form, in order that men might be able to come to an understanding with one another. Besides, the state of isolation is impossible. Man would not be able to exist in such a state. The child could not live without the food and care furnished by its mother, the woman could not dispense with the protection and labor of the man. Language, the bond of all society, is born with society and of society, and helps to maintain and extend it. The definition of man as a social

being rests, therefore, on his most imperious wants, on his most instinctive sympathies and on his most invincible inclinations. Adam Smith rightly remarks that man is the only being who makes exchanges. Society, from a certain point of view, is merely a series of exchanges, a perpetual communication of material and moral benefits which men hold with each other. To complete the definition, or, rather, to give it all the clearness and truth which it should receive, we must add, that if man is born a social being, he unceasingly becomes more social. The family, the tribe, the nation, with its vast developments, mark the different periods of society. A moment comes when the division of mankind into nations gives place to a sentiment which expresses sociability in its highest degree; this sentiment is the sentiment of humanity. Man, far from being a wolf to man, *homo homini lupus*, according to the gloomy definition of Hobbes—adopted by all who see in society an artificial and conventional fact—sees in man a being worthy of his respect and his love, an equal, a brother. Religion and philosophy, by paths which are sometimes different and sometimes identical, lead to this sublime result, while interest, properly understood, enjoins it on us to be useful to others in view of reciprocity.—Society implies associates. We can not, therefore, flatter ourselves that we know the object of society without knowing first the nature of the beings which are its elements. Society itself is but the medium and the means which these beings make use of to develop themselves. What are these individuals? Are they simple units endowed with a vegetative or an animal life, and obeying the laws of fatality? No: they are moral persons, that is to say, free, responsible, whose destiny it is to develop and perfect themselves and rise to the conception and practice of the true and the good; having, in one word, besides material life, a moral and intellectual life. The special character of man, in this world, is to be at once the most social and the most personal of all beings. Is it the person which shall be sacrificed to society, or society which shall aid in the development of the individual? It would be absurd to suppose that the diminution of that which constitutes our dignity, our value, our very being, should be the object or the result of the association of our efforts, labors and mutual assistance. In truth, the only object of society is to give value to the individual. By society the individual must become more enlightened, more powerful and more moral; society in turn will be worth only what those who compose it are worth.—Respect for every right, the practice of every duty, the cultivation of every faculty, the development of human nature: such is the object of society. Society is essentially favorable to the growth, as it is absolutely necessary to the exercise and the guarantee, of all our legitimate inclinations. Thus, by it the family is ordered, property protected and increased, the capital necessary to civilization and material life increased, perpetuated and transmitted. The object of institutions of the civil and political order is to assure this regular development of each and all. But it is important to remember that the state alone is not charged with the attainment of this object. The better part of human nature escapes the state. Religion is no more an affair of state than philosophy. And so with industry and commerce, as well as all the institutions intended to favor saving and to distribute wealth properly. In like manner the various means of instruction and education at the command of the individual and the family, do not depend upon the state. The state protects them, the law guarantees or regulates their exercise, but all these things have a proper and independent life of their own. Otherwise society would go contrary to its object. It would be no longer established to favor but to suppress individual development. Instead of being the putting in common of liberties respecting and aiding one another, it would be slavery organized, either by a powerful majority or a dominating minority.—Political societies, in so far as they are collective beings, reflect and reproduce everything to be found in the nature of the individuals who compose them; only they reflect and reproduce it on a large scale, which has given rise to the saying that society is merely a big individual. It is true that this has been said of the state also, with truth in some respects, but still with much less truth, for all that enters into society is far from entering the state, as we have already seen. Nothing prevents and everything commands us to consider society as a living whole. There are in society collective rights and collective duties. It has the right to be guaranteed, and the duty of repressing evil and assisting the individual. This it does sometimes through the state, and sometimes by means of free associations. In like manner there is in society, as in the individual, an instinct of preservation and an instinct of progress. The one is attached to tradition, which is of a nature to serve society eternally, or simply to everything which has served it long. The instinct of progress walks in advance of all innovations, welcomes everything favorable to the ulterior development of the human mind and of society; it embraces the future in its views and its hopes, as the instinct of preservation adheres to the past and loves to keep itself within the limits of the present. These two instincts, almost always at war, are both necessary. They are completed, tempered and maintained by each other. From their collisions terrible crises result, the more to be feared, since, if one is devoted to routine, the other easily gives itself to adventure. But in spite of, and sometimes by means of, these crises themselves, humanity advances, launching itself toward the future, resting on the past, and making a starting point for useful progress and dangerous innovations at the cost of more than one laborious work of groping and painful experience. This progress of societies, demonstrated by the philosophy of history, a theory which was framed by a number of writers,

notably by Turgot and Condorcet, in the last century, is scarcely denied in our day, although the scope and extent of that progress are continually in dispute. Who doubts in our day that modern society excels the societies of antiquity in justice and humanity, as well as in material development? Property more secure, better distributed, resting on labor as a foundation; the family purified; slavery and serfdom abolished; penalties more humane and more just; well-being increased; the sciences developed; the power of right above brute force: are not these certain results given by historical observation? The amount of evil, whether it be free or fatal, diminishes, no matter how enduring and wide-spread it may be; the amount of good increases: such is the visible revelation of Providence in history. Have we not here the most striking justification of society, the most incontestable proof of its necessity and its benefits? (See CIVILIZATION, SOCIAL SCIENCE, SOCIALISM.)

HENRI BAUDRILLART.

SOUTH CAROLINA, one of the thirteen original states of the American Union. — BOUNDARIES. The triangular shape of the state, and its natural boundary by the Atlantic on the east, leave but two boundaries to be fixed, on the north and on the west. The former was tacitly fixed about 1698, and more formally in 1732 (see NORTH CAROLINA), and was run by the two states in 1764, 1772 and 1813. The latter led to a boundary suit between Georgia and South Carolina before the congress of the confederation, which was settled in 1787 by a cession to Georgia of South Carolina's claims west of the Savannah and the Tugaloo branch of it. The latter state then proceeded to cede to the United States her "other" claims west of a north and south line from the head of the Tugaloo, but this, as it proved, was a distance of but twelve miles. (See TERRITORIES.) — CONSTITUTIONS. The constitutional history of the colony is bound up with that of North Carolina until about 1700. In 1719 the people revolted against the proprietors, and established a temporary government of their own; and, in accordance with their wish, South Carolina became a royal colony until the revolution. The crown appointed the governor; the governor appointed the upper house, or council, and retained a veto power; and the people elected the lower house. The opening years of the revolution were marked by constant conflicts between the governor, Sir William Campbell, and the legislature, so that the legislature was almost constantly prorogued. July 6, 1774, the first popular convention met, and chose delegates to congress; and, Jan. 11, 1775, a provincial congress met, which practically assumed the powers of government. March 26, 1776, it adopted the first constitution of the state. The lower house, or general assembly, was to be chosen by the people annually, in fixed apportionments to each parish; it was to choose the upper house, or council of thirteen members; and the two were to choose the president [governor] and vice president. The congress made itself the first lower house. Two peculiar provisions are that the president was to have no power to make war, peace or treaties, without the consent of the legislature; and that "the resolutions of the continental congress, now of force in this colony, shall so continue until altered or revoked by them." (See STATE SOVEREIGNTY.) — March 17, 1778, an act of the legislature put a new constitution in force after Nov. 29. It ordained that "the style of this country" should be the state of South Carolina; gave the governor a term of two years, and forbade his re-election; changed the names of the houses to senate and house of representatives, and made them both chosen by the people; left out the section as to national supremacy; and established freedom of incorporation to all societies "professing the Christian Protestant religion." — June 3, 1790, a more elaborate constitution was framed by a popular convention, without popular ratification. It omitted the treaty clause; made the right of suffrage dependent on a freehold of £50 or a tax of three shillings; recognized slavery by requiring for representatives a qualification of £150, or 500 acres and ten negroes; and omitted all religious restrictions. It was amended in 1808, 1810, 1816, 1820, 1828, 1834, 1856, and 1861, the first, the great compromise described hereafter, being the only important change. — A new constitution was formed by a convention Sept. 13–27, 1865, without popular ratification. Its main changes were that it gave the governor a term of four years, and made him eligible by popular vote; gave the right of suffrage to free white males over twenty-one, on two years' residence; forbade slavery, "slaves in South Carolina having been emancipated by the action of the United States authorities"; and forbade the legislature to inflict punishment of any kind for participation in the rebellion. — The reconstruction convention at Charleston, Jan. 14 - March 17, 1868, framed a new constitution, which was ratified by popular vote, April 14–16. It declared that all men were free and equal; that their paramount allegiance was due to the United States; that the state should forever remain in the Union, and resist with its whole power every attempt to dissolve it; and that all classes of citizens should enjoy equally all common, public, legal and political privileges. The compromise of 1808 (hereafter detailed) was omitted, and the legislature was to be chosen according to population, the house for two years, the senate for four. Every male over twenty-one was given the right of suffrage, except that no one prohibited from holding office by the 14th amendment was to vote or hold office until his disabilities were removed. Debt contracted in aid of rebellion was repudiated. Presidential electors were to be chosen by the people, though the federal constitution directs them to be chosen in such manner as the legislature may direct. — GOVERNORS: John Rutledge, 1776–8; Rawlins Lowndes, 1778–9; John Rutledge, 1779–82; John Matthews,

1782–3; Benjamin Guerard, 1783–5; William Moultrie, 1785–7; Thomas Pinckney, 1787–9; Charles Pinckney, 1789–92; Arnoldus Vanderhorst, 1792–4; William Moultrie, 1794–6; Charles Pinckney, 1796–8; Edward Rutledge, 1798–1800; John Drayton, 1800–2; James B. Richardson, 1802–4; Paul Hamilton, 1804–6; Charles Pinckney, 1806–8; John Drayton, 1808–10; Henry Middleton, 1810–12; Joseph Allston, 1812–14; David R. Williams, 1814–16; Andrew Pickens, 1816–18; John Geddes, 1818–20; Thomas Bennett, 1820–22; John L. Wilson, 1822–4; Richard I. Manning, 1824–6; John Taylor, 1826–8; Stephen D. Miller, 1828–30; James Hamilton, 1830–32; Robert Y. Hayne, 1832–4; George M'Duffie, 1834–6; Pierce M. Butler, 1836–8, Patrick Noble, 1838–40; John P. Richardson, 1840–42; James H. Hammond, 1842–4; William Aiken, 1844–6; David Johnson, 1846–8; W. B. Seabrook, 1848–50; John H. Means, 1850–52; John L. Manning, 1852–4; James H. Adams, 1854–6; R. F. W. Allston, 1856–8; William H. Gist, 1858–60; Francis W. Pickens, 1860–2; M. L. Bonham, 1862–4; A. G. Magrath, 1864–5; Benj. F. Perry, provisional, 1865; James L. Orr, 1865–8; Robert K. Scott, 1868–72; Franklin J. Moses, 1872–5; Daniel H. Chamberlain, 1875–7; Wade Hampton, 1877–9; William D. Simpson, 1879–81; Johnson Hagood, 1881–3; Hugh S. Thompson, 1883–5. — The state is popularly known as the "palmetto state," from a local dwarf palm, the most northern variety of the order. It has always been a favorite emblem for state flags, etc. The capital of the state is Columbia. — POLITICAL HISTORY. For a long time South Carolina was divided into two quite distinct geographical and political divisions by the line across the middle of the state formed by the falls of the great rivers. The lower, coast or cotton country, from the falls to the seaboard, was the original colony, settled mainly by English Episcopalians, with a considerable percentage of French Huguenots; the upper country, from the falls to the mountains, was settled mainly by immigrants from the states to the northward, with a considerable percentage of Scotch and Scotch-Irish immigrants. But a more essential difference was in the distribution of the slave population. From the beginning it fell more heavily toward the coast. In 1840, of the 196,222 slaves in the state, 129,814 were in the lower country, and 66,408 in the upper country; and, of the 267,360 whites, 150,994 were in the upper country, and 116,366 in the lower country. The segregation of interests, in its final development, may be seen in the following table of white and slave population, compiled from the census of 1860. Class A is the tier of districts or counties impinging directly on the sea, and including the sea-island cotton district; class B is the tier next to the preceding; and class C is the extreme northern tier; the intermediate districts are more evenly balanced, and are not considered. In all three classes the districts are arranged in order, from west to east, to the North Carolina boundary.

CLASS A.	White.	Slave.
1. Beaufort	6,714	32,580
2. Colleton	9,255	32,307
3. Charleston	29,136	37,290
4. Georgetown	3,013	18,109
5. Horry	5,564	2,359
CLASS B.		
1. Barnwell	12,702	17,401
2. Orangeburgh	8,108	16,582
3. Clarendon	4,376	8,586
4. Williamsburgh	5,187	10,259
5. Sumter	6,857	16,682
6. Darlington	8,421	11,877
7. Marion	11,007	9,951
CLASS C.		
1. Pickens	15,335	4,195
2. Anderson	14,286	8,425
3. Greenville	14,631	7,049
4. Spartanburgh	18,537	8,940
5. Union	8,670	10,801
6. York	11,329	9,984

Geological reasons account for the few variations from the general rule in the table. The upper country, on the democratic principle, had the power to tax, and the lower country the property liable to taxation. The compromise by which the two were reconciled is altogether the most interesting feature in the history of the state before 1860. — Before the revolution the upper country had comparatively little intercourse with the lower country, and hardly any political power. During the revolution it was one of the strongholds of the tory party of the state, and political power was carefully conserved by the lower country. This design will explain the first constitutions of the state, in which the number of delegates in the lower house was so apportioned to the districts as to give control to the lower country; and the choice of other state officers was given to the legislature. As soon, however, as state politics settled down into orderly development, it became evident that no such unilateral arrangement could be permanent. The tendency to the formation of a white democracy, in which the property of the lower country would be at the mercy of the population of the upper country, was so strong, and created so much angry feeling, that, in 1807, a compromise was agreed upon, and, in 1808, it was ratified as a part of the constitution. Its provisions will be found in Calhoun's works, as cited below. In brief, it fixed the number of members of the lower house at 124, 62 representing white population, and 62 taxation. Every ten years the white population and the taxes paid for ten years past were to be ascertained; and each district was to be entitled, for the next ten years, to one representative for each sixty-second part of either the total white population, or the total amount of taxes paid. In this way any undue exercise of taxing power by the upper country would remedy itself; for it would, for the next ten years, increase the representation of the districts on which undue taxes should be levied. To whatever the result is to be ascribed, to this compromise or to the increase of slaveholding influence, it is certain, that,

from 1808 until the overthrow of this compromise by the reconstruction constitution of 1868, there were really no separate parties in the state, and no bitterness of party conflict. — The formation of the federalist and anti-federalist party division in 1787–8 brought about a curious contradiction to previous history. Many of the leaders of the lower country, who had been ardent whigs during the revolution, had been educated in England, retained no abiding animosity to that country, and, as they represented commercial interests, were federalists by nature, even though the policy of their party might lead to friendship with Great Britain. On the contrary, the spirit of local independence, and a general opposition to the lower country, made the rest of the state as warmly anti-federalist. The division is plainly shown in the vote in the legislature on calling a convention to consider the constitution in 1788. Of the twenty-nine districts or parishes in the state, only five were divided: the parishes on the coast were as generally unanimous in favor of calling the convention as the parishes in the upper country were unanimous against it. The convention was only called at last by a vote of 76 to 75. In the convention the constitution was ratified, May 23, 1788, by a vote of 149 to 73. The division in the vote was not so striking as in the convention, seventeen parishes or districts being now divided; but the line of division was still very perceptible. — For some years after the adoption of the constitution the federalists retained a general control of the state, due rather to their wealth and ability than to their numbers. They gave three great leaders to the national federal party: Charles Cotesworth Pinckney (see his name); and William Smith and Robert G. Harper, two of the ablest congressional debaters of their party. When the legislature came to choose electors in 1792, they obtained the second votes of seven of the state's eight electors for John Adams. Before another presidential election the opposition had fairly taken form, and in 1796 the eight electors voted for Jefferson and Thomas Pinckney. In 1800, when the battle between federalists and democrats had become general and defined, the popularity of Charles C. Pinckney in his own state gave him the federalist support for vice-president. (See CAUCUS, CONGRESSIONAL.) The democrats in the legislature offered to compromise by choosing electors pledged to Jefferson and Pinckney, and this, as it afterward proved, would have made Pinckney vice-president, instead of Burr. An indiscreet letter, written by Adams, and censuring Pinckney's public conduct, had recently come to light, and would have been a fair excuse to an ordinary politician for abandoning Adams. But Pinckney rejected the compromise, and stood by his colleague; and both fell together. The legislature chose electors, who voted for Jefferson and Burr; and this was the deciding state. — From this time the state, in national politics, was a unit, its small federalist element disappearing after its first great defeat. In state politics the only element of discord was removed by the compromise of 1808. For half a century the political history of the state is an absolute blank, with the single exception of the nullification contest. (See NULLIFICATION.) In that struggle the nullification leaders were Calhoun, Senator Hayne, Gov. Hamilton, Preston (afterward senator), M'Duffie and Hammond (afterward governors), and Rhett. The "Union party" was led by Poinsett, Huger, Petigru, Legaré, Grimké, Drayton, Memminger, and others; but it must be remembered that the Union party generally by no means denied the right to secede, only the right to disobey the laws of the Union, while remaining in the Union. And, further, the opposition of nullifiers, like Calhoun and Preston, to the Jackson school of national democratic leaders, was a reason for their being often classed as whigs until 1843–4. (See WHIG PARTY, II.) In fact, men of all parties in the state were generally ultra democrats, secessionists in ultimate theory, and differing in practice only. — After the termination of the nullification struggle the state remained in political repose until 1860. For ten years before that date she was ready to secede at any time upon a promise of support by one or more other states. In 1860, having secured the desired assurances, the state seceded, and became one of the confederate states. (See SECESSION, CONFEDERATE STATES.) With a voting population of 47,000 in 1860, she furnished 60,000 soldiers to the confederate armies, and at the close of the rebellion was well nigh exhausted. The marks of the exhaustion are still visible in the census of 1870, in which the state shows a slight decrease of white population since 1860, in spite of five years' recuperation. Alabama is the only other seceding state which shows the same indication. — In May, 1865, some feeble efforts at self-assertion by the state government were suppressed by the federal authorities, and Benj. F. Perry was appointed provisional governor, June 30. Under his guidance the convention of 1865, which rescinded the ordinance of secession, was held, a constitution adopted, and a governor and legislature elected. The new legislature met Oct. 25, and the new governor was inaugurated Nov. 29. The state government ratified the 13th amendment, and a code of laws permitting and regulating apprenticeship of laborers until the age of twenty-one in males and eighteen in females, and specifying the rights and duties of employers and employed. At the following session of the legislature an effort was made to remove the dislike of the negroes to the "black code" by the passage of a bill giving all civil rights, to sue and be sued, etc., to the freedmen; but the 14th amendment was rejected. — Under the reconstruction act (see RECONSTRUCTION), Maj. Gen. D. E. Sickles was appointed military governor March 11, 1867. He was removed Aug. 26, and was succeeded by Maj. Gen. E. R. S. Canby. The registration showed 78,982 colored and 46,346 white voters. A convention was ordered by overwhelming votes, the state constitution of 1868 was adopted, and the state was readmitted, June 25. The new state

officers had all been nominated by the convention which framed the constitution, sitting as a republican nominating convention. Four of them, Gov. Scott, the state treasurer, N. G. Parker, the comptroller general, J. J. Neagle, and the attorney general, D. H. Chamberlain, were northern men, or "carpet-baggers"; the secretary of state, F. L. Cardozo, was a native freedman; and the adjutant general, F. J. Moses, was a native white. One of them, Moses, has since been imprisoned in New York for theft; all of them, with the exception of their ablest member, Chamberlain, seem to have been personally and shamelessly dishonest. The legislature, composed mainly of freedmen, without property, education, political experience, or sense of responsibility, was probably the most openly corrupt legislative body that ever held sessions in the United States. Details of its proceedings would be tedious and useless; they can be most easily reached in Pike's work, cited below. One instance will be sufficient: the state debt was officially reported in 1868 at $5,407,806.27; in 1872 at $17,557,000; and in 1878 at $20,338,901.10. In 1871 a legislative investigating committee reported that the state officers had over-issued bonds and defrauded the state to the amount of $6,814,000; but the legislature, by a large majority, refused to impeach them. One defaulting official defied a legislative committee to indict him, unless the legislature should first pass a bill to enlarge the penitentiary, since he intended to take at least half of them thither with him. — Ku-klux outrages in the state seem to have fairly begun in 1870, though they were alleged to have taken place previously. In 1871 they had become a prominent feature in elections (see KU-KLUX KLAN), but were unsuccessful in their object of suppressing the negro vote. In 1874 came the first sign of defeat for the dominant party: a part of it refused to support the regular nominations, and the nominations of this faction were supported by the democrats, and defeated by a much smaller majority than usual. In 1876 came the final struggle between property and population for the control of the state. From the beginning it was marked by hardly suppressed disorder. Massacres of negroes took place at several points, in one of which, at Hamburgh, July 9, the assaulting party of whites was led by a negro justice of the peace. Nov. 21, the returning board declared the republican presidential electors successful by an average vote of 91,672 to 90,856; most of the republican candidates for state offices successful by very similar votes; and no party majority in the lower house of the legislature, owing to the board's refusal to give any certificates for Edgefield and Laurens counties, where fraud and violence were charged. In the senate there was a small but undisputed republican majority. On the meeting of the legislature, which was to canvass the votes for governor, Gov. Chamberlain used federal troops to exclude the Edgefield and Laurens members from the state house. Thereupon they, with the other democratic members, sixty-four in all, formed one house, and the fifty-nine republican members another. Dec. 5, the senate and the republicans declared Chamberlain elected, casting out the vote of the two counties above named; a week later the democratic house, with part of the senate, declared Wade Hampton elected. Hampton obtained the office in April following. (See INSURRECTION, II.) — Since 1877 there has been practically no republican opposition in state elections, nor, generally, in congressional elections. In 1882 one republican congressman was seated after a contest. In the presidential election of 1880, 58,071 republican to 112,312 democratic votes were cast. In the legislature of 1882 the republicans have but two senators out of thirty-four, and five representatives out of 124. How long this state of affairs can last is a difficult question. One answer to it may perhaps be the restoration in some form, by common consent, of the venerable compromise of 1808, which was abrogated in 1868. The effort to exclude property representation altogether has resulted in the entire exclusion of the popular majority from power: an equitable division of power between the two might possibly solve the problem. — The roll of South Carolina names which have reached exceptional distinction in American politics is very large. The most distinguished are those of Calhoun and C. C. Pinckney. (See their names.) Others are as follows, democrats unless otherwise specified: William Aiken, governor 1844–6, congressman 1851–7; R. W. Barnwell, congressman 1829–33, United States senator 1850–51, and a member of the confederate states senate 1862–5; M. L. Bonham, congressman 1857–60, brigadier general in the confederate army, confederate congressman 1861–2, and governor 1862–4; Preston S. Brooks (see his name); Ædanus Burke, state judge and chancellor 1778–1802, and congressman 1789–91 (see CINCINNATI); Armistead Burt, congressman 1843–53; Andrew P. Butler, state judge 1835–46, and United States senator 1846–57; M. C. Butler, major general in the confederate army, and United States senator 1877–87; Langdon Cheves, congressman 1811–15 (see DEMOCRATIC PARTY, III.), and president of the bank of the United States in 1819; William Drayton, congressman 1825–33; William Henry Drayton, state judge and chief justice 1771–7, and author of a widely circulated whig charge to a grand jury in April, 1776; Christopher Gadsden, a revolutionary leader, delegate to the stamp act congress in 1765, and to the continental congress 1774–6; John Gaillard, United States senator 1805–26, and president of the senate 1814–19 and 1820–25; James Hamilton, congressman 1822–9, and governor 1830–32 (see NULLIFICATION); James H. Hammond, congressman 1835–6, governor 1842–4, United States senator 1857–60, and an ultra pro-slavery author and debater; Wade Hampton, governor 1876–9, and United States senator 1879–85; R. G. Harper, federalist congressman 1795–1801 (see MARYLAND); Robert Y. Hayne, attorney general 1818–22, United States senator 1823–32, and governor 1832–4 (see NULLIFICATION); Ralph Izard, commissioner to

Tuscany 1777–9, delegate to congress 1781–3, and United States senator 1789–95; Lawrence M. Keitt, congressman 1853–60 (see BROOKS, P. S.), killed at Cold Harbor in 1864; Henry Laurens, delegate to congress 1777–80, minister to Holland 1780–81, and one of the negotiators in 1782–3; Hugh S. Legaré, attorney general 1830–32, chargé at Brussels 1832–6, congressman 1837–9, and attorney general under Tyler; William Lowndes, congressman 1811–22 (see DEMOCRATIC PARTY, III.); George M'Duffie, congressman 1821–34, governor 1834–6, and United States senator 1843–6; John McQueen, congressman 1849–60, and confederate congressman 1862–4; Charles G. Memminger, confederate secretary of the treasury, 1861–4; Arthur Middleton, delegate to congress 1776–8 and 1781–3; Henry Middleton (son of the preceding), governor 1810–12, congressman 1815–19, and minister to Russia 1820–30; James L. Orr, congressman 1849–59, confederate senator 1862–5, governor (republican) 1865–8, and minister to Russia 1872–3; Francis W. Pickens, congressman 1834–43, minister to Russia 1858–60, and governor 1860–62; Charles Pinckney, delegate to congress 1777–8 and 1784–7, and to the convention of 1787, governor 1789–92, 1796–8 and 1806–8, United States senator 1797–1801, minister to Spain 1803–5, and congressman 1819–21 (see ELECTORS); Joel R. Poinsett, congressman 1821–5, minister to Mexico 1825–9, and secretary of war under Van Buren; Wm. C. Preston, United States senator 1833–42, president of the college of South Carolina, and an eloquent speaker; Robert Barnwell Rhett (name changed in 1837 from Smith to Rhett, to obtain a legacy), congressman 1837–49, U. S. senator 1851–2, and a leader in secession; Edward Rutledge, delegate to congress 1774–7, and governor 1798–1800; John Rutledge, delegate to congress 1774–7 and 1782–3, governor 1776–8 and 1779–82, justice of the U. S. supreme court 1789–91, and appointed chief justice in 1795, but not confirmed by the senate because of his intemperate opposition to Jay's treaty; William Smith, federalist congressman 1789–97, and minister to Portugal 1797–1801; Thomas Sumter, a famous partisan leader in the revolution, congressman 1789–93 and 1797–1801, and United States senator 1801–10; Waddy Thompson, congressman 1835–41, and minister to Mexico 1842–4; and James L. Treuholm, confederate secretary of the treasury 1864–5.— See authorities under NORTH CAROLINA, GEORGIA, NULLIFICATION, SECESSION, RECONSTRUCTION; 2 Poore's *Federal and State Constitutions;* Lawson's *History of Carolina* (to 1714); 2 Force's *Tracts;* Carroll's *Historical Collections of South Carolina* (to 1776); Gibbes' *Documentary History of the Revolution, chiefly in South Carolina* (1764–82); Drayton's *Memoirs of the Revolution, as relating to South Carolina* (1821); Rivers' *Early History of South Carolina;* Ramsay's *History of South Carolina;* Chase's *Life of Lowndes;* 6 Calhoun's *Works*, 254; 1 Olmstead's *Cotton Kingdom*, 206; Simms' *History of South Carolina* (continued to 1860); Pike's *The Prostrate State* (1873).

ALEXANDER JOHNSTON.

SOUTHERN CONFEDERACY. (See CONFEDERATE STATES.)

SOVEREIGNTY. I. *The Idea of Sovereignty.* The state is the embodiment and personification of the power of the people. The power of the people in its highest dignity and greatest force is sovereignty. — The word sovereignty originated in France, and the idea of sovereignty was for the first time developed by French science. Bodin raised it to the dignity of the fundamental idea of public or constitutional law. Since his time the word sovereignty and the idea have exercised a great influence on the entire development of the constitution of modern states as well as on politics. — During the middle ages the expression *souveraineté* (*suprema potestas*) was used in a still wider sense. Every board or authority competent to give a final decision, so that an appeal to a higher authority was impossible after such decision, was called a sovereign board. The highest courts of justice were called *cours souveraines.* Thus there were a great number of sovereign offices and corporations within the state. But gradually this name ceased to be given to mere offices and positions in the different branches of the administration, and it was finally given only to the highest power in the state, the power which controlled the whole. Hence the idea of sovereignty came to have a higher meaning, and to signify the concentrated fullness of political power or of the power of the state. The definition of the term sovereignty was controlled completely by the centralizing tendency of French politics, beginning with the sixteenth century, and by the struggle of the French kings for absolute power. Bodin had explained sovereignty as absolute, perpetual political power (*puissance absolue et perpétuelle d'une république*). Sovereignty was subsequently understood in this absolute sense. Not only Louis XIV., who called himself the state, but even the Jacobin convention of the French republic of 1793, attributed omnipotent political power to itself, as Louis had to himself. Both were wrong in doing so. The modern representative state knows nothing of absolute political power; and absolute independence does not exist anywhere on earth. Neither political freedom, nor the rights of the other organs and component parts of the state, are compatible with such unlimited sovereignty; and whenever men have sought to exercise it, history has condemned such usurpation. The state itself, as a whole, does not possess such omnipotence; for even the state is limited externally by the right of other states, and internally by its own nature, by the rights of its members, and those of the individuals within the state. — The characteristics of sovereignty are: 1. The independence of the power of the state of all *superordinated* political or state authority. Even this independence is to be understood as relative, and not as absolute. International law, which binds all states together by common rights, is no more in conflict with the sovereignty of states

than is constitutional law, which limits the exercise of the power of the state within the boundaries of the state. This renders it possible for certain territorial states to be still considered sovereign states, although in essential things, as for instance, in their foreign policy, etc., they are dependent on the greater aggregate state. 2. The highest political or state dignity, or what the ancient political language of Rome understood by the term *majestas*. 3. The plenitude of political or state power in contradistinction to mere partial authority. Sovereignty is not the sum of separate special rights, but the political aggregate right; it is a central idea with an energy similar to that of property in private law. 4. Further, the sovereign power is, by virtue of its nature, the supreme power in the state. Hence it follows, that no other political power within the state can be superordinated to it. The French *seigneurs* of the middle ages ceased to be sovereign when they were again compelled to subordinate themselves to their liege lord, the king, in all the essential relations of political independence and rank. The German electoral princes, after the fourteenth century, were able to claim sovereignty in their territories, because they really possessed, in their own right, the supreme political authority within the same. 5. The state being an organized body, the *unity* of sovereignty is accordingly a requisite of its well-being. The *partition* of sovereignty leads in its consequences to the paralysis or dissolution of the state, and hence is not compatible with the health of the state.—II. *State Sovereignty (Popular Sovereignty) and Regent Sovereignty.* To whom does sovereignty belong? The different political parties are inclined to answer this question in an entirely different sense, and science also has to remove many kinds of obstacles, and to overcome many prejudices, before it can succeed in reaching a simple and true solution of the question.—1. A widely spread opinion, particularly since the time of Rousseau and the French revolution, answers: To the people; and declares itself in favor of the principle of the so-called sovereignty of the people. But we must first inquire, What does this opinion understand by the "people"? By the "people" some understand simply the sum total of the individuals who find themselves brought together in the state; that is, they, in thought, resolve the state into its elements, and attribute the highest power to the inorganic mass, or the majority of these individuals. This extremely radical opinion is manifestly in contradiction with the existence of the state, which is the foundation of sovereignty. Hence it is not compatible with the constitution of any state, not even with absolute democracy, of which it pretends to be the foundation; for even in an absolute democracy it is the regular assembly of the people, and not the atomized multitude, that exercises the state power.—2. Still others understand by "people" the collective, equal citizens of the state, who, assembled in commonalties, give expression to their will; that is, they understand by people the sovereignty of the *demos*, in democracy. When limited to this form of the state, the principle of popular sovereignty, thus understood, has certainly some sense and truth in it; it is then literally synonymous with democracy. But even in the case of representative democracy the principle loses its application in great part, because in the regular action of the state the supreme power is not exercised directly by the citizens, but indirectly by their representatives. The principle is entirely incompatible with all other forms of the state on which it makes the strange claim that the head of the state should place himself on an equality with the meanest citizen, and that those governing, being the minority, should subordinate themselves to the governed, or the majority. In the body politic this principle assigns to the feet the place of the head, and to the head the place of the feet.—3. It sometimes happens that the two opinions are not sharply distinguished from one another, but that they fade one into the other. The one is anarchical, the other absolute-democratic. Their defenders, however, maintain the universal validity of both. Yet the danger of this theory consists precisely in the fact, that its recognition presupposes and demands in principle the complete overthrow of all other forms of the state, with the sole exception of direct democracy, and the transformation of the former into the latter.—This opinion, accordingly, has been advocated by decidedly antagonistic parties, but still (if indeed consciously) only by those who were dissatisfied with the existing political organization or government, and strove to undermine and overthrow it. Hence it became a terrific weapon of destruction in the hand of the French revolution. Even the national assembly, in its declaration of war of April 20, 1792, officially proclaimed Rousseau's theory: "The French nation has undoubtedly declared, that sovereignty belongs only to the people, who, limited in the exercise of its highest will by the rights of succeeding generations, can not confer any irrevocable power; the nation frankly acknowledges, that no tradition, no legal decree, no declaration, no contract, can subject the society of men to any authority in such a manner that the nation should no longer have the right of revoking such power. Every people has alone the power to give itself its laws, and the inalienable right of changing its laws. This right, in its fullest extent, belongs either to no one or to all." The subsequent convention disclosed the further consequences of this principle after the destruction of the monarchy. But even in our own days we have heard the proclamation of the same principle at the Paris Hôtel de Ville.—In February, 1848, the constitutional monarchy was abolished, the republic proclaimed, and the dictatorship of an improvised government appointed by a similar sovereign act of the excited Parisian population. In an official declaration drawn up by Lamartine himself, we read: "Every Frenchman who has reached the age of manhood is a citizen of the state, and every citizen is a voter.

Every voter is a sovereign. The law is equal, and is absolute for all. No citizen can say to another: You are sovereign to a greater extent than I; consider well your power; be prepared to exercise it; and be worthy of taking possession of your lordship."—4. The endeavors of certain French statesmen to oppose to this ruinous idea of the sovereignty of the people (an idea which either destroys all constitutional and public law, in order to give a foundation to the majesty of the state, or which transforms all states into democracies) the idea of a sovereignty of reason and justice, were indeed well meant, but they did not prove satisfactory. By appealing to either reason or justice they thought they could do away with the abuse which the people might make of its sovereignty. This notion, however, overlooks the fact that the right belongs only to the person, but sovereignty only to a political personality, by which it must be exercised according to the principles of reason and justice. To the error which recognizes in absolute democracy the only fundamental form of the state, we thus find opposed here another error, the error of idiocracy, with its well-meant intention of guiding the majority of the people by the supremacy of an idea. But this contradiction remains without result, because the power of personality is stronger than any fiction. — 5. Another opinion calls the *nation*, considered as a unit, and as capable of organization, even if it be not yet organized or only insufficiently organized, with its instincts, its language and its social differences, the *people*, and ascribes to the *nation* the right to change the form of the *state* at its pleasure. A *nation* has a tendency to constitute itself into a *people*, and hence into a state (see NATIONALITIES, PRINCIPLE OF); and therefore we must admit that the germs of sovereignty lie in the nation, and that the nation has a tendency to develop sovereignty out of them; but that it shall develop sovereignty is only a possibility. (See NATION.) Popular sovereignty, in this sense, or, more correctly, national sovereignty, is accordingly an unripe, undeveloped, ante-state idea, which had to await the actual growth of states in order to become realized in a state form. — 6. But in a political sense we may and even must understand by *people*, the ordered aggregate of head and members which we recognize as the living soul of the personality of the state. In so far as the state appears as a person, independence, the highest honor, the plenitude of power, supreme authority, and unity, that is, sovereignty, undoubtedly belong to it. The state as a person is sovereign. Hence this sovereignty is called the sovereignty of the state. Sovereignty does not exist before the state, nor outside the state, nor above the state; it is the power and majesty of the state itself. It is the right of the whole; and as certainly as the whole is more powerful than any part of that whole, just as certainly is the sovereignty of the whole state superior to the sovereignty of a single member within the state. If, through the strife of parties, language had not been distorted, it would seem perfectly legitimate to call state sovereignty, as here defined, the sovereignty of the people, understanding by "people," not a loose multitude of individuals, but the politically organized whole, in which the head holds the highest position and has the highest duty to perform, and in which every individual fills the place and performs the task best suited to his nature. In this sense French publicists have called this sovereignty *souveraineté de la nation*. But nowadays this designation would be liable to the most deplorable misunderstandings, and for this reason we have preferred the unequivocal expression state sovereignty. This state sovereignty manifests itself both externally and internally; externally as the self-dependence and independence of every single state in respect to every other single state, and in relation of the secular power to the church; internally it manifests itself as the legislative power of the whole body of the people. In this sense the English are wont to ascribe sovereignty to their parliament, at the head of which is the king, and which represents the whole people. Yet this is not a peculiarity of English constitutional law, but a fundamental view of the constitutions of modern representative states in general, a view which does, indeed, regard the prince as the head, and for that very reason as a member of the *people*, and which ascribes the highest actual exercise of sovereignty, legislation, not to the head alone, but to the head in connection with the representative body, in other words, to the whole body of the state. The patrimonial doctrine of the state, which regards the state as the property of the prince, and hence attributes sovereignty only to the prince, and the absolutist doctrine of the state, which identifies the state with the prince, and thus looks upon state sovereignty as princely sovereignty, alike ignore the important principle that all the power of the prince is essentially only the concentrated and condensed power of the people, and that the people and the state continue a legal entity despite the downfall of princes and the extinction of dynastics. — 7. Besides this sovereignty dwelling in the whole body of the state or of the people, there is also within the state a sovereignty of the head of the state, to wit, the sovereignty of the ruler, or, because it is most apparent in monarchy, what is called the sovereignty of the prince. In relation to all other single members of the organism of the state, and in relation to individual citizens of the state, the supreme head of the nation possesses the highest power and occupies the highest position—a power and position which properly belong to him. Thus, in English constitutional law, the king is in a special manner styled sovereign. Thus, too, in every monarchical state, sovereignty is ascribed to the monarch as such. There is, however, no contradiction between state sovereignty and the sovereignty of the prince, above referred to. Sovereignty is not divided, from the fact that one-half is given to the people, and the other to the prince. Their relation is not that of two jealous powers, struggling for supremacy. In both there is unity

and plenitude of power; but it is manifest that the *whole*, in which the *head*, in accordance with its highest position in the body politic, is included, is superordinated even to the head considered in itself alone and apart from the whole. The whole people (the state) makes the law, but within its limits the head of the state moves with complete freedom in the exercise of the supreme power that belongs to him. State sovereignty is chiefly the sovereignty of the law; the sovereignty of the prince is chiefly that of government. Where the former is at rest, the latter is active. A real conflict can not easily take place between them; a conflict between them at all points is, in principle, not possible; for such a conflict would be the conflict of the supreme head considered in itself alone with the supreme head in connection with the remaining members of the state; that is, it would suppose a conflict of the same person with himself. While thus there is no conceivable peace between the democratic sovereignty of the people and the sovereignty of the prince, and while the one must necessarily subjugate and abolish the other, there exists between the sovereignty of the state and the sovereignty of the prince the same harmony that exists between the whole man and his head. — III. *What the Sovereignty of the State includes.* 1. The people, politically organized, the state, has first of all, a right to the recognition of, and respect for, its dignity and supremacy; or, as the Romans termed it, respect for its *majesty*. Hence every serious injury to the honor, power and even to the established order of the Roman state, was considered by the Romans as a *crimen læsæ majestatis*. — 2. The independence of the state of foreign states is, further, a necessary quality and effect of its sovereignty. When a state is compelled to acknowledge the political superordination of another state it loses its sovereignty, and submits itself to the sovereignty of the latter. Still, all subordination of a state does not completely destroy its sovereignty, because the dependence which that subordination implies is not an absolute one, and because its original independence and self-dependence reappear in many circumstances. In composite states, confederations, federal states and kingdoms, the individual states, although in certain respects subordinated to the whole, still, as states, possess a relative sovereignty, limited, not as to its content, but as to its extent. Thus in Switzerland they speak of cantonal sovereignty when reference is had to cantonal affairs, in contradistinction to the sovereignty of the confederation when reference is had to the affairs of the confederation. Similarly in the United States and in the German Empire we must distinguish between the sovereignty of the aggregate state (union, empire) and that of the states belonging to the confederation. We can, however, speak of the relative sovereignty of individual states subordinated to an aggregate state (confederation or empire) only where the individual state is itself organized as a state, that is, where it has all the essential organs of a state (legislative bodies, governments, etc.,) and a state life peculiar to itself; but we can not speak of such relative sovereignty of the individual state subordinated to an aggregate state when it has to the whole the relation of a mere part of that whole, the relation of a province, for instance. As in all that is relative, there is here, too, a scarcely perceptible transition from the one thing to another. Externally the sovereignty of the state in our time is ordinarily represented by the head of the state, not by the legislative body, but this rather from motives of expediency than from juristic reasons. — 3. At home, sovereignty finds its chief expression in the right of the people independently to determine the forms of its political existence, and, in case of need, to change them. What can not be conceded to a part of the people, to the mere majority of the people without the government, undoubtedly belongs to the aggregate people in its political organization. The individual subject should not oppose the ordinances of the people, even when his political rights are injured by such ordinances: for if the state is to preserve its unity, its cohesion and order, the individual, in the domain of public law, must subordinate himself to the highest power in the state. — It certainly is not a matter of indifference, in passing a moral or legal judgment on the change, whether it takes place by the way of reform or of revolution. Reform supposes, first, that the change is introduced by the organism empowered by the constitution to make it, and hence, that in constitutional representative states, it is introduced by the legislative body representing the whole nation; that is, that it is made formally conformable to law. Second, that even in the transformation of the law the spirit of the law is respected; and hence, that the law which it is proposed to change or repeal, should be set aside only to the extent that it has become obsolete or unsuitable, and that new law should be allowed to come into force only in so far as it seems to be mature and to have its foundation in the new circumstances of the people's life. If either the form of the constitution is disregarded, or if the principle of right be violated in the change, such an act is not reform, but revolution. The right of reform is a necessary expression of the vital energy of the state. To contest this right, is to deny the development of the people, and to cause revolution. — But the radical doctrine of the state also maintains the right of the people to revolution. The idea of public law, however, opposes this assumption; for revolution is either a violent breach of the existing constitution of the state, or else a violation of the principles of legal right. For this reason revolutions, as a rule, are not legal acts, although they may be powerful natural phenomena which change public law. When the unchained natural forces which are passionately excited in the nation produce and determine a revolution, the regular efficiency of public law is disturbed. In the face of events of this kind, public law is powerless. It is unable to draw the revolution within the sphere of its norms

and laws. One of the greatest tasks of politics is to guide a revolution which has broken out into the regular paths of reform and political order. If the law was too weak to prevent, or reform too slow to anticipate, revolution, neither the one nor the other, nor both together, can now control it. Hence we can speak only by way of exception of a right of revolution, and only in the sense of a right of self-defense of the people, to save its existence, or to realize its necessary development, when the avenues of reform have been closed. The constitution is, after all, only the external organization of the people. If by the constitution the state incurs the danger of ruin, or if by it the life of the people has been paralyzed, or the vital interests of public well-being have been endangered, the principle of self-defense should be applied. "Necessity knows no law."—4. State sovereignty embraces the power of making the necessary laws. The legislative power, in the narrower sense of the term, like the constitutive power, flows from the sovereignty of the state, and is at the same time its regular revelation.—5. But further still, on the sovereignty of the state, in principle, rest all other powers of the state, for which reason the constitution and legislation limit and regulate all other expressions of sovereignty.—6. *Irresponsibility.* From the higher point of view, there really exists no irresponsibility of men in regard to their doings or omissions. In fact, the eternal judgment of God of this world excludes the idea of the irresponsibility even of nations. Even on earth, in the destinies and sufferings of peoples, this responsibility is not unfrequently painfully felt. But it is impossible within a state to establish a tribunal before which the whole people, or its representatives, as holders of the supreme power of the state, can be called to account. If this were attempted, the state itself would to that extent at least be subject to this tribunal, and thus a member would be placed higher than the body, the part above the whole. But if a state, in the execution of its sovereignty, should be responsible to another state, its sovereignty on that account would be a limited one, and subordinate to the higher sovereignty of the judging state. Only by the further development of international law, or by a higher political organization of the world, before which individual sovereign states would have to bow, as to an aggregate empire, could the political responsibility of individual states be organized. It may be reserved for the future to realize this idea. At present it is only an idea.—7. All particular state powers, on the contrary, are responsible to the sovereignty of the state.—IV. The second kind of sovereignty, the sovereignty which belongs only to the head of the state, is recognized in modern public law only in monarchy. Only the monarch, not the president of a republic, although the latter exercises rights of sovereignty, has, according to modern public law, a personal claim to be regarded as sovereign.* J. C. BLUNTSCHLI.

* "The words sovereign and sovereignty," says Theodore D. Woolsey ("Political Science," etc., New York, Scribner, Armstrong & Co., 1878), "are applicable to persons and to states; moreover, from the intimate connection between the state as a political organism and the territory where the laws prevail, the territory itself may be called a sovereignty, or the expression may be explained in the last case with greater reason as denoting something held in sovereignty, a province or district which is not dependent. The first notion in the word was that of being above or higher than others in power and jurisdiction. Thus, the sovereign ruler is above all other officers or magistrates, and above all the individuals belonging to the people. The quality of sovereignty, however, does not necessarily imply unlimited power or unchecked power; much less undelegated power. It can be used of all kingly and imperial power, from that of a chief officer of state who is absolute, to the king who can do nothing without a legislative assembly. It has not, however, if we do not err, ever been applied to the head of a democratic state whose office ceases after a term of years. For the most part, when used at present, it is either of dignity, denoting the superior person in the state or nation, or else it is used of a ruler who can control the policy of a nation toward other nations in matters of diplomacy. Thus, the king or queen of England, although having, in matter of fact, an exceedingly limited power, is called sovereign, to denote the dignity of the office as above all others in the kingdom, or as having constitutionally the power to control foreign relations, a power unchecked in theory, yet practically not expressing the sovereign's personal will.—The abstract conception of sovereignty is thus unfolded by Mr. John Austin in the sixth of his lectures on 'The Province of Jurisprudence,' (i., p. 226, ed. 3): 'If a determinate human superior, not in the habit of obedience to a like superior, receive *habitual obedience* from the *bulk* of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and independent. To that determinate superior the other members of the society are *subject*; or on that determinate superior the other members of the society are *dependent*. The mutual relation which subsists between that superior and them may be styled the relation of sovereign and subject, or the relation of sovereignty and subjection.' This definition looks at fact simply, and has nothing whatever to do with right. The *habitual* obedience would seem to be absolute, but persons called sovereigns at the present day have no right to require habitual obedience except within a very narrow sphere. *Subjection* is now used, if used at all in politics, of relations that are not personal, the term being retained while the feudal notion has left it. And again, few, I presume, of the subjects of the sovereign of Great Britain would allow to themselves be called dependents on the sovereign.—But what is the sovereignty of a state? and how does it comport with the sovereignty of a ruler? In the intercourse of nations, certain states have a position of entire independence of others, and can perform all those acts which it is possible for any state to perform in this particular sphere. These same states have also entire power of self-government, that is, of independence upon all other states as far as their own territory and citizens not living abroad are concerned. No foreign power or law can have control except by convention. This power of independent action in external and internal relations constitutes complete sovereignty. This definition of sovereign states would be inconsistent with the claim of sovereignty which has been set up in this country by communities called states, and in the treaty of 1783 with Great Britain called sovereign states; which, however, never made a treaty separately with foreign nations, never belonged in their separate capacity to the community of nations, and are incapacitated by the constitution from performing any international act; and which, moreover, by the same constitution, are precluded from doing many things within their own territory and in the exercise of state power, which sovereign states do and must do. This use of the word *sovereignty*, and, indeed, the use of the word *state*, shows the poverty of political language, but has helped on far

SOVEREIGNTY (IN U. S. HISTORY). (See POPULAR SOVEREIGNTY.)

SPAIN. This country, which occupies the greater portion of the Iberian peninsula, and includes the Balearic isles and the Canaries, ex-

tends over 507,036 square kilometres, and contained, according to the census of 1860, 15,658,000 inhabitants. Spain had perhaps sixteen millions in 1878. — The last general enumeration of the population took place on Dec. 31, 1877, the returns showing that at that date the kingdom, including the Balearic and Canary islands ("Baleáres" and "Canárias," each considered a province), and the small strip of territory in North Africa, facing Gibraltar, had a total population of 16,625,860, comprising 8,134,659 males and 8,491,201 females. — The vast majority of the inhabitants of Spain are natives of the country, the aliens being less numerous than in any other state of Europe. According to the census returns of Dec. 31, 1877, there were at that date only 26,834 resident foreigners, the mass of them in four provinces, namely, Barcelona, Cadiz, Gerona and Madrid. The number in the province of Barcelona was 4,392, comprising 2,490 males and 1,902 females; while in the province of Cadiz the number was 3,321, comprising 1,866 males and 1,445 females. — The progress of population did not amount to more than 75 per cent. in the course of the last hundred years. In 1768 the population was calculated to number 9,307,800 souls; in 1789 it had risen to 10,061,480; and in 1797 it exceeded 12,000,000 souls. In 1820 it had fallen to 11,000,000, but in 1823 it had again risen to 12,000,000, and in 1828 to 13,698,029. At a census taken in 1846 the population was found to be 12,168,774, and it was 16,301,851 at the census of 1860. Finally, at the census of 1877 the population amounted, as before shown, to 16,625,860, being an increase of 324,009 in the course of seventeen years, or at the rate of about ¼ per cent. per annum. The present density of population is considerably less than half that of Italy, and less than one-third that of The Netherlands. — There were, at the census of Dec. 31,1877, fourteen towns in Spain with a population of over 50,000. The following is a list of these towns, with the number of their inhabitants:

Madrid	397,690	Granada	76,108
Barcelona	249,106	Carthagena	75,908
Valencia	143,856	Cadiz	65,086
Sevilla	133,938	Xeres de la Frontera	64,533
Malaga	115,882	Palma	58,294
Murcia	91,805	Lorca	52,984
Zaragoza	84,575	Valladolid	52,205

— Nearly 46 per cent. of the whole surface of the kingdom is still uncultivated. The soil is subdivided among a very large number of proprietors. Of 3,426,083 recorded assessments to the property tax, there are 624,920 properties which pay from 1 to 10 reals; 511,666 from 10 to 20 reals; 642,377 from 20 to 40 reals; 788,184, from 40 to 100 reals; 416,546, from 100 to 200 reals; 165,202, from 200 to 500 reals; while the rest, to the number of 279,188, are larger estates, charged from 500 to 10,000 reals and upward. The subdivision of the soil is partly the work of recent years, for in 1800 the number of farms amounted only to 677,520, in the hands of 273,760 proprietors and 403,760 farmers. — I. *Constitution.* At the end of the last century there was left no tradition of the ancient cortes of Castile, Aragon, Valentia and Catalonia, which were so powerful during the middle ages. The only vestiges of them which remained did not go beyond the empty ceremony in which an oath was taken to the prince of the Asturias. — The war of independence roused the Spanish nation, which had been accustomed to absolute monarchy, from its slumber. Deprived of its kings, the necessities of the time obliged it to appoint a regency, which, in order to gain more prestige and a greater authority, convoked the cortes. The deputies, assembled at Cadiz, dictated the constitution of 1812, which was the origin of representative government in Spain. — It would be vain to look on their work as the restoration of Spain's ancient liberties, which now belong exclusively to history. Nothing will be found in it but an echo of the ideas proclaimed by the French revolution of 1789. The spirit which reigns in it is the spirit of democracy, as is shown, beyond a doubt, by the establishment of a single chamber and the suspensive veto. — Once on the throne again, Ferdinand VII. re-established the ancient régime pure and simple. A military insurrection in 1820 restored a breath of life to the liberal system, which in 1823 fell a second time under the influence of internal dissensions, aided by the intervention of France on behalf of absolute monarchy, on which Europe looked complacently. — It was easy to foresee, that, with the death of Ferdinand, an inevitable change would take place in the form of government. Isabella II. succeeded him, at the age of three years, under the guardianship of her mother, Maria Christina, of Naples. The infante Don Carlos, brother of the king, and representative of the party opposed to all reform, considered himself injured in his rights, and the quarrel which ensued made it necessary to strengthen the new legitimist order by the sup-

greater evils than that of supplying false premises for syllogisms ending in secession. — Is the sovereignty of the state a term emanating from the sovereignty of the ruler? or is the ruler properly called a sovereign only as representing the state? The state stands for an untold amount of good to be secured to present and future generations by a just and wise government, at the head of which the ruler is placed. He is a means for a great permanent end; he dies, and some one else succeeds to him, and not by his will, for the most part, but by the law of the state. He disobeys the law, and seeks to overturn it; another is substituted for him, and all things go on, it may be, better than before. All this shows that the ultimate power in theory rests with the state or the people constituting it, and that the prince is a delegate or deputed sovereign. This of course touches the source of his power, and the object for which it is granted. The power itself may be absolute, and the grant may have been made in remote ages. The prince is a vicar of God, just as receivers of tribute are 'God's ministers, attending continually upon this very thing.' But he is such because the state and its authority are from God, and because he fulfills the end for which the helm of state is intrusted to him. If some democrats of the French school have talked of cashiering kings, the grossness of taste, and want of reverence for old dignities, were the result of an ill use of sovereign power. If the French kings had felt that they were created to minister rather than to be ministered unto, that their power, called sovereign, was delegated to them, the outrages of an extreme reaction against their sway might have been spared to the world."

port of liberal opinions. Still, there was no thought of restoring the constitution of 1812; it was believed that the people could be satisfied with something less; and in 1834 the royal statute was promulgated and a charter granted, establishing two chambers, the one of the grandees of the nation (*estamento prôceres*), the other of its representatives (*estamento de procuradores*), to whom was conceded not the initiative in the drawing up of bills, but the simple power of deliberating on those which might be presented to them by the ministers, together with an altogether derisive right of petition.—While war desolated Spain, disorder was increased by the manœuvres of the more or less ardent partisans of political progress. In 1836, an insurrection having broken out at Granja, Maria Christina was forced to sign a decree restoring the constitution of Cadiz until such time as the nation, represented in the cortes, should reject it or frame one in harmony with the wants of the time. In 1837 the constituent chambers were assembled, and drew up a constitution very similar to that at present in force in Belgium. Later, the moderate party, having obtained power, undertook to correct, according to its doctrines, the work of the progressive party, and formed, with the assistance of the ordinary cortes, the constitution of 1845, which, with certain amendments (1857), is the constitution that continued in force until 1868, and which has a great resemblance to the French *charte*, amended in 1830. X. Y.

— *Spain, after the Revolution of* 1868. In September, 1868, a revolution put an end to the dynasty of the Bourbons. The revolutionary juntas undertook, first of all, to secure public order, a necessity imposed on every well-organized society. It was besides necessary, for the organization and concentration of power, to establish the unity of the government, and to call on men experienced in the management of public business to take the initiative in this task. The revolutionary junta of Madrid, therefore, delegated its powers to Gen. Serrano, duke de la Torre, whom it intrusted with the formation of a provisional government. He did this by raising to the first places in the state those men who had labored for the triumph of the revolution by the sword, by their words or their acts. The provisional government convoked constituent cortes. The people hastened to the polls; universal suffrage was for Spain an accomplished fact. It was necessary, to give a legal character to the general acts of the provisional government, to establish a political constitution different from those of 1812, 1837 and 1845, and to bring it into harmony with the new wants of the nation, and the political interests of popular parties. The cortes, in a number of sessions, some of which have remained memorable, finished the task which they had undertaken, and transformed the provisional government into an executive power. — The constitution of 1869 was the cause of great progress in political institutions. The first title provided for individual liberty, the inviolability of a man's domicile, and the secrecy of letters, unless in case of offenses punishable by law. It also accorded the right of assembling and of association for all purposes not contrary to public morals. Every Spaniard, by its terms, acquired the right of expressing his ideas and opinions freely by speech, or through the press. The right of petition was recognized as belonging to all citizens except to the army. The nation pledged itself to maintain the Catholic religion and its ministers. The free practice of every other religion, in public or private, within the bounds prescribed by the general rules of morality and law, was guaranteed to all foreigners living in Spain. This provision applies to Spaniards professing a religion different from the Catholic. — That constitution guaranteed liberty of the press, and abolished its preliminary censure, etc. It allowed any one to found schools without the permission of the authorities. An important provision is that abolishing the requirement of a special permission to summon before the ordinary tribunals, public officials for any kind of misdemeanor. In case of a clear and evident violation of the provisions of the constitution, the official can not shield himself against responsibility by alleging an order emanating from his superiors. — Every Spaniard is obliged to take up arms in defense of his country whenever called upon to do so by law; to contribute to the expenses of the state in proportion to his means; in return he may aspire to every office and public employment, according to his merit and capacity. — Constitutional guarantees can not be suspended in the whole or in any part of the kingdom unless by law and for a given time, in extraordinary circumstances, and when demanded by public safety. Except in those extreme cases in which public safety might be endangered, the government has neither the right to exile nor to transport a Spanish citizen, nor to remove him farther than 250 kilometres from his domicile. — It is provided that every association, which, by its object or by the means which it employs, imperils the security of the state, shall be dissolved by law. — The constitution recognizes three public powers: the *legislative* power, the *executive* power and the *judicial* power. Sovereignty resides essentially in the nation, from which all powers emanate. The cortes make the laws; the king sanctions and promulgates them. The cortes are composed of two legislative assemblies, the senate and the congress (chamber of deputies), equal in power, except that the popular chamber has the priority in all discussions relative to taxation, public credit and recruiting. Congress is renewed every three years, and one-fourth of the senate during the same period. The cortes must remain in session at least four months each year, not including the time spent in organizing. They must be convoked before Feb. 1. Senators and deputies can not be arrested nor called before the courts during the time in which the cortes are in session, without the permission of the legislative

body of which they form a part, except in case they are taken *flagrante delicto*. The cortes have the right to appoint or to discharge, at will, the members of the court of accounts of the kingdom. In the case in which, in accordance with the vote of the congress, there is occasion to impeach a minister or a ministry, the senate constitutes itself a court of justice. In this case the chamber of deputies chooses a commission intrusted with conducting the impeachment. This commission and the members impeached may challenge one-third of the senators called to sit in judgment; the latter can not be chosen except from senators who have entered on their duties before the impeachment of the ministers. — Deputies are elected by universal suffrage. Every Spaniard aged twenty-five years, not having been sentenced for any crime, is a voter, and eligible to office. Election in two degrees is resorted to in the case of senators: they are nominated by commissioners chosen by universal suffrage, and by the members of the *deputations* or provincial assemblies. — King Amadeus, son of the King of Italy (duke of Aosta), was elected by 195 votes in the session of Nov. 19, 1869, and on Feb. 2 following he made his solemn entry into Madrid. The same day the regent of the kingdom resigned his powers into the hands of the assembly, and the king took the oath of fidelity to the constitution before the president, Don Manuel Ruiz Zorilla. The cortes pronounced their own dissolution in their capacity of constituent cortes. F. H.

— *Republic of* 1874. The reign of King Amadeus lasted only until Feb. 10, 1873. A royal message explained the reason of the abdication. On Feb. 11 of the same year the cortes accepted the abdication, by 256 votes against 32, and proclaimed the republic. A deputation accompanied the king and his family to the frontiers. M. B.

— *Restoration of the Monarchy in* 1874, *and present Constitution*. At the beginning of 1874 the republic was set aside by Serrano's regency. In the meantime the uprising in favor of Don Carlos had assumed greater dimensions. A dislike for the latter, and a desire for quiet and an orderly state of things, rendered the return of the younger branch of the Bourbons to the throne possible. Alfonso XII., son of Queen Isabella, and her husband, Francis de Assisi, was proclaimed king Dec. 30, 1874, and he succeeded in again restoring the monarchy to an orderly state. — The present constitution of Spain, drawn up by the government, and laid before a *cortes constituyentes*, elected for its ratification March 27, 1876, was proclaimed June 30, 1876. It consists of seventy-nine articles or clauses. The first of them enacts that Spain shall be a constitutional monarchy, the executive authority resting in the king, and the power to make the laws "in the cortes with the king." The cortes are composed of a senate and congress, equal in authority. There are three classes of senators: first, senators by their own right, or *senadores de derecho propio*; secondly, 100 life senators, nominated by the crown; and thirdly, 180 senators, elected by the corporations of state, and by the largest payers of contributions. Senators in their own right are the sons, if any, of the king and of the immediate heir to the throne, who have attained their majority; grandees, who are so in their own right, and who can prove an annual *renta* of 60,000 pesetas, or £2,400; captains general of the army; admirals of the navy; the patriarch of the Indias and the archbishops; the presidents of the council of state, of the supreme tribunal, and of the tribunal of *cuentas del reino*. The elective senators must be renewed by one-half every five years, and by totality every time the king dissolves that part of the cortes. The congress is formed by deputies "named in the electoral juntas in the form the law determines," in the proportion of one to every 50,000 souls of the population. By a royal decree issued Aug. 8, 1878, the island of Cuba received the privilege of sending deputies to the cortes, in the proportion of one to every 40,000 *free* inhabitants, paying 125 pesetas, annually, in taxes. Members of congress must be twenty-five years of age; they are re-eligible indefinitely, the elections being for five years. The deputies can not take state office, pensions and salaries; but the ministers are exempted from this law. Both congress and senate meet every year. The king has the power of convoking, suspending or dissolving them; but in the latter case a new cortes must sit within three months. The king appoints the president and vice-president of the senate from members of the senate only. The king and each of the legislative chambers can take the initiative in the laws. — The constitution of June 30, 1876, further enacts that the king is inviolable, but his ministers are responsible, and that all his decrees must be countersigned by one of them. The cortes must approve his marriage before he can contract it, and the king can not marry any one excluded by law from the succession to the crown. Should the lines of the legitimate descendants of Alfonso XII. become extinct, the succession shall be in this order: first to his sisters; next to his aunt, and her legitimate descendants; and next to his uncles, the brothers of Ferdinando VII., "unless they have been excluded." If all the lines become extinct, "the nation will elect its monarch."— The executive power is vested, under the king, in a council of ministers of nine members. F. M.

— II. *Administrative Organization*. The administration has been entirely remodeled since 1868: centralization has given place to *self-government*. The government, the provincial assemblies and the municipalities (*ayuntamientos*) constitute the three degrees of the administration. The government, in conjunction with the cortes, administers and executes the laws. The provincial assemblies have within their jurisdiction benevolent institutions, prisons, education, roads, canals; they have

the initiative in all projects of public utility within their respective boundaries. The municipalities, with *their juntas of associates*, have within their jurisdiction the tribunals of the justices of the peace, the colleges and free universities, and the levying of taxes; and are really sovereigns within the limits fixed by the law. — The constitution of 1869 has defined these limits by regulating the laws creating these different bodies, according to the following principles. 1, the government and management of the local affairs of the province by local provincial corporations; 2, publicity of the sessions of each corporation; 3, the publication of budgets, financial management, and the most important decisions; 4, interference by the king, or, in default of the king, by the cortes, to prevent the provincial and municipal assemblies from exceeding their powers, to the prejudice of general and permanent interests; 5, verification of their resources arising from taxation, to prevent the provinces and the municipalities from coming into opposition with the financial system of the state. — Municipal assemblies, elected by universal suffrage, and whose councilors elect the alcalde, previously appointed by the governors or the king, may establish hospitals, almshouses, lying-in-hospitals and colleges, and regulate everything capable of contributing to the scientific, industrial and progressive movement of the locality. — The provincial assemblies form a species of congress. Provinces, whose population does not exceed 150,000 inhabitants, have twenty-five deputies, and one more for each 10,000, up to 300,000; those which reach this figure have forty deputies, and an additional one for every 25,000 inhabitants; those which have 500,000 inhabitants have forty-eight deputies, and an additional one for every 50,000 inhabitants. Permanent provincial commissions are chosen from these assemblies, and renewed every year. Provincial assemblies hold two sessions, one in the month of April, and the other in November, to regulate and discuss the budget, to balance the preceding budget, and to perform all acts within their competence. The permanent commission has charge of the execution of the decisions of the assembly, decides urgent questions which may arise in the interval of the sessions, on condition that these decisions shall be submitted to the approval of the provincial assembly at its earliest meeting. The provincial assemblies, as well as the municipal councils, can exercise their functions only within the precise limits assigned them by the laws. The wants of each province, not within the exclusive jurisdiction of the state, are regulated by the provincial assemblies. Those which are special to each municipality are within the jurisdiction of the municipal councils. — Political questions are forbidden to the two assemblies. Consequently, the government has a representative in each province, the *civil governor*, to prevent the municipal and provincial assemblies from exceeding their powers. This functionary, essentially political, and liable to be removed by the government, supervises, in its name, the execution of the laws, and presides over the provincial assemblies. He has power to suspend their decisions, rendering, at the same time, an account of his acts to the government, which, on the advice of the council of state, confirms or rejects his decrees of suspension. The civil governor has, within his sphere of action, political affairs, the public safety, the postal service and telegraphs, economic establishments (agricultural, industrial, commercial and others), custom house guards for the prevention of fraud, the civil guard for the protection of persons, and the inspectors charged with the maintenance of public order. We thus see that in the civil order no functionary has so much power and responsibility as the governor. — There are in Spain 9,861 municipal districts, with an equal number of councils. There are as many provincial assemblies as provinces, with the exception of the Basque provinces, which, in virtue of their *fueros* (franchises), have a general assembly that is renewed every three years. These *fueros* were confirmed in 1839, at first by the general-in-chief, Baldomero Espartero, prince of Vergara, afterward by the national cortes. They (the *fueros*, or franchises) consist in the exemption from personal tax, from the tobacco monopoly and from stamped paper. They compensate for the exemption from customs by a voluntary gift of three millions of reals each year, for everything which these provinces import or export without being subject to governmental inspection. — Navarre also possesses franchises (*fueros*) which were limited by the law of Aug. 16, 1841, since that year this province is subject, like others, to a direct tax. — One of the most important privileges enjoyed by the Basque provinces is the exemption from military service. But, when the country has to carry on a national war, they are obliged to furnish a division, armed and equipped at their own expense, to defend the honor of the Spanish flag, which they did in the African war and the Cuban expedition. — Public education, in so far as it relates not only to elementary instruction but to middle-class schools, is placed entirely in charge of the municipal councils and the provincial assemblies. It is true that the law requires conditions of fitness for the masters and professors, but it is the assemblies which pay them. The state reserves to itself the universities, the high schools and special schools, without prejudice to establishments of the same kind, founded to compete with those of the state, by virtue of freedom of instruction. The clergy maintain seminaries for the instruction of young men intended for the priesthood. — III. *Judicial Organization*. The judicial organization corresponds to the requirements of civil and criminal justice. Its tribunals are classified as follows: 1, municipal tribunals, or justices of the peace; 2, tribunals of the first resort; 3, courts of appeal; 4, supreme court (court of cassation). Justices of the peace are intrusted with all registers of the civil state and of marriages. Formerly, marriage was exclusively canonical, and could only be contracted before the priest of

the parish and witnesses. The proclamation of civil liberty has authorized civil marriage contracted before the municipal officer, leaving to Catholic couples the right of converting the civil contract into a sacrament at the church. Disputes of voluntary jurisdiction are brought in the first instance before justices of the peace, whose duty it is to conciliate the litigants. No case can be brought before the tribunals without having been submitted previously to the tribunal of conciliation. Judges of courts of first resort decide all civil and criminal questions, concerning which they pronounce decisions, supported by reasons and considerations. *Audiences* are courts of appeal, before which are brought the decisions and sentences of the lower tribunals, and which have to pronounce opinions in criminal cases. The supreme court of justice, or court of cassation, decides questions of jurisdiction, appeals in cassation, and abuses of power; and fixes the common law of the land by its decisions, published in the official journal of the government. There are fifteen *audiences* (courts of appeal), 548 tribunals of the first resort, and as many of justices of the peace as there are districts administered by *alcades*. — Individual rights being incompatible with the policy of prevention, it was necessary to replace the latter by the repressive system, which can only be properly exercised by tribunals to insure all the certainty and publicity which the legal proceedings and the judicial decisions require. The organic law of the tribunals, voted by the constituent cortes, in establishing a new system, the system of the municipal tribunals, courts of investigation, courts of apportionment, courts of appeal, and the supreme court, separated the magistracy of the bench from that of the public prosecutor, by conferring permanence of tenure on the former. The progress of juridical science and the organization of justice in other countries rendered this classification and this distinction between magisterial functions necessary. Every judicial sentence must be pronounced in open court. Trial by jury exists in Spain. — The court of accounts, whose members are chosen by the cortes, is charged with auditing the accounts of the state, the provinces and municipal districts, when the amount reaches a given sum. This court is placed under the supervision and inspection of the two legislative assemblies, and no deputy or senator can be a member of it. Jurisdiction in case of disputes between the administration and private persons, formerly belonged to the provincial councils and the council of state; it belongs now to the authority of the *audiences*, and to the fourth chamber of the supreme court of justice. — The army is subject to a special jurisdiction for offenses and misdemeanors committed by the accused in their military capacity. Jurisdiction belongs, according to the case, either to a council of war, or to the supreme council. — The tribunal of the *rota* takes cognizance of all ecclesiastical or religious cases which concern Catholics or ministers of worship. — IV. *Ecclesiastical Organization.* The ecclesiastical organization consists of the papal nuncio, who is not only the representative of the holy see, but also president of the tribunal of the rota; the archbishop and bishops, chapters and parishes. The archbishops of Spain are nine in number. The archbishop of Toledo is considered primate of the church. The transmarine provinces have two archbishops, one at Santiago de Cuba (Havana), and the other at Manilla (Philippine islands). The peninsula has forty-four suffragan bishops, Cuba two, Porto Rico one, and the Philippines four. Ecclesiastical administration is the only one which does not correspond to the civil divisions of the country; it has retained its ancient boundaries. Certain provinces contain three or four bishops; on the other hand, there are provinces which form parts of several bishoprics, and certain bishoprics have parishes in four, five and even eight different provinces. The number of parishes is 19,397 in Spain, and 603 in the transmarine provinces; altogether, 20,000 parishes. According to the new concordat, eight bishoprics were suppressed, and two created, one at Madrid, the other at Ciudad-Real. — The budget of public worship amounts to about fifty millions of francs. The cortes, with the view of reconciling the interests of the treasury with the wants of the church, decided that the municipalities and the provincial deputations should bear a part of the expenditures for worship and the salaries of clergymen; the state contributed its share by an annual subsidy of thirty millions of francs. The ecclesiastical expenditures in each parish are not to exceed 2 fr. 50 cent. for each inhabitant. When this sum is exceeded, the state pays the difference. — The chapters are organized in the following manner: a dean, four canons in office, a greater or less number of canons freely elected by the crown, the pope or the prelates, and, finally, beneficed canons appointed in each cathedral according to the needs of worship. The seminaries for the higher education of the clergy are supported by the chapters. There are religious corporations in Spain devoted exclusively to civil education; such are the *Escolapian* Fathers. — The clergy enjoy the same political rights as other citizens. Priests may express their ideas freely, by speech or through the press, may take part in all associations, and vote in the electoral colleges. If guilty of any misdemeanor, they are tried in accordance with the provisions of the penal code; offenses against canonical rules are tried by prelates. The state does not interfere in affairs of the church, except when they are of a nature to affect public tranquillity and with a view to the legitimate defense of national institutions. The constituent cortes of 1869 subjected ecclesiastics to the oath which is considered a condition preliminary to the payment of the salaries assigned them as public functionaries. The clergy not wishing, in the great majority of cases, to submit to this formality, the payment of these ecclesiastical salaries was suspended. According to the terms of the new law on the clergy and worship,

the oath of allegiance to the fundamental law of the kingdom was declared necessary.

FAUSTINO HERNANDO.

— V. *Public Charity.* From remote ages numerous institutions, established and maintained by Christian charity, existed in the peninsula. In the thirteenth century the knights of the order of St. James had hospitals for the pilgrims visiting the apostle-patron of Spain, and the first monks dispensed a generous hospitality. Later, alms and rich legacies furnished the means of founding great hospitals, which the bishops supported so freely with their revenues that these revenues could be considered as savings banks for the poor. At present, charity is regulated in Spain by the law of June 20, 1849, supplemented by general regulation. Charity is considered as public when it is supported by the revenues of the state or the product of taxation, and as private when it is carried on exclusively at the expense of foundations. — Public establishments are classed as general, departmental and communal. General establishments are those for the insane, deaf mutes, the blind, and the incurable. The law puts hospitals, houses of refuge, lying-in hospitals and foundling hospitals in charge of the departments; and small hospitals, provisional almshouses, ambulances, domiciliary aid and asylums in charge of the communes. According to the law of June 20, 1849, the state is obliged to support at least two hospitals for the blind, two for deaf mutes, and eighteen for incurables and the infirm old. — The general direction of public charity belongs to the ministry of the interior (*de gobernacion*); it is exercised through the agency of the governors (prefects) and councils of provincial and communal charity. At Madrid there is a central general council. The departmental and local councils supervise the administration of hospitals, public as well as private, and report violations of the law to the governors. It is their duty to audit the annual accounts and budgets, and provide for deficits in case of necessity. — Private as well as public charitable institutions are subject to such visits as the president of the central council or the governor may prescribe. They are obliged to report their economic condition, and all papers and documents which concern their administration. Bishops have also the right of visiting institutions of charity in their dioceses, and of reporting such observations to the governors or to the central council as these visits suggest to them. — The functions of the committees of administration and of the councils of supervision of charitable institutions are performed gratuitously, except those of the secretary. There are also committees of ladies for foundling hospitals and lying-in hospitals, and brotherhoods for the assistance of the poor. — The resources of institutions of charity consist of the revenues from their property; and when these are sold, of the interest on state bonds, as well as alms, gifts, legacies, collections and grants voted in the general budgets, departmental as well as communal. The government has the right to create or suppress institutions of charity, but only after having taken the advice of the committee of supervision of the department, of the central council and the council of state. There is reason to believe that the sum employed by private charity greatly exceeds the total of public charity.

COUNT DE RIPALDA.

— VI. *Public Instruction.* Spain attracted attention, in the middle ages, by her love for the sciences, and the success with which they were cultivated in her ancient universities. Salamanca was, with Paris, Oxford and Boulogne, one of the great lights of Christian civilization. Universities constituted, in Spain, a species of scientific and literary municipalities, as the guilds did industrial and commercial municipalities. Kings founded some, endowed others, protected all, recompensing with a liberal hand their masters and doctors, and placing them by honorable privileges in the same rank with the nobility. In consequence of the powerful influence of the court of Rome and the eclat and great honor and profit attaching to ecclesiastical studies, instruction had fallen into the hands of the clergy, and, in the collation of academic grades, the pontifical authority was on a level with that of the king. At the period of the political regeneration of Spain, the government undertook the secularization of studies, by opening the universities to modern sciences, and appointing lay professors. The bishops, nevertheless, retained an indirect right of interference, as guardians of the purity of the faith and of good morals. — There are three grades of instruction: primary, intermediate, and academic instruction. The first is supported mainly by the *ayuntamientos* (municipalities), which are obliged to support one or more schools for boys and girls, in proportion to their population and resources. Every agglomeration of persons, consisting of more than 500 souls, must have a school for boys completely organized, and a school for girls. Those which do not reach this number are grouped together to form a district, provided with an elementary school. The government devotes a certain sum each year to aid poor municipalities. The law declares as "civilly obligatory" the *moral duty* of parents, guardians and trustees to give

* The national church of Spain is the Roman Catholic, and the whole population of the kingdom, with the exception of about 60,000 persons, adhere to the same faith. According to article twelve of the constitution of 1876, a restricted liberty of worship is allowed to Protestants; but it has to be entirely in private, all public announcements of the same being strictly forbidden. The constitution likewise enacts that "the nation binds itself to maintain the worship and ministers of the Roman Catholic religion." Resolutions of former legislative bodies, not repealed in the constitution of 1876, settled that the clergy of the established church are to be maintained by the state. According to official returns laid before the cortes in July, 1876, the number of places of worship and schools of Spanish Protestants were as follows: fifty-three places of worship; ninety schools, with 2,500 enrolled members, and 8,000 attendants at service on Sundays at the various chapels; 3,000 children. The poorest receive Protestant education. — F. M.

their children or their wards primary instruction from the age of six to nine years, charging the alcades or mayors *to see to this*. Ordinarily instruction is paid for; it is gratuitous only for the children of parents too poor to pay the small fee charged. No one may perform the duties of teacher without having obtained a diploma given by the government on receiving specific guarantees of capacity and morality; this applies also to private schools. The law favors the establishment of asylums (*parvulos*) and institutions for the blind, and for deaf mutes. — In 1867 there were about 22,000 public schools (including 1,021 schools for adults and 282 asylums), with more than 1,200,000 pupils; and 4,218 private schools, with 198,943 pupils. Of these 1,400,000 pupils, there were 850,000 boys and more than 550,000 girls. In 1872 Spain had, for primary instruction, 24,144 public and 4,188 private schools, forming a total of 28,332, attended by 1,425,339 pupils of both sexes, about 9.1 per cent. of the inhabitants. — Intermediate instruction is given in institutes founded in each capital of a province, and in every other city which has obtained the authorization of the central power to establish such an institution. These cities must have shown the convenience and feasibility of founding such an institute, and that they have satisfied the laws relating to primary instruction. There are also institutes founded and directed by private persons, according to the laws and regulations of the state, for this degree of instruction. The following figures are official. The number of students in the sixty-five colleges and institutes were: in 1865–6, 10,164; 1866–7, 6,688; 1867–8, 6,385; in private institutions, during the same years: 13,576, 18,335, 18,903 pupils; home instruction was enjoyed by 2,695, 1,936, 3,410 pupils. Secondary instruction has forty-six official and a great number of free establishments, with 20,000 students. — Academic studies are pursued in the universities under the immediate direction of the deans and rectors appointed by the head of the state. There are ten universities in Spain—an excessive number, difficult to reduce, because each finds certain good means of self-defense, either in its past glories, or its distance from every other literary centre; in the number of people who surround and frequent them, or in the wishes of the cities in which they are situated, and which consider them as property belonging to them and which can not be removed without injustice. Each of the universities has a number of faculties; that of Madrid, in the centre of the country, the first in Spain in dignity and splendor, has them all; it alone is able to continue or extend studies which qualify one for the degree of doctor. University studies are pursued only in state institutions. The whole number of students was, in 1866, 16,545; in 1867, only 12,104; in 1868, 12,269. In 1872, 12,269 students received matriculation in the universities of the state. — There are, besides, higher and professional studies. To the first belong the schools of bridges and roads, of mines, agriculture, industry, fine arts, diplomacy and the *notariado*. To the second, those of commerce, navigation, veterinary art, overseers (*maestros de obras*), mechanics (*aparejadores*) and surveyors; and, finally, there are normal schools. — Such is a picture of public instruction in Spain, according to the law of Sept. 9, 1857. It is completed by the protection and subsidies given to the academies, libraries, archives and museums, as a means of promoting the progress of science. The government supports the ten universities and other institutions of public utility; the provinces and municipalities contribute 1,500,000 reals to the maintenance of the archives and libraries, and to the development of higher and professional education. The sixty-three subsidized institutions of secondary education cost 7,560,000 reals. The income from academic dues amounts to 1,260,000 reals, the rents to 900,000, and the deficits covered by the provinces and municipalities to 5,400,000 reals. The treasury spends two millions of reals in subsidies to provincial institutions and special schools, as well as for archives and libraries.*

MANUEL COLMEIRO.

— VII. *Finances.* The constitution of 1869 provided, that, in the ten days following the opening of the cortes, which takes place Feb. 1 of each year, the budgets of receipts and expenditures shall be presented, and that in no case, and under no pretext, shall any payment be made, unless authorized by law, and ordered by the minister of finance. All the laws relative to public receipts and expenditures are considered as forming a part of the budget, and are published under the same heading. All the discussions to which it gives rise, and, in general, all the questions in which the interests of tax payers are involved, must be first laid before the chamber of deputies, and, in case of disagreement between it and the senate, the opinion of the chamber prevails. — As it may happen that the cortes can not always discuss and approve the budget and authorize the collection of taxes, either on account of the numerical insufficiency of the deputies present, or in consequence of the closing of the legislative session, or for any other cause dependent on circumstances, the con-

* It was found, at the general census of 1860, that of the total population of the kingdom, there were 2,414,015 men and 715,906 women able to read and write; 316,557 men and 389,211 women able to read, but not to write; and that all the rest, upward of 5,000,000 men and 6,800,000 women, could neither read nor write. At the preceding census, of 1846, the total number of persons of both sexes, able to write, was found to be no more than 1,221,001, while the total number able to read was only 1,898,288, or considerably less than one-fifth of the population. — In 1878 there were stated to be 29,600 schools in Spain for primary education, with 1,611,009 pupils. Middle-class education is given in fifty-eight public colleges, by 757 professors, to 13,881 pupils. In first-class education the most remarkable feature is the large number of law students, namely, 3,755 in 1859–60, divided among ten faculties. There were, at that date, ten faculties of literature and philosophy, with 294 students; seven faculties of sciences, with 141; four faculties of pharmacy, with 544; seven faculties of medicine, with 1,718; and six faculties of theology, with 339 students—in all, 6,181 students. The expenditure for public education by the government amounted, on the average of the last years, to rather less than £250,000.—F. M.

stituent cortes have decided, that, if deputies and senators, having met together at the place appointed by the constitution, neglect to vote the taxes, the receipts and expenditures shall be made in accordance with the conditions established by the budget of the preceding year. — This provision has been criticised. Many think that it destroys the constitutional principle, according to which no one is obliged to pay a tax not voted by the cortes, or the collection of which does not take place according to the forms prescribed by law. "According to the same principle, every public functionary, who seeks to exact or exacts payment of a tax not regularly authorized, is liable to the punishment provided for illegal exactions." There are also persons who consider this provision contrary to the rights of legislative power. But on examining the question dispassionately, it is clear that this article is simply a complement of the fundamental law, and is applicable only in cases, really very rare, in which the cortes could not or would not vote the taxes and authorize their payment. In other words, it is a law dictated by foresight, a conditional law, to meet cases in which the article of the constitution in question can not be carried out. It is in no way opposed to the prerogatives of the cortes; its action is to avoid continuing political parties in power indefinitely; it establishes merely a common rule for the administration, the government and the country, so that these three moral powers may always continue living and active. The administration makes its action felt in all parts of the social body, the government supervises all, and the country pursues its labors, trusting confidently in the public powers. — But to return to the budget. Each ministry fixes the budget of the expenditures of its own department, and presents it to the minister of finances, who alone has authority to lay it before the cortes, accompanied by a statement of the receipts, that is to say, the means of meeting all obligations. The budget is divided into two parts: the *ordinary* and the *extraordinary*. The first includes the expenditures and receipts which have a permanent character, though their amount may be variable. The second includes the transient or temporary receipts and expenditures. They are both divided into chapters, comprising all accounts of the same nature, and then divided into as many headings as are necessary for the determination of all details. As regards the budget, there are general and constant rules, sanctioned by time and by the laws: 1, the government can neither suppress nor modify the receipts voted by parliament, nor decree new ones; 2, it can not apply funds to any other use than that determined by the law; 3, the budget extends over one year, from July 1 to June 30, inclusive; accounts remain open for the following six months, for final settlement, for the collection of outstanding sums, and the expenditures voted for the said year; 4, in case it is necessary to incur expenditure for which the legislature has provided no credit, or when the sum granted is insufficient, the government must, in the former case, ask the cortes for an extraordinary credit, and, in the latter, an additional credit, stating the means of covering it; 5, if the cortes are not in session, and if the expenditure for which a credit has not been voted has a character of urgency, the government may authorize it, on its own responsibility, either by transferring a credit from one chapter to another in the section to which the expenditure belongs, after having first informed the financial section of the council of state of its action, and deliberated upon it in the council of ministers, or by an extraordinary or a supplementary credit, covered (the council of state consenting) by the fund of the floating debt of the treasury; 6, the government is obliged to lay before the cortes, during the first month of the session, a bill approving the credits made during their absence; 7, every head of a department, and every functionary, to whatever class he may belong, is responsible to the treasury for every amount paid beyond the credit granted; 8, payments are made every month, after the approval of the council of ministers. Besides these financial rules recommended by legislation, there are others whose utility has been recognized in recent years, and which have at present the force of law. They are the following: 1, in each law relating to the finances, the sum which the floating debt of the treasury should reach during the year must be indicated in precise manner—it constitutes, ordinarily, the third of the general budget; 2, the government should transmit to the court of accounts all the documents drawn up for the purpose of procuring funds, so that if the court discovers any illegality in them, it may report such irregularity immediately to the cortes; 3, the same court has to examine the grant or grants of credit, and give its opinion on their legality. The ministers are responsible, and are subject to criminal prosecution for any collection of money not authorized by the cortes. Each minister orders the expenditures of his own department; but the orders for payment are made by the minister of finance, except so far as concerns the expenditures of the ministry of war and marine, considered as military bodies. These two ministries are responsible for all payments unduly made, unless the ministry of finance declares them valid. No court can issue a writ of attachment or an execution on funds of the state, either capital or interest. Every sum due by the state, recognized and audited, the payment of which is not demanded for five years, is confiscated to the benefit of the treasury.

RUIZ GOMEZ.

— There have been no accounts of the actual public revenue and expenditure of the kingdom published since the year 1870–71, but only budget estimates. These differ, as will be seen from the subjoined tabular statement, giving the budget estimates of five financial periods, to an extent such as to allow not even an approximate judgment of the real receipts and disbursements. There are, indeed, accounts of public revenue and expenditure published monthly; but the public

accounts have not been approved by parliament since 1865–7; and the *tribunal de cuentas* has not audited the accounts later than 1868–9. According to official returns, the following were the estimated revenue and expenditure for the financial years 1877–82:

YEARS.	Revenue.	Expenditure.
	Pesetas.	Pesetas.
1877–8	736,000,000	735,750,000
1878–9	750,680,202	753,177,885
1879–80	778,478,388	806,590,940
1880–81	791,650,792	826,651,128
1881–2	782,000,000	782,650,000

—The following are the budget estimates for the year ending June 30, 1883:

REVENUE.

	Pesetas.
Direct taxes	280,979,000
Indirect taxes	164,409,000
Customs	115,458,000
Stamps and excise	221,585,000
Revenue from national property	28,860,295
Various	21,706,000
Total	782,997,295

EXPENDITURE.

	Pesetas.
Civil list	9,800,000
Cortes	1,859,250
Public debt	223,023,056
Indemnities and pensions	47,750,065
Ministry of president of council	1,101,600
Ministry of foreign affairs	3,580,900
Ministry of justice	51,625,675
Ministry of war	126,272,700
Ministry of marine	36,127,300
Ministry of interior	45,359,000
Ministry of public works	90,117,400
Ministry of finance	20,531,925
State monopolies	124,957,875
Various	522,530
Total	782,639,250

—The minister of finance declared, in presenting the budget for 1871–2, that the state was "on the verge of bankruptcy," from which it could be saved only "by the most strenuous exertions, devoted both to raise the revenue, by the imposition of new taxes and otherwise, and to depress the expenditure to the lowest possible point." The latter recommendation has in recent years become difficult of execution, on account of the large expenditure connected with the civil war. In the budget for 1870–71 the cost of the war department was estimated at £4,730,321, while it was set down in 1874–5 at £9,840,000, being about one-half of the total revenue which it was expected would be raised. But the army expenditure fell again to under five millions in the budget of 1877–8, and remained the same in the budgets of 1878–82. Although in 1881–2 the budget estimate of the revenue was £31,320,000, and the expenditure $31,306,000, still, as in previous years, there was a large deficit, and in October, 1881, the minister of finance spoke in strong terms of the mismanagement of his predecessors, and proposed a new basis of financial administration, by which to rectify past deficiencies and secure a surplus in the future. He proposed, as seen above, a budget for 1882–3, with a revenue of 782,997,295 pesetas, and an expenditure of 782,639,250 pesetas. Efforts were made again, in preparing the budget for 1883–4, to adopt extraordinary means to increase the revenue, but without satisfactory results.—The large and constantly increasing annual deficits, dating from the reign of Queen Isabel, were covered, partly by loans, partly by extraordinary taxation (such as "exemptions from military service," figuring in the budget of 1874–5), and partly by the sale of national property, formerly belonging to churches, convents and monasteries.—The following is a statement of the Spanish debt on Sept. 1, 1881:

		Pesetas.
5 per cent.	consolidated, due to United States	3,000,000
3 "	consolidated, due to Denmark	3,250,000
1 "	external debt	4,092,894,000
1 "	internal debt	3,945,160,194
1 "	bonds inscribed in favor of corporations	20,784,432
1 "	bonds inscribed in favor of clergy	14,332,005
2 "	bonds for public works	21,578,000
2 "	subventions to railways	614,409,000
Old debts convertible into internal 3 per cents.		204,088,175
2 per cent.	external redeemable debt	254,402,000
2 "	internal redeemable debt	471,647,881
1 "	bills	170,386
Arrears		9,567,895
3 per cent.	securities of guarantees	2,685,455,250
Total		12,508,337,576

—In a report of the government of the king Alfonso XII., dated July, 1875, it was stated that none of the national creditors could hope to be satisfied "without having recourse to credit operations at an enormous rate of interest, which in a short time doubles the original debt." By a complicated process of conversion, arranged in 1881–2, the various classes of Spanish debt are to be converted into "new 4 per cents," whereby the actual capital will probably be reduced to £338,000,000, bearing an annual charge of £9,500,000, equal to about 11s. per head of the population. In addition to this, the state has incurred obligations in respect to the island of Cuba, estimated at over £10,000,000. F. M.

—VIII. *Army and Navy.* The Spanish army was composed, in 1874, of 70,000 infantry, 13,000 cavalry, 3,000 engineers, 14,000 artillery; besides 40,000 infantry of the reserve, 12,000 custom house employés, 12,000 police and 3,000 militia of the Canary islands. In these figures are not included the 23,000 to 24,000 men of all arms then garrisoned in Cuba, the 3,400 at Port Rico, and the 11,000 of the Philippine islands.—The law of February, 1878, on the reorganization of the army abolished conscription by lot, and replaced it by voluntary recruitment. The recruitment takes place in the capitals of the provinces, in proportions to be fixed annually by a special law of the cortes. The voluntary recruit must not be less than nineteen nor more than forty years of age. The duration of service is two years for a new recruit, and one in case of re-enlistment, with a chance for the recruit of remaining for life in the

active army, and enjoying the benefit of promotion in the order of merit and seniority. Voluntary recruits receive pay amounting to one *piécette* (1 franc) per day, payable weekly. The reserve (which remains at home) comprises all young men who, on the first of January of each year, shall have completed their twentieth year. The government may mobilize the reserve forces within the limits of the province to which they respectively belong, by a simple decree of the government; it may also mobilize them in their respective military districts, by decree, when the cortes are not in session; but in this case the government must inform the assembly as soon as it resumes its labors. In all other cases mobilization can take place only by virtue of a law. — The requirement of a certain stature, as a condition for military service, is abolished in the regular army; it is only necessary to show that the recruit is sufficiently strong and robust in health to form a part of the military force. Voluntary recruits for the active army are exempt from the reserve. The term of service in the reserve is three years. The first year is spent in the ranks, to receive military instruction. During the other two years, young men enrolled in the reserve may be called to active service, in case of war, in which contingency a law of the cortes is necessary. Young men of seventeen years may also be admitted into the reserve, if their physical constitution permits them to enter the service. — Instruction is given to soldiers of the infantry, artillery and engineers, by the officers of the corps; but the cavalry must pass through training institutions. In each corps there are schools for soldiers, non-commissioned officers, and officers, in which they are instructed in their own duties and in those of the grade immediately above them. In the infantry *cadets* are admitted, whom an officer instructs in the branches necessary to pass the examination as sub-lieutenants. The places of sub-lieutenant not filled by non-commissioned officers and cadets, are reserved for the graduates of the infantry college at Toledo. These graduates, admitted at the age of fourteen or fifteen years, remain, after examination, three years at school, then enter the regiments, where they pass successively, in the course of six months, through all the inferior grades, before they are appointed sub-lieutenants. A similar college exists at Valladolid for the cavalry; the graduates follow the same course to become cornets. The artillery has its college at Segovia, the students (who lodge there as in the preceding two) remain four years, at the end of which time they become attendants of the *school of application*, from which, after two years, they issue as lieutenants of the corps. The school of engineering is at Guadalajara. Applicants for admission must be from sixteen to twenty-five years of age, and pass an examination to enter as day scholars, according to their merit, either in the preparatory course, or in that of the first year. After the course of the second year, those not already occupying that rank are made sub-lieutenants; after four years they obtain the grade of lieutenant. For the staff school, situated at Madrid, the conditions are nearly the same as for the school of engineering. At the end of four years the lieutenants pass into the infantry, then into the cavalry, in order to familiarize themselves during fifteen months with all the details and accounts; they visit the different military establishments during six months, before receiving their final appointment. There is also a college at Madrid for aspirants to employment in military administration; the course there lasts four years. — *Justice* is administered, in the case of soldiers, by military councils of war, presided over by commanders of corps, or the local governor, according to circumstances, and composed of six members. The sentence is laid before the captain general, who, aided by his auditor, affirms or reverses it; in the latter case it is referred to the supreme tribunal of the army and navy. In the case of officers, the council is composed of general officers, and presided over by the captain general, assisted by the auditor, who does not, however, take part in the deliberations. The head of the state decides in the last resort, on the advice of the supreme tribunal. The sentence may be carried into immediate execution, and without appeal, if it does not involve loss of employment or life; nevertheless, it is always submitted to the approval of the chief of the state. Offenses and ordinary misdemeanors are judged by the captain general, assisted by his auditor; the case is then presented to the king. Directors general may order investigations against officers; they then present the case to the king, who decides, with the advice of the supreme tribunal. The artillery, engineers and the military administration have special tribunals. Besides the auditor and the procurator connected with the chief towns of the district, the military governors are obliged to consult an assessor.*—The navy consisted, according to official returns, of the following vessels afloat and under construction, in 1882:

		Guns.
	First Class:	
5	ironclad frigates	60
12	screw frigates	228
2	paddle steamers	9
	Second Class:	
5	paddle steamers	12
11	screw steamers	39
2	screw transports	4

* The army of Spain, reorganized in 1868, after the model of that of France, was modified as to its organization by subsequent laws in 1877, 1878 and 1882. Under the new military law, the armed forces of the kingdom consist: 1, of a permanent army; 2, of a first or active reserve; and 3, of a second or sedentary reserve. All Spaniards past the age of twenty are liable to be drawn for the permanent army, in which they have to serve three years; they then pass for three years into the first or active reserve, and then for six years into the second reserve. Any one may purchase exemption from service by a payment of about $300. — The strength of the permanent army of the peninsula for 1882-3 was put down at 94,810 men; while for Cuba the number was 26,579; Porto Rico, 3,318; and the Philippines, 10,085. Of the infantry there are 140 battalions, and of the cavalry twenty-four regiments; six regiments of artillery, and ten battalions of pioneers. The civic guard consists of fifteen regiments, with 780 officers and 14,756 men.

		Guns.
	Third Class:	
1	ironclad monitor	3
2	floating batteries	5
19	screw steamers	35
26	screw gunboats	26
1	paddle gunboat	1
7	paddle steamers	14
1	screw transport	2
4	pilot sailing vessels	--
	Unclassified:	
1	steamer	2
2	cadet corvettes	40
29	small screw gunboats	37
2	torpedo boats	--
132	Vessels. Total guns	517

Total horse power of engines, 26,067.

—The navy of Spain was manned, in 1879, by 14,000 sailors, and 7,033 marines, and commanded by one admiral, seven vice and rear admirals, and 644 commissioned officers of various grades. The navy, like the army, is recruited by conscription, naval districts for this purpose being formed along the coast, among the seafaring population. The number inscribed on these naval conscription lists of men between eighteen and thirty years was reported to be 72,000 at the end of June, 1875. — IX. *Resources, Trade and Industry.* Agriculture is the most important branch of activity in Spain, where there is reason to believe that, of 100 inhabitants, 75 cultivate the soil. The land cultivated comprises 1,150,200 hectares of irrigated land and 25,893,637 hectares not irrigated. The Basque provinces and Navarre refuse all information on this subject. It results from these figures, and from those which may be assigned to the wooded country, that there still remain about ten million hectares upon which human industry has not yet been exercised. — The total imports and exports of Spain were as follows, in each of the five years 1877–81:

YEARS.	Imports.	Exports.
	Pesetas.	Pesetas.
1877	538,350,000	515,900,000
1878	397,800,000	429,300,000
1879	443,300,000	503,900,000
1880	473,500,000	544,300,000
1881	496,400,000	591,300,000

Among the importing countries, Great Britain and France stand first; but in exports, the former holds the first rank. — The merchant navy of the kingdom consisted, on Jan. 1, 1881, of 2,236 vessels, of a total burden of 560,125 tons, comprising 347 steamers, of 233,686 tons. At the commencement of 1860 there were 6,715 vessels, of 449,436 tons burden, and at the commencement of 1868 the number of vessels had fallen to 4,840, and the total tonnage to 367,790, showing a decrease in the eight years of 1,975 vessels, of an aggregate burden of 81,696 tons. There was an increase in tonnage, it will be seen from the preceding figures, of 192,355 tons, in the thirteen years from 1868 to 1881. — The length of railways in Spain, on Jan. 1, 1880, was 6,550 kilometres, or 4,067 English miles; and 2,000 kilometres, or 1,242 English miles, were in course of construction. The whole of the Spanish railways belong to private companies, but nearly all have obtained guarantees, or subventions, from the government. During the reign of Alfonso alone 2,000 miles of new lines have been opened, and 3,000 more were in course of construction in 1882. — The postoffice carried 85,210,000 letters and post cards in the year 1878. There were 2,592 postoffices on Jan. 1, 1879. — The length of lines of state telegraphs of Spain, on Jan. 1, 1880, was 16,124 kilometres, or 10,070 English miles, and the length of wire 40,405 kilometres, or 25,150 English miles. In the year 1880 the total number of telegraph messages was 2,222,429; one-fourth of the whole number being international, and one-fifth of the remaining number administrative, dispatches. — X. *Colonies.* The colonial possessions of Spain, formerly embracing nearly the whole of America, are reduced at present to Cuba, Porto Rico and the Philippine islands, with scattered settlements in the Atlantic and Indian archipelagos, a small strip of territory in northern Africa, and another strip claimed on the west coast of Morocco. The total area of these possessions is 164,926 English square miles. The total population, according to returns mostly for 1877–80, numbered 6,899,347. These returns state the area and population of the various possessions as follows:

COLONIAL POSSESSIONS.	Area.	Population.
	Eng. Sq Miles.	
1. Possessions in America:		
Cuba	43,220	1,424,619
Porto Rico	3,550	754,313
Total in America	46,770	2,178,932
2. Possessions in Asia:		
Philippine islands	114,326	6,300,000
Caroline islands and Palaos	560	36,000
Marvan islands	420	8,665
Total in Asia	115,306	6,344,665
3. Possessions in Africa:		
Fernando Po, Annabon, Coresco, Elobey, San Juan	850	35,000
Total possessions	162,926	8,558,597

The population of Cuba, at the census of Dec. 31, 1877, was distributed as follows: Whites, 764,164; free negroes, 344,050; negro slaves, 227,902; and Chinese, 58,400. The number of slaves from 1870 to 1877 decreased by 136,000. But the total number of inhabitants also decreased by 20,500 during the same period. — Spain is the only European state which still permits the existence of slavery in its colonies. A bill for the abolition of slavery in Porto Rico was passed by the national assembly on March 23, 1873, while a bill for the gradual abolition of slavery in Cuba was laid before the cortes in November, 1879, supported by the government. The bill provides, that, on the promulgation of the law embodying it, all slaves from fifty-five and upward shall become free; that slaves from fifty to fifty-five shall be liberated on Sept. 17, 1880; from forty-five to fifty, in September, 1882; from forty to forty-five, in 1884; from thirty-five to forty, in 1886; and from thirty to

thirty-five in 1888. Those under thirty shall be emancipated in 1890. From 1880 a sum of 100,000 piastres was to be annually set apart in the Cuban budget for defraying the expense of the emancipation of the slaves, the price to be paid to the owners being fixed at 350 piastres for each slave. — Cuba is divided into three provinces, the southeast and central being the richest and most populous, containing twenty-two cities and towns, and 204 villages and hamlets. — BIBLIOGRAPHY. Niñano, *Diccionario-geografico, estadistico, historico de España y sus provincias de ultramar*, Madrid, 1846–50; Block, *L'Espagne en* 1850, Paris, 1851; Lestgarens, *La situation économique et industrielle de l'Espagne en* 1860, Brussels, 1861; Garrido, *La España contemporanea*, Barcelona, 1865; Germond de Lavigne, *L'Espagne et le Portugal*, Paris, 1867; Thieblin, *Spain and the Spaniards*, 2 vols., London, 1874; *Memorias del instituto geografico y estadistico*, Madrid, 1875, etc.; Chervin, *Statistique du mouvement de la population en Espagne de* 1865 *à* 1869, Paris, 1876; *El movimiento del estado civil in España desde* 1861 *à* 1870, Madrid, 1877; *Guia official de España*, Madrid, 1878; Lafuente, *Historia general de España*, Madrid, 1850–67, 30 vols.; Tapia, *Historia de la civilisacion de España*, 7 vols., Madrid, 1861–4; Montesa y Manrique, *Historia de la legislacion, etc., de España*, Madrid, 1864; Rico y Amat, *Historia politica y parlamentaria de España*, 3 vols., Madrid, 1860–62; Alfaro, *Compendio de la Historia de España*, 3 vols., Madrid, 1862. F. M.

SPEAKER. (See PARLIAMENTARY LAW.)

SPEAKERS. (See CONGRESS, SESSIONS OF.)

SPECULATION, in some form or other, has existed under every commercial system; but the forms under which it is now largely conducted, and the enormous extent of the speculative transactions, are peculiar to the present age. It is with the discussion of these forms—their character, their development, and their more immediate effects—that this article is concerned. (For the more wide-reaching effects of the speculative spirit upon credit, business and production, see articles on COMMERCIAL CRISES, and on OVER-PRODUCTION.) — Until the present century the chief field for speculative operations was furnished by the difference of price of the same commodity in different places. Mercantile profits were made by buying in a cheap market and selling in a dear one; and with the imperfect means of communicating intelligence, and the slow and generally hazardous means of transportation, such speculations often involved great risks and offered the chance of correspondingly high profits. But the modern development of the postoffice, of steam transportation, and especially of the telegraph, changed all this. Abundance in one market, and scarcity in another, was no longer possible except on a limited scale or through artificial obstructions. The telegraph gives notice of the inequality in its first beginnings; and, long before it can reach an extreme, cargoes have been diverted from the full market to the empty one. Indications which once could be seized only by men of exceptional position and sagacity, are now the common property of the whole business public. — But the opportunities for men of exceptional position and sagacity have been extended in another direction more than they have been curtailed here. The state of the markets at distant places may be known to every one; but it is still only the few that can foresee their state at distant times. The information that has set narrow limits to speculation in place has furnished the necessary basis to an infinitely more important and wide-reaching speculation in time. The difference in price between New York and Chicago, apart from temporary disturbing causes, can never be greater than the cost of carriage (in its widest sense) between the two places, because we have in the one place telegraphic information concerning the markets of the other. If we had the same certain knowledge of prices at future times, the prices of goods to-day and a month hence could not differ by more than the cost of holding those goods for that length of time. It is, of course, impossible to have such knowledge; and the few who have the power to foresee or to manipulate the course of the market are enabled to turn these price variations to their own account. Before the invention of the telegraph, such dealing in futures would have been a blind game of chance; now, there is just such a combination of indications and uncertainties as to give scope to business talent of the highest order. Here lies the explanation of what is peculiar in the speculation of the present day. — In a healthy state of business these variations in price are not very large or rapid; often not large or rapid enough to make speculative dealings pay the interest of the capital required. But such a state of things is almost always disturbed by a sudden rise in the price of certain classes of goods, or perhaps by a general rise of prices. A sudden increase in the demand or decrease in the supply of a particular article will produce the former result; inflation of the currency, increased production of the precious metals, or, sooner or later, the unrestricted extension of business credits, will produce the latter. The holder of goods of the classes affected sees himself nominally the richer for every day that goes by, and with this apparent increase of wealth somes a desire on the part of every one to hold more goods and stocks, even if they have to borrow money to do so. This shows itself, not merely in the operations of the stock and produce exchanges, but in business speculations of every kind; most of all, perhaps, in the extension of speculative production, which lies outside the scope of the present article. This holding for a rise is the form of speculation which presents most attractions for the general public; and a speculative mania is often developed which can only end in a crisis. This mania may attach itself to particular

lines of investment, as to tulips in Holland in 1634–8, to South sea bubbles in England in 1720, to manufactures in 1815 and 1825, to the English railways in 1846, or the American railways (among other things) in 1871–3. Often it may be more general in connection with the indiscriminate extension of credit, as in the years preceding 1837 and 1857; or, worse yet, in connection with currency inflation, as seen in France at the time of John Law's bank, 1718–20, in the assignats of the French revolution, or in our own recent experiences; where every exporter or importer, and indirectly, every business man, is obliged to be involved against his will in speculation on gold. — In such speculative periods, with unsettled and generally advancing prices, the more prudent business men are thus obliged to have recourse to contracts for future delivery of goods at definite prices. The builder can not safely make a contract for a fixed sum unless he knows what his materials will cost a few months hence. The cotton manufacturer can not arrange his basis of production and scale of prices unless he knows what his raw material will cost him from time to time. If a planter or cotton factor agrees to deliver him his material from time to time at determinate prices, the manufacturer knows where he is likely to stand. Here is a transaction, speculative in form as far as concerns the broker, but in reality a defense against the evils of speculation. The manufacturer knows what he can probably afford to pay, the producer knows for what he can probably afford to sell. Of the unavoidable risk, each party takes the part concerning which he can best judge, and against which he can best protect himself This is an exceptionally favorable case. The majority of those who sell "short," *i. e.*, who engage to deliver goods which they do not hold, rely not so much upon sources of supply which they represent, as upon their judgment concerning the future movements of the market. Yet even in this case their influence may be healthful, and their work legitimate. It has been said that the general public is fond of speculating for a rise. Now, a man of special training, and special sources of information, can often see clearly where the general public is mistaken, and by selling short at the high prices, and obtaining the means of meeting his obligations at the lower ones, may take advantage of the public mistakes, and at the same time render a service to the market in steadying prices. As transactions of this kind multiply, it is inevitable that they should fall more and more into the hands of brokers, and that these brokers should organize exchanges for the purpose of more easily dealing with one another. These last are of modern growth. The germ of the New York stock exchange seems to have existed at the close of the last century, but its regular organization dates from 1817. The Chicago produce exchange is scarcely thirty years old. These means of communication have greatly facilitated *bona fide* transactions; but, with their growth, gambling transactions have grown up about them to such an extent as often to hide the *bona fide* transactions from view. — The first step in this direction has been the habit of dealing upon margins; that is, of not making full payment at the time of the first engagement, but of depositing a sufficient sum to insure the broker against loss by change in the price. It is hard to draw the line where such transactions lose their *bona fide* character; the deposit of a margin may simply be a convenient and perfectly legitimate way of extending business credit. But where the marginal idea is carried through the transaction, and settlement is effected, not by an actual delivery and payment, but by a payment of the difference in price at the two periods, with no delivery at all, we have a complete departure from the original character of the transaction. It is now nothing more than a wager on the change of price of the stocks or goods in question, somewhat cloaked under the forms of legitimate business. In the next stage of speculation, by "puts," "calls," and "spreads," even these forms are cast aside. In the first of these a man buys of a broker, for a small consideration, the right to deliver a certain quantity of stock at a specified price within a specified time; in the second, he buys the right to receive it; in the third, he buys for a considerably larger price the right of delivering or receiving as he may choose. They are thus, even in form, simply wagers on the price movement. — We have spoken of the outside public as generally speculating for a rise, and the more practiced operators for a fall. Of course there are numerous exceptions to the latter; and it is precisely these exceptions, when they take the shape of corners, that make the most impression upon the public mind. In its principles a corner does not differ from any other monopoly. An individual or a ring who once secure the whole or nearly the whole marketable stock of a commodity, have, of course, the power to fix the price as long as that state of things continues. But in the case of ordinary attempts at monopoly the buyers have usually the advantage of being able to diminish their consumption for the time being, and to wait for the advent of competing sources of supply. But the bear, who has sold short, has neither of these advantages. He must deliver a fixed quantity, and must do it within a fixed time. He has no choice but to do that or fail; and the operator who can control the supply of a stock in the market for a comparatively short time can charge any one who has sold that stock short any price up to what will drive him to absolute failure. Just as it is the public fondness for speculating for a rise that makes it possible and profitable for the street to sell futures, so it is the readiness of the street to sell futures that makes it possible and profitable for large operators to engineer a corner. — In spite of the strong impression that they make upon the public imagination, successful corners in stocks are by no means so common as is generally supposed The important ones in New York have been the Morris canal corner of 1835, the Harlem corners of 1863 and 1864,

Prairie du Chien of 1865, North-Western of 1867, and Hannibal & St. Joseph of 1881. Even in these it is not always certain that the bulls make the profits they appear to. For the time being they extort enormous sums; but after the settlement they find themselves holders of masses of stocks, which they have usually bought somewhat above its normal figures; and the price at which they can ultimately dispose of this stock is an important element in the question of their success. But it is extremely difficult to carry a stock corner forward to its completion. The Michigan Southern corner of 1865—apparently a very safe operation, since the cornerer was buying property which he really wanted—was broken by an issue of construction stock. So also in an attempt to corner Milwaukee & St. Paul, and so twice in the history of Erie. The substitution of preferred for common stock has had the same effect. A still commoner source of failure, which it is impossible to guard against, is the treachery of individual members of a cornering pool. — Corners in produce are a growth of the most recent years; yet they already exceed stock corners in frequency, and still more in economic importance. It is but a short time since writers regarded corners in a commodity like wheat as almost an impossibility; so varied are the sources of supply, so apparently impossible is it for one man to control them. But these writers had not foreseen the development of short sales and paper contracts which should make a temporary control of a particular market so thoroughly effective toward securing this end. The extent to which speculative sales of produce have grown is almost inconceivable. The statistician of the New York produce exchange testified that nine-tenths of its dealings were purely speculative. The same fact is more strikingly brought out by a comparison of the quantities of produce actually brought to New York in 1882 with those nominally sold.

PRODUCE.		Sales.	Receipts.
Wheat	bushels	647,147,000	44,736,000
Corn	"	443,091,000	16,399,000
Oats	"	150,524,000	15,905,000
Cotton	bales	30,049,000	600,000
Petroleum	barrels	1,524,887,000	10,500,000

As compared with 1881 the increase in these speculative sales is probably more than one-third, while the actual quantity of products delivered has, on the whole, diminished. In fact, flour seems to be the only produce of first-rate importance which still maintains its non-speculative character. The pretended sales of wheat for 1882, as our table shows, were more than fourteen times the quantity received. The sales of cotton were five times the entire crop, fifty times the whole quantity received in New York, and two hundred times the actual deliveries in the New York market. In the oil business it has been even worse. The recorded sales in November alone amounted to nine times the entire stock in the country, or to 185 times the production for the month. (For a fuller exhibit of these facts, see "Public," Jan. 4, 1883.) In Chicago matters are almost the same —three thousand millions of sales on less than four hundred millions of produce in 1882. In Liverpool they are no better, in spite of more apparent compliance with the forms of delivery. A single consignment of a hundred bales of cotton has nominally changed hands one hundred and fifty times before sale for *bona fide* consumption. When the whole amount available for the year's use in Europe and America has been less than 7,000,000 bales, the year's contracts for future delivery have amounted to 80,000,000 bales. Thus Liverpool has been the centre of cotton corners in the latter half of successive years beginning in 1879, and seriously disturbing legitimate business. Meantime we have had in America (usually centring in Chicago), the wheat corners of 1879, 1881 and 1882, the pork corner of 1879 and 1880, and more or less successful attempts at many others, scarcely less wide-reaching than these in their effects. — The attempts to meet these evils by legislation have had little success. Legislative inquiries, like that of the New York committee on corners, have proved abortive; enactments like those of Illinois in 1874 have been inoperative. Only to a limited extent have the courts been able or willing to interfere, by making it impossible for speculators to sue on their contracts. It was indeed held, in a few English cases in the early part of the century, that a contract of sale for future delivery of what a person does not now hold, was void; but in the business developments and necessities of the time it was of course impossible to maintain that doctrine. It is now held, that such a contract is valid if, at the time it was made, either party intended it should be fulfilled. In order that the court should regard it as a gambling contract, it must be proved that neither party regarded it as more than a wager on price variations. But practically the courts do not do much even within these narrow limits. Unless they are supported by the public opinion of the boards of trade and similar organizations, it is in the power of these last to inflict upon any dealer who may have recourse to the courts, penalties in the way of loss of business facilities for which he can obtain no adequate compensation. Add to this, that the courts, as in a recent case in Illinois, have often shown unwillingness to enter upon the consideration of matters of this kind, and we see how inadequate are the legal defenses against the present state of things. — The difficulty of dealing with the evils of the system is enhanced by popular ignorance as to just what the evils are, and where they really lie; and by a popular prejudice, too often embodied in legislation, against operations which are sometimes necessary, sometimes beneficial, and at the worst only indirectly responsible for the evils which have grown up in connection with them. Of such mistaken legislation a striking instance was offered in the year 1864, when speculation in gold was forbidden.

The law, under the pressure of public sentiment at that time, was obeyed; but its results were the very reverse of what the public had anticipated. The event proved that gold speculation had been a means of steadying the market; without it, gold rose 100 per cent. in two weeks, and then dropped 50 per cent. at the hurried repeal of the prohibition. What the speculators did for the gold market was again seen in 1866, when they attempted to keep the necessary stock of gold in the country in view of the increasing European demand; but the treasury department, with less foresight, exerted itself to counteract the rise in the gold premium which these speculators seemed to be producing. It succeeded at the time, but at the cost of a greater subsequent rise, which these speculations would have largely enabled us to avoid. So of the cotton speculators of 1868, who seeing the mistake of public judgment, bought up the cotton which we were exporting to Liverpool at a very low figure, and, a few months later, sold at a high figure to the manufacturers, who would otherwise have had to reimport. They made fortunes by so doing, and thus excited public prejudice; but the American public was in every way better off for their operations. The planter obtained a higher price than he could otherwise have done, the manufacturer paid a lower price; the expense of double transportation was saved; the speculative difference of price remained in American hands instead of going to Liverpool; and the chief mistake made by the speculators, in point of serving public interest, was in not carrying their operations still further. ("N. Y. Nation," vol. vii., p. 85.)—That is a typical case. If a speculator is simply aiming to forestall the movement of the market, and not to manipulate it, he undoubtedly confers a public benefit in so far as he is himself successful; and so great a public benefit that no one need grudge him his profit. His work tends to steady prices, to diminish the difference between producers' and consumers' prices in a rising market, to break the shock of a falling market. But it is almost impossible for a speculator to resist the temptation to manipulate as well as forestall price changes; and when he succeeds in so doing, he increases just those evils which he would otherwise diminish. If he works on a small scale, it may be by the circulation of false rumors or the show of false appearances, perhaps even by securing false management of the property; if he works on a large scale, it may be by securing a corner.—Corners in stocks can hardly be a direct source of evil to the general public. With produce corners it is different. The investor can easily do without a particular stock; he may be glad to take advantage of the high price to sell it. But the consumer can not even for a short time do without his food; and a corner in wheat or pork may become a serious matter to him. A speculative monopoly of this kind is probably no worse than any other monopoly. Permanent monopoly of coal or oil may work more lasting injury than a temporary corner in wheat. The former settles things on a wrong basis. The latter unsettles things from their right basis. By preventing regular transportation, it prevents cheap transportation; by preventing regular export, it spoils our foreign market. How far it actually disturbs the prices paid by consumers remains an open question. Witnesses before the New York committee, apparently well informed and candid, differed directly on this point. The Liverpool cotton corners are estimated to have temporarily raised the prices paid by manufacturers more than 10 per cent. An able article by H. D. Lloyd in the "North American Review" for August, 1883, shows how, in recent corners, flour, a non-speculative article, has varied more than 50 per cent., in sympathy with the variations of wheat. It is not probable that this affects the consumer quite as badly as would at first sight appear; the quantities sold at the highest price are probably comparatively small, and the shock is so slowly distributed among the middlemen that before it reaches the mass of consumers the reaction has already begun. With our present incomplete statistics of retail sales, we must reserve judgment on this point. The gist of the matter is, not that a corner is worse than any other kind of monopoly; not necessarily that it is as bad as any other kind of monopoly; but that, under the present system, men will undertake a corner who could not undertake any other kind of monopoly. If there are ten times as many contracts on a small wheat supply, operators can afford to make ten times the effort to control that supply. If those contracts must be fulfilled within a limited time, the operator has only to control the supply for that time. A system of short sales makes such a temporary monopoly possible. Each additional speculative contract is so much addition to its possible profits.—Besides the articles already referred to, see *International Review*, vol. ii., p. 818; *Bankers' Magazine* (N. Y.), vol. xxxvi., p. 808; *Nineteenth Century*, vol. x., p. 582.

ARTHUR T. HADLEY.

SPOILS SYSTEM, The. This phrase designates a theory of politics and a use of official authority—more especially that of appointment and removal—according to which the merits of candidates and the general welfare are subordinated to the selfish interests of individuals, factions or parties. The range of this subordination is very great. It extends all the way from the case of a party which, honestly holding none but its followers to be fit for a clerkship, selects the best of them, but bars the gates of office against all others, down to the faction leaders, who, excluding all but their own henchmen, corruptly make promotions for money, and promise places for votes; all the way from the great officer who, hardly conscious of wrong, accepts for the party the offerings of his subordinates, down to the official robber who mercilessly demands the places or the money of those serving under him; all the way from the head of a bureau or a department who requests

more clerks, that they may work for his party, or serve as waiters or coachmen in his own family, down to the legislators who vote appropriations in aid of their re-election, and city aldermen who bribe electors by corrupt contracts, and conciliate thieves, gamblers and grog-shop keepers by winking at their offenses. — It is doubtless vain to expect that in politics there will ever be such unselfish regard for merit and duty as to exclude every shade of that system, and perhaps there will always be various questions as to the moral aspects of which honest men will disagree. The limits of the spoils system in its practical application at any time can not, therefore, be precisely stated; nor can we any more precisely state where the merit system begins.* But it is, nevertheless, a great advantage to have convenient phrases, which, like *the spoils system*, and *the merit system*, distinctly mark those extreme and incompatible theories and methods in politics and administration of which the people readily take notice for approval or rebuke. In reference to these systems, all officers and politicians may be readily and usefully classified. Which system does a great politician or officer defend or practice? must always be an important question. — The phrase "spoils system" appears to have had its origin in a speech made in January, 1832, by Mr. Marcy, of New York, in the senate of the United States, in which (in speaking of the politicians of his day, and especially of New York politicians) he said, "When they are contending for victory, they avow the intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as matter of right, the advantages of success. *They see nothing wrong in the rule that to the victor belong the spoils of the enemy.*" (Gale & Seaton's Congressional Debates, vol. viii., part 1, p. 1825.) — The system of the pirate and the highwayman, thus defended, had been for some years growing in and poisoning our politics. It was only this open and shameless avowal of it which was original with Mr. Marcy. In the article on TERM AND TENURE OF OFFICE some facts are given tending to show that the earliest practice according to that system was in New York. It was not unnatural that the first unblushing avowal of it, at Washington, should be made by a senator from that state. Among the maxims of Col. Burr for the guidance of politicians, one of the most prominent was, that the people at elections were to be managed *by the same rules of discipline as the soldiers of an army;* that *a few leaders were to think for the masses, and that the latter were to obey implicitly their leaders.* * * He had, therefore, great confidence in the *machinery of a party*," etc. (Statesman's Manual, vol. ii., p. 1189.) New York has never lost the art, so aptly and early taught by Burr, of making and running party machines. Jenkins, in his "History of Parties in New York," (p. 227), tells us, that "before 1820 the spoils system had been so far matured in that state, that Gov. Clinton, in that year, complained in a message 'of an organized and disciplined corps of federal officers interfering in state elections.'" Mr. Hammond, in his "Political History of New York," and speaking of its early politics, declares, "that party spirit had raged in this more than in any other state of the Union." Mr. Van Buren's relation to the system appears in the article last cited. The unparalleled abuses in past years at the New York postoffice and custom house, and the municipal, judicial and other corruptions associated with the names of Barnard, McCunn, Tweed and Fisk, at the city of New York, have made the consequences of a long and general toleration of that system a part of our familiar history. But it is due to New York to add, that, during the past decade, her citizens have done more than those of any other state to arrest such abuses and to substitute a "merit system" for a "spoils system," both in her own administration and in that of the federal government. — The politicians and the office seekers readily comprehended the spirit and opportunities of the new system which Marcy announced The era had not long been closed, even among the enlightened nations, during which the hope of plunder and spoils from captured ships and cities had been regarded as essential alike for securing enlistments and for achieving victories on sea or land. Intense and vindictive partisans, accustomed to treat their political opponents as both personal and public enemies, adopted with equal facility the reasoning of Marcy and the war code of pillage and spoils. Either in the heat of victory or the hope of gain, they forgot or disregarded the fact, that the places, the salaries, the promotions, the profitable contracts which they sought, did not belong to the party they had conquered, but to the people, of which they were only a part. A new force, compounded in about equal proportions of corruption and savagery, was soon made potential, alike in the battle fields of politics, in the methods of elections, and in the processes of administration. The proclamation of the spoils system in the senate greatly shocked the better minds of both parties, and alarmed the country at large. Nevertheless the theory of the system (of which "rotation in office," in order to increase the spoils, was an important part) was, even by men in high places, largely and rapidly accepted. In the debate in the senate in 1835, upon the bill for repealing the four years term of office act of 1820, Senator Shepley of Maine, and Senator Hill of New Hampshire, defended that kind of rotation which requires no fault in an officer to justify a call for his removal, and Wright of New York, following Jackson's first message, declared such rotation "to be a car-

* The phrase "merit system" was first used in Eaton's "Civil Service in Great Britain," and it is sufficiently defined by saying that it is everywhere the very opposite of the spoils system, in both theory and method. The merit of a candidate, the merit of a bill or the merit of a policy are equally the basis of all just claim for support. A system which everywhere, in politics and official life, holds merit to be a decisive test, must everywhere recognize the public interests as paramount. Such a system is as thoroughly democratic and republican as it is thoroughly just.

dinal republican principle." But, on the other hand, Webster, Clay and Calhoun, Ewing, Southard and White, and others, denounced the new system as false in theory and demoralizing, corrupt and despotic in tendency. — The abuse of the power of removal, for the double purpose of weakening and wreaking revenge upon the opposite party (or "punishing enemies," in the phrase of the spoils system war code), and of rewarding party workers and personal friends (or of "making and dividing spoils," according to the theory of that code), was the part of the spoils system which was first fully developed. It was not in New York alone that the greed for offices, the hate of political opponents, the fierce partisanship, and the corrupt selfishness and demagogism from which that abuse springs, had affected the administration, even before Marcy's declaration. If there was space for tracing their first manifestations, we should find Washington much annoyed by them, and in every subsequent administration marks of their presence, if not evidences of their pernicious influence. They gave Jefferson much trouble, and tested the sturdy independence of the younger Adams. But it was Jackson who first adopted a fundamental article of the spoils system code, by making the doctrine of "rotation in office" a cardinal principle of his policy at the beginning of his administration. The significance and the disastrous effects of that doctrine, as illustrating the true character of the system which Marcy justified, is sufficiently explained in the article on REMOVALS. — If we consider the spoils system in the details of its practical methods and evil effects, they will be found most developed along the great lines of public administration and party activity. In the articles on ASSESSMENTS (Political), CIVIL SERVICE REFORM, CONFIRMATIONS, JUDICIARY (Elective), PATRONAGE, PRIMARY ELECTIONS, PROMOTIONS, REMOVALS, and TERM AND TENURE OF OFFICE, the results of the system along those lines and much of its history are given. — It was for the purpose of arresting those abuses and substituting a merit system for a spoils system, that the civil service act, approved Jan. 16, 1883, was enacted by congress; and for the same purpose the legislature of New York passed a yet more stringent act on May 4 of the same year. Several sections of each of those acts are aimed against political assessments, and both of them direct that impartial tests of character and of attainment (mainly through competitive examinations) be substituted for official favor and political influence as a basis for entering the public service in non-elective offices. — But in one particular the New York law goes much further than the act of congress. It greatly enlarges the scope of the law against bribery, as it has stood in this country, following, however, in the wake of the bribery and office-brokerage laws long in force in Great Britain. The American bribery laws, of prior date, perhaps without exception, only prohibit the corrupt "use of money or any promise, contract," etc., for the "payment of money," or for the "delivery or conveyance of anything of value." This leaves the corrupt promise or use of places, promotions, official influence for votes, speeches and work, etc., in aid of candidates and parties, as well as removals and official threats of removal for personal and party ends, untouched. These grave abuses, which are among the worst results of the spoils system theory of politics, are made penal by the fourteenth section of the New York law, as they long since were under British statutes. (See Eaton's "Civil Service in Great Britain," pp. 132 to 141.) — No more space can be given to the origin and growth of the spoils system in this country. But no one should infer that it is of American origin, or that it most naturally flourishes under republican institutions. The work last cited shows the origin of the system in the despotism, corruptions and favoritism of the English monarchy in feudal times, and traces its progress, until the suppression of all its worst features by the substitution in Great Britain of a merit system of the same character, in most particulars, as that which the statutes of congress and of New York aim to establish. There is not an abuse in our politics or administration, connected with the spoils system, which did not exist in a more aggravated form in England before our revolution. In precise form, some of the abuses attending confirmations by senates, could not exist in Great Britain, because such confirmations are there unknown; but a statute (49 Geo. III., chaps. 126, 218), far more stringent than any we have on the subject, enacted when our constitution had been but twelve years in force, contains penal clauses against the corrupt use of solicitations, recommendations, bargainings or negotiations for obtaining nominations, appointments or resignations, which might be usefully enacted here. It is also true that the forms of political assessments, as they exist with us, were not known under the old English spoils system. But it was because offices, grants, promotions, decorations and charters were both openly sold for money and corruptly bartered for political services and votes. If offices, after being sold there, were also liable to be annually taxed, as with us, at the will of a party, a great officer or a partisan committee, their value upon the original sale would have been greatly impaired. The British patronage monger preferred to get the full price on the original sale. Within the last half-century the British government has purchased back for itself, for a money price paid in hand, civil offices which had been merchandise for generations. It is hardly twelve years since commissions in the British army were freely bought and sold. And, to this day, the right to be a rector or parson in the church of England (subject to the approval of the bishop) is openly and extensively advertised for sale, and is publicly bought and sold for money. King James had helped to bring gerrymandering to perfection before Elbridge Gerry was born. We have added little to the art of coercing voters, or concealing, or lying about,

the false count of votes. Office-mongering and office-brokerage and patronage of every kind, a century ago, had definiteness and an importance in the penal law, the politics and the social life of Great Britain, which they have not yet attained in this country. — We have only to glance at the essential spirit and methods of a federal and aristocratic despotism, as compared with those of a spoils system according to the theory of Burr and Marcy, to see how naturally the latter grows out of the former. The king reaches the throne through birth and privilege, and not by merit. The lords hold their places by his favor. The aristocratic class, made up of the blood royal, the nobility, the state church officials, the high officers of the army and the navy, and the great land owners, are a part of the party forever in power. They make their political faith, the creed of the state church, and subserviency to their wishes, the tests for obtaining and continuing in office of whatever kind. What more natural, under such a government, than that all those who do not respond to these tests should not only be excluded from office, but be denied the privilege of voting? Not merely the political faith of that forever dominant party was for generations essential to holding office, but the acceptance of the articles of the state church as well, and, for a long time, the partaking of the sacrament according to its method, were absolute conditions of office holding. The office-holding noblemen, the bishops, and the king's lord lieutenants of counties, were the patronage mongers, place dispensers and election manipulators of their sections; and their cunning and precedents are adroit enough to be even yet worthy the study of senators, politicians and bosses who act on the theories of those feudal potentates and imitate their methods so far as our form of government will allow.—With us the party majority is the king of politics. Spoils-dispensing senators, representatives, governors and party leaders are with us the feudal lords of patronage. Our constitution allows no religious creed to be made a test for office. But, disregarding personal merit and common justice almost as absolutely as any feudal aristocracy ever did, the lords of our politics, in flagrant violation of the first principles of a republic and of the plain intent of the constitution, make the faith of the dominant party, its selfish interests and unmanly subserviency to themselves, the conditions of gaining and holding any of the tens of thousands of places where, in federal departments, in state bureaus and in city offices alike, political views are not in the least qualifications for official duty. — The leaders, under the old English spoils system, claimed the right and used the opportunity of exerting all the authority and resources of the government in their hands to keep their class and party in power and their opponents out of power. Patronage was a prerequisite of a great officer, to be used for himself and his party. Equally with the leaders of our spoils system, they repudiated all demands based on individual merit which they thought inconsistent with the selfish interest of their class and party. They said, in the language of Marcy, We "claim as matter of right the advantages of success." We "see nothing wrong in the rule, that to the victor belong the spoils." Feudal leaders sold the offices in order to get money to be used for keeping themselves in power. Our spoils system leaders annually rob the humble officers under them of a part of their salaries for the same purpose. The use of money thus gained to buy the press, to corrupt the officers of election, and to bribe voters, has been the common offense of both. Each alike made its political creed the paramount qualification for an appointment, and claimed the right to use all official authority for propagating that creed. James II. and Andrew Jackson, Archbishop Laud and Senator Marcy, George III. and assessment-extortioner Hubbell agree in this, that the opinions of the dominant party, the favor of its leaders, and subservient work as they direct, are the supreme qualifications for clerks, janitors, office boys and scrub-women, and that each are bound to give time and money to keep those who oppress them in power. — That phase of the spoils system which consists in the usurpation of the appointing power of the executive, by the legislative department, has been, save in the matter of confirmations, almost identical in Great Britain and in this country. Executive patronage there was for generations as carefully apportioned among the members of parliament as plunder ever was among pirates, or spoils among soldiers. To avoid the intolerable nuisance of having members going the rounds of the departments, bullying and begging for their shares of patronage, a patronage secretary was provided, who kept accounts with each member, and doled out to him his share as regularly as soup is dispensed from a free eating house. — The greater interest of these facts does not consist merely in the historical analogies between the corrupt and partisan systems of the two countries, but in the further facts, rich in hope for us, that, in the elder country, where that system was founded on the throne, intrenched in feudal principles and class distinctions—where it was buttressed by the army on one side, and the state church on the other, and was, therefore, tenfold stronger than with us—it has been, through a steady effort of twenty-five years, overthrown and removed. In our efforts to overthrow such a system, we have but to contend for the fundamental principles of a republic while standing upon all the best precedents of its founders. It would not be a bad definition of a true republic to describe it as a government under which office is secured by merit to the exclusion of favoritism and influence, nor of a true aristocratic despotism, to define it to be a government under which favor and influence secure office, and merit is subordinated to birth and privilege. — There is another view of the subject which must not be overlooked. That can hardly be said to be a system in political affairs which is but a series of abuses. A system

implies an orderly method proceeding from some recognized theory. The theory of the spoils system may be readily outlined. — 1. In a merely superlative and ideal sense, a party may be (what Burke declared it to be) a body of persons agreeing together in the support of common principles, which they seek to carry into effect for the public good; but according to the only practical and sensible use of the word, a party is a highly organized body of politicians constantly engaged in selfish and warlike effort for capturing the government (or for keeping its enemies from capturing it), and for gaining honors, offices and profits for themselves. — 2. Politics is at once a game, a business and a series of campaigns; to be so conducted as to pay the leaders, the fighters and the workers. Profit enough must be got out of the administration to pay the expenses of capturing it and the cost of office seeking. — 3. The theory that a regard for great principles, love of country, and a sense of duty—analogous to those sentiments which support the charities, the asylums and the churches of a nation—are the vital force of a party, is altogether chimerical. — 4. Patriotism, disinterested public opinion, and devotion to great principles as a duty, are suspicious and unreliable elements in politics; and, if they ever exist, they are yet generally but a cover for a hypocrite or a doctrinaire. They are indeed very dangerous to good party management and to favorite leaders. Selfishness, patronage and discipline are the great forces of politics. Absolute obedience, and the despotic rule of the majority, are the strength and salvation of a party.— 5. The honors, the offices, the public employments, the political assessments, the profitable contracts, the opportunities of levying illegal fees and political blackmail—these are the spoils, to be divided so as to be made most effective.— 6. Personal merit is not to be wholly ignored, nor public opinion needlessly affronted; but the wishes of the leaders must be accepted as the law of the party, and zeal and work for the party are qualifications for public service paramount to personal merit. The party politics of a door-tender, a cartman, a storekeeper, an office boy, a washwoman and a chimney sweep, are essential to their selection. When either gets an office, a debt to the party is incurred, for which fealty, work and assessments are due as long as the man or the woman holds it. — 7. The leaders must govern secretly and absolutely, after the precedent of the Albany regency, and according to the original semi-military code of Burr. To refuse obedience to them, or to bolt however bad a nomination, is treason to the party never to be forgiven. — 8. Custom houses and postoffices, under the spoils system, are not mere places for doing public work upon business principles by officers having business capacity, but are intrenched outposts of the party, to be manned by its valiant warriors, and to be barricaded against opponents; nor this alone, for these offices are also asylums for broken-down henchmen, sally-ports for carrying elections, and banks of issue for raising assessments. — 9. The party leaders must hold the gates of the primaries as well as all the gates of office; they must fix the conditions upon which any member of the party can vote for a delegate or be allowed to receive a nomination. It is fatal to discipline to allow the primary meetings to be open to all those who are faithful to the principles of the party. The officers of primary organizations should be the compliant henchmen of the senators, governors and chieftains who run the postoffices and custom houses, and they must exact a pledge from all members to obey the leaders, to defend the platform of the majority, and to support every nomination, whether good or bad. To allow those ready to support the principles of a party to freely meet, and choose their own presiding officers, and select and send their own delegates to a convention, is fatal to spoils system management. — 10. Senators are the feudal lords of state politics, whose voice should be held supreme in selecting the federal officers to serve within these states; and if a president shall refuse to nominate a senator's favorite for a collector, the senator should resign, go home, and arouse his state against the president. From Burr to Marcy and Jackson, and from the latter to Tweed and Conkling, such has been the theory and the practice under the spoils system. — 11. Clerks, other small officers and laborers paid by the public, though bound to work for the government, are also bound, not only to work for the party, but to pay to it the partisan taxes it chooses to impose. They must not be allowed to serve the people equally and justly at all times, irrespective of political opinions and party interests, but, on pain of removal, must, as far as the criminal law will permit, make every official act bribe or coerce a vote, and bring dollars to the patronage monger or the party that gave them their places. — 12. All attempts, therefore, to compel the use of official authority only for public purposes, all attempts to put persons into the service merely because they are the most worthy, all attempts to put them in without the consent of the party managers or the member of congress of the state or district, all attempts to impartially test their fitness by examinations, all attempts to prevent great officials using patronage as a perquisite of themselves and their party, are utterly utopian and doctrinaire—gross invasions of the discretion of officials and of the rights of parties. When the infamous Judge Barnard, on his trial under impeachment, replied to a question about his use of judicial patronage—"I won this office, and its patronage is mine"—he rivaled Marcy in condensing the whole spirit of the spoils system. — With such authority and income, with resources for bribery and coercion so ample, a party, following able and unscrupulous leaders, may go a great way in defiance of public opinion. It has honors for the aspiring, authority for the ambitious, profits to bribe the mercenary, removals for overawing the timid, money to pay its own expenses, exclusions from the muster roll of party membership,

for intimidating those who threaten to say what they think, or expose what they know to be wrong. — But the course of events during the last few years has made it plain that the spoils system must everywhere very soon give place to a system under which merit must be the test of selections for appointments, and regard for the intents of the public, rather than those of the party, be made the rule of administration. The people are more and more clearly comprehending that parties must serve the people, and not ask the people to be the servants of a party. DORMAN B. EATON.

SQUATTER SOVEREIGNTY. (See POPULAR SOVEREIGNTY.)

STAMP ACT CONGRESS (IN U. S. HISTORY), a body of delegates from all the colonies, except New Hampshire, Virginia, North Carolina, and Georgia, which met at New York, Oct. 7, and finally adjourned Oct. 25, 1765. It differed from the continental congress, which succeeded it, in that it took no steps toward forcible resistance. (See REVOLUTION, II.) — The delegates from New York were named by the committee of correspondence; from Delaware and New Jersey, by informal action of the members of assembly; from the other colonies named, by formal action of the lower house of assembly. The action of the congress was confined to an address to the king, petitions to parliament, and a declaration of the rights and grievances of the colonies. The last named paper acknowledged "all due subordination" to parliament; but declared that the colonies could only be taxed by their own representatives in the colonial assemblies; that the colonists had the inherent right of trial by jury; that the stamp act, and other legislation to extend the jurisdiction of the admiralty court, without trial by jury, had "a manifest tendency to subvert the rights and liberties of the colonists"; and that parliamentary restrictions on colonial trade were burdensome. — The petition of congress was offered in the house of commons, Jan. 27, 1766. It was objected to, 1, as the act of an unconstitutional gathering, and 2, because of its denial of the right of parliamentary taxation. After some debate the order of the day was voted, and in this summary manner the first request of the united colonies for a hearing was passed over. — The proceedings of this congress are in Niles' *Principles and Acts of the Revolution*, 451, and in 2 Niles' *Register*, 337, 353; see also authorities under REVOLUTION.

ALEXANDER JOHNSTON.

STANDING ARMIES. (See ARMIES.)

STANDING ORDERS. (See PARLIAMENTARY LAW.)

STANTON, Edwin M., was born in Steubenville, O., Dec. 19, 1814, and died at Washington, D. C., Dec. 24, 1869. He was graduated at Kenyon College in 1833, was admitted to the bar in 1836, and practiced at Cadiz, O., until 1839, then at Steubenville until 1847, at Pittsburgh, Penn., until 1857, and thereafter at Washington city. He had always been a democrat, and in December, 1860, he became attorney general under Buchanan. In January, 1862, he became secretary of war under Lincoln, and retained the place until 1868. In this position he showed a devouring energy and capacity for work, which considerably shortened his own life, as well as the war. As the conflict between the president and congress on reconstruction was developed, he took sides with the latter, and President Johnson's attempt to remove him led to the impeachment of the president. (See RECONSTRUCTION; TERM AND TENURE OF OFFICE; IMPEACHMENTS, VI.) When the impeachment failed, in May, 1868, Stanton resigned. In December, 1869, he was nominated and confirmed as justice of the supreme court, but died before entering office. A. J.

STATE, Department of. This is the oldest, and ranks by long established usage as the first, of the departments of the United States government. Founded by act of July 27, 1789 (1 Stat. at Large, p. 28), the department is presided over by a secretary of state, who is a member of the cabinet, and is sometimes (though erroneously) styled prime minister. The functions of the secretary of state embrace a great variety of responsible duties. He is the organ of the government in all communications of whatever nature with foreign governments. Such communications, although in form purporting to emanate from the president whenever important diplomatic matters are concerned, are always prepared at the department of state, and signed by the secretary, although they must first have the president's approval. The secretary conducts all correspondence with the ministers and consuls of the United States residing abroad; he has exclusive charge of negotiations concerning foreign affairs; he only, according to official etiquette, can communicate with the representatives of foreign powers residing in the United States, upon public affairs. He is the official organ of correspondence between the president and the governors of the various states in the Union. He has charge of all treaties which have been made, and conducts negotiations as to new treaties or modifications of old ones. All the laws of the United States are preserved in the archives of the state department as they come enrolled on parchment from congress, after being approved by the president. The secretary publishes the United States laws, resolutions, presidential proclamations, treaties, etc., properly edited, in annual volumes. The secretary of state is custodian of the great seal of the United States, and affixes the seal with his countersign to commissions or appointments to office in the higher grades, to executive proclamations, to warrants for pardon, extradition, etc. He records and issues passports to Americans traveling abroad. He makes annual report to congress (more recently made monthly) on the commercial

relations of the United States with foreign countries, based upon information gathered by our ministers and consuls abroad. A register of the department of state is issued annually, with full lists of consular and diplomatic agents, salaries, fees collected, regulations concerning precedence of diplomatic agents, etc. The department also publishes a volume of consular regulations, in frequently revised editions. — The secretary of state is aided by a first assistant secretary, who becomes acting secretary in his absence, salary $4,500; a second and third assistant secretary, salaries $3,500 each, who are charged with correspondence with diplomatic and consular officers, and with such public business and correspondence as may be assigned to them by the secretary. The business of the department is distributed among seven bureaus: a diplomatic bureau, having charge of correspondence with American ministers residing abroad; a consular bureau, charged with the correspondence with the consulates of the United States; a bureau of indexes and archives, having charge of the mails, the registry and indexing of correspondence, and the preservation of the archives; a bureau of accounts, having the custody and disbursement of appropriations, care of funds and bonds, and of the building and property of the department; a bureau of rolls and library, having custody of the rolls, treaties and laws, with their promulgation, and the care of the library and public documents, as well as of the revolutionary archives; a bureau of statistics, charged with the preparation of the reports upon commercial relations; and a law bureau, for the examination of all claims, and of questions of law submitted by the secretary or his assistants. — This widely distributed business is performed by a force of sixty-two officers and clerks, besides fourteen messengers and laborers, drawing annual salaries to the amount of $112,350 in 1884. The contingent and miscellaneous expenses of the department of state amounted to the very moderate sum of $25,050 the same year. The department is located in the new and commodious granite building forming the south wing of the massive edifice known as the state, war and navy department building, erected in 1871–81. The department of state has had as its secretaries, from the beginning of the government, a series of statesmen distinguished in the political annals of the country. The following list exhibits the names, with the term of office occupied by each:

SECRETARIES OF STATE.

1.	Thomas Jefferson	Sept. 26, 1789
2.	Edmund Randolph	Jan. 2, 1794
3.	Timothy Pickering	Dec. 10, 1795
4.	John Marshall	May 13, 1800
5.	James Madison	March 5, 1801
6.	Robert Smith	March 6, 1809
7.	James Monroe	April 2, 1811
8.	John Quincy Adams	March 5, 1817
9.	Henry Clay	March 7, 1825
10.	Martin Van Buren	March 6, 1829
11.	Edward Livingston	May 24, 1831
12.	Louis McLane	May 29, 1833
13.	John Forsyth	June 27, 1834
14.	Daniel Webster	March 5, 1841
15.	Hugh S. Legaré	May 9, 1843
16.	Abel P. Upshur	July 24, 1843
17.	John C. Calhoun	March 6, 1844
18.	James Buchanan	March 6, 1845
19.	John M. Clayton	March 7, 1849
	Daniel Webster	July 22, 1850
20.	Edward Everett	Nov. 6, 1852
21.	William L. Marcy	March 7, 1853
22.	Lewis Cass	March 6, 1857
23.	Jeremiah S. Black	Dec. 17, 1860
24.	William H. Seward	March 5, 1861
25.	Elihu B. Washburne	March 5, 1869
26.	Hamilton Fish	March 11, 1869
27.	William M. Evarts	March 12, 1877
28.	James G. Blaine	March 5, 1881
29.	Frederick T. Frelinghuysen	Dec. 12, 1881

A. R. SPOFFORD.

STATE RIGHTS. (See STATE SOVEREIGNTY, II.)

STATE SOVEREIGNTY (IN U. S. HISTORY), the theory of the relation of the states to the Union on which was based the right of secession. It held that all the rights and powers of sovereignty were vested in the thirteen states, or commonwealths, which originally formed the American Union; that the peoples of these commonwealths had authorized their state governments to form the confederation in 1777–81 and the constitution in 1787–9; that the peoples of the individual commonwealths thus formed a voluntary union, retaining to themselves the whole essence of sovereignty, but yielding to the new federal government certain of the insignia of government, previously held by the state governments; that the people of any state, by withdrawing from the federal government its grant of powers, *ipso facto* dissolved the only bond which united them in a continuously voluntary union with the other states; and that there is, and can be, no "sovereignty" in the people of *all* the states, considered as a nation, in internal affairs, and no insignia of sovereignty in foreign affairs, except what is granted to the federal government by the real sovereignties, the peoples of the individual commonwealths, or states. The above is the doctrine of state sovereignty pure and simple, as it includes the right of secession. There is a much more popular and far milder doctrine, of which Madison was the strongest supporter: it holds that the states were sovereign until the ratification of the constitution; and that they then ceased to be entirely sovereign, a government partly national and partly federal taking their place. A variety of the first theory was also upheld, particularly in 1861–5: it held that the states were still truly sovereign, but that their international responsibility and comity forbade them to secede even from a voluntary union on trivial grounds, and authorized the other states to war upon them and compel their return. — In considering the question it is as well to begin by examining the word sovereignty itself, though the examination must be brief. Mr. John Austin defines it thus: "If a determinate human superior, not in the habit of obedience to a like superior, receive habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society, and the society (including the superior) is a society political and

independent. To that determinate superior the other members of the society are subject. * * The mutual relation which subsists between that superior and them may be styled the relation of sovereign and subject, or the relation of sovereignty and subjection." This carefully guarded definition evidently implies that sovereignty resides in some small class, and it will settle the question of the sovereignty of the dukes of Burgundy in the middle ages, or of the princes of Servia in modern times. But its fundamental idea must be modified in the United States, where every governmental agency is supposed to be "in the habit of obedience" to the will of the people, expressed in written constitutions. The question for us must be, whether the people of the state, the commonwealth, or the people of the nation, has been habitually superior when it has seen fit to declare its will. This will show us whether the ultimate sovereignty, the absolute independence of action in domestic and foreign affairs, the uncontrolled power of decision in the last resort, is in the people of a state or in the national people. — No theory of the nature of the American Union can be suggested against which arguments from authority, from the declarations and opinions of leading men, legislative bodies and conventions, can not be levied in array. The feeling of the American people has always been so strongly individualistic, their conventions and legislatures have been so much inclined to put confidence in their own assertions without regard to opposing facts, and their public men have been so influenced in feeling and language by their environment, that it is not difficult to bring arguments from authority in support of every variety of theory. This series of articles, relying on the facts of our history, and practically disregarding authority, is founded in a belief opposed to all the theories above enumerated: that the Union is not "voluntary," in the sense implied in state sovereignty; that it has always been compelled by force of circumstances, common interests, and everything that goes to develop a national will and make up a nation; that the nation has existed, by its own will maintained by arms, since the first shot was fired at Lexington; that it has since continually asserted its existence with a steadily growing certainty of success; but that the expression and assertion of its existence is limited, according to its own will and the political instincts of the people, by the controlling necessity for preserving state lines, state government and "state rights," properly so called. (See CONGRESS, CONTINENTAL; DECLARATION OF INDEPENDENCE; NATION.) This article will therefore be confined to 1, the leading arguments for state sovereignty, as advanced by its supporters; 2, the historical arguments against it; and 3, "state rights."—I. The word "people" is the x of American political algebra. All parties agree in the assertion that sovereignty is inherent in the people, not in the government; and in so far the unanimity of belief is almost startling, considering the diversity of results to which it has led. But the unanimity disappears as soon as we undertake to define "the people." Is it the people of all the states, of the nation, that is sovereign? Is it the people of each individual state that is sovereign? Jefferson Davis and his associates in 1861 held the latter view, and each, when the sovereign people of his state declared for secession, obeyed the behest of the only "people" known to him, even to the waging of war on the United States. The dominant party of the north and west held the former view, and justified the people of the nation, through its constituted agents, in suppressing rebellion by war. The democratic party of the north and west generally supported the war measures of the government, but did so on the ground of the third doctrine above mentioned, that the government was the agent of the non-seceding states in offsetting by war the unfriendly act of secession. If the doctrine of state sovereignty is correct, if each individual state is the only nation which its citizens can know, the southern states in 1860–61 undoubtedly exercised a constitutional and inalienable right in seceding, if they believed that the welfare of their citizens and their own preservation would be imperiled by remaining in the Union; and the suppression of the rebellion was a revolutionary transformation of a voluntary into an involuntary Union. And the argument of southern writers in favor of state sovereignty is, in general, as follows. — 1. They direct attention to the slow and steady growth of the states along the Atlantic coast, the nucleus of each being widely separated from the others, and none of them ever mingling with its neighbors or losing its own identity; to the fact that each had its distinct government, the king being the common executive; and they conclude, that, when the connection between the colonies and the king was "severed by rebellious swords, each colony became a living soul, and each necessarily possessed sovereign political will over its own territory and people." In support of this assertion their appeals are mainly to authority; and if this form of argument could be accepted as conclusive, the doctrine of state sovereignty would be very strong. The word "people," as used at the time, was almost invariably applied to the people of a state; and the people of all the states are loosely referred to as "the continent," "the generality," "America in general." When independence was finally declared, the instrument was carefully entitled "The unanimous declaration of the thirteen united (*sic*) States of America," showing that "thirteen independent wills became unanimous on the great occasion"; and in declaring the independence of "the States," these bodies are always referred to in the plural: "that as Free and Independent States they have full Power to levy War, conclude Peace, contract Alliances, Establish Commerce, and to do all other Acts and Things which Independent States may of right do." The idea may be indicated by the full title of Dr. Ramsay's "History of the Revolution of South Carolina

from a British Province to an Independent State." And the language of the constitutions adopted by the several states during the revolutionary period is even stronger in the same direction. "The people of this state, being by the providence of God free and independent, have the sole and exclusive right of governing themselves as a free, sovereign and independent state; * * That this republic is and shall forever be and remain a free, sovereign and independent state." (Connecticut act of 1776, establishing the charter as a constitution, preamble and article 1.) "The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent state." (Massachusetts constitution of 1780, still in force, art. 4.) "This convention, therefore, in the name and by the authority of the good people of this state, doth ordain, determine and declare that no authority shall, on any pretense whatever, be exercised over the people or members of this state but such as shall be derived from and granted by them." (New York constitution of 1777, art. 1.) "That the style of this country (*sic*) be hereafter the state of South Carolina." (South Carolina constitution of 1778, art. 1.) When we add to such expressions as these the emphatic *caveat* of the second of the articles of confederation, "each state retains its sovereignty, freedom and independence," the whole makes up a formidable mass of contemporary testimony in favor of the "sovereignty" of the individual states; and it is re-enforced by the unconscious and ingenuous testimony given by the almost invariable language of men of the time in official and unofficial positions. And, finally, in the treaty of peace which closed the war, the high contracting parties joined in declaring, not that the United States as a nation was independent, but that the several states, naming them in order, were "free, sovereign and independent states."—But, after all, what is all this argument from authority worth more than the impotent protests of a drowning man in the midst of a resistless current? His declarations that he will not drown can hardly save him without the added exertion of swimming. If "sovereignty" could be maintained by resolutions alone, the argument from authority would be of weight; but neither is true. Reams of resolutions would be of little avail in maintaining the "sovereignty" of Ireland or Poland, unless the resolvers are ready to back their resolutions by physical force; and no such readiness was ever shown by the individual states. Massachusetts came nearest to it in the sudden levy of troops and siege of Boston which followed the fight at Lexington; but even Massachusetts, while fighting the enemy with one hand, was with the other beckoning to the nation for help, and her delegates, as soon as the continental congress met in the following month, successfully urged the adoption of her troops as a "continental army." In resolutions the states were prolific: when it came to war, the highest and most dread attribute of "sovereignty," all instinctively shrank back, and pitted the true nation against a king, sovereign against sovereign. The mass of evidence above summarized goes just far enough to prove that the individual states were sovereignties *in posse;* and had any one of them ever ventured on the next essential step, and maintained its separate sovereignty by physical force, no sane man could have denied that it was at last a sovereignty *in esse*. But this last step has always been wanting, and, while that is the case, all is wanting. That states, thus cowering like frightened chickens under their mother's wing, should have gone on calmly ignoring in words their mother's existence, and asserting by resolution the sovereignty which they dared not maintain by force, only shows the inability of even the wisest men to see clearly all the phases of contemporary history. That able men should still argue that a sovereignty *in posse* can be transformed into a sovereignty *in esse* by such a cheap and easy weapon as a resolution, only proves that prejudice is still frequently of stronger weight than obvious fact. That the nation should have quietly tolerated such open denials of its very existence, only proves the national indisposition to apply unnecessary force. An imperator or a czar must suppress the least impeachment of his sovereignty: the American republic will still calmly allow even an open denial of its existence—always provided that the denial is confined to theory.—But it must not be supposed that the argument from authority itself is so overwhelmingly in favor of state sovereignty as the summary above would imply. We may pass by the unofficial exhibitions of national spirit in revolutionary times, and still have a reserve force of authority to show the universal consciousness that the controlling, though always self-controlled, power was in the *national* people. Congress, in its declaration of July 6, 1775, says: "We exhibit to mankind the remarkable example of a people [not of thirteen peoples] attacked by unprovoked enemies." The same body formulates its proclamation of Dec. 6, 1775, thus: "We, therefore, in the name of the people of these United Colonies"; and thus begins its declaration of July 4, 1776: "When, in the course of human events, it becomes necessary *for one people* to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal *station* to which the laws of nature and of nature's God entitle them." This last step, this assumption of a separate and equal station among the powers of the earth, is the only means by which "sovereignty" can properly be asserted; and it never has been so asserted by a single state. The real national revolutionary nature of the declaration, and the subordinate part played by the states in it, are well stated in the address of congress to the people, Dec. 10, 1776: "It is well known to you, that, at the universal desire of the people, and with the hearty approbation of every province, the congress declared the United States free and independent." If we are to trust to authority, we

may cite the sweeping assertion of Charles Cotesworth Pinckney, Jan. 18, 1788: "The separate independence and individual sovereignty of the several states were never thought of by the enlightened band of patriots who framed the declaration of independence; the several states are not even mentioned by name in any part of it." And no man in the South Carolina legislature at that time said him nay when he denounced the claim, "that each state is separately and individually independent, as a species of political heresy." — Again, in its commission to its ambassadors to France, Oct. 28, 1776, congress remarks: "A trade upon equal terms, between the subjects of his most Christian majesty and the people of these states will be beneficial to *both nations*"; and the ultimate treaty of Feb. 6, 1778, refers regularly to "the *two parties*" or "the *two nations*." The treaties with the Netherlands, Sweden and Prussia, in 1783–5, use the same phrases. Nor did congress hesitate to bring the national *power* into plain view, when necessary. Dec. 4, 1775, it resolved that "in the present situation of affairs, it will be very dangerous to the liberties and welfare of America, if any colony should separately petition the king or either house of parliament." Dec. 29, 1775, it resolved that "the colonies of Virginia, Maryland and North Carolina be *permitted* to export produce to any part of the world, except Great Britain," etc. Finally, May 15, 1776, the congress recommended the various assemblies and conventions of the colonies "to adopt such government as shall in the opinion of the representatives of the people best conduce to the happiness and safety of their constituents in particular and America in general"; and the national power which thus brooded over the state governments themselves is indicated in an address of congress to the people of the United States, May 8, 1778: "Your interests will be fostered and nourished by governments *that derive their power from your grant*." Even the state constitutions which declare the sovereignty of the state show the underlying consciousness of the delegates that a national power was in existence, though it was more prone to show itself by acts than by words. The constitutions of Delaware, Georgia, New Hampshire, New Jersey, New York, North Carolina and Pennsylvania, all refer expressly to the previous action of congress, and particularly to its resolution of May 15, 1776, as the justification of their action; and the four state constitutions (of Massachusetts, Maryland, Virginia and South Carolina) which do not expressly refer to it, do so tacitly by their long delay until congress took the initiative. The preamble of the South Carolina constitution of 1778 even assigns, as a reason for a new constitution, that "the United Colonies of America have since been constituted independent states * * * by the declaration of the honorable the continental congress, dated the 4th day of July, 1776." But the first constitution of South Carolina, March 26, 1776, strikes the deadliest of all possible blows at the theory of state sovereignty, whose essential dogma is that the United States exists in a state only by the continuing will of the state. On the contrary, article twenty-eight of this constitution declares that "the resolutions of the continental congress, *now of force in this colony*, shall so continue until altered or revoked *by them* [congress]." The resolutions of the national congress in force in South Carolina, prior to any declaration of the "sovereign" will of South Carolina! Certainly Calhoun had no hand in framing this constitution. — Having stated the arguments, *pro* and *contra*, this article can only conclude that the arguments from authority are quite evenly balanced, but that the argument from fact is overwhelmingly against "state sovereignty." The states declared themselves sovereign over and over again; but calling themselves sovereign did not make them so. It is necessary that a state should be sovereign, not that it should call itself so, while still sheltering itself under a real national authority. The nation was made by events and by the acts of the national people, not by empty words or by the will of sovereign states; but the sovereign will of the nation has always been that there should be states, that the people should act politically through them, and that their rights and privileges should be respected. — 2. If the argument from fact, that the separate states were never more than sovereignties *in posse*, and that they never ventured to become sovereignties *in esse*, is sound, it, of course, disposes of state sovereignty not only in the birth of the nation and in the formation of the confederation, but in the adoption of the constitution also. If a sovereignty was created by general and national obedience to the resolutions of a revolutionary national assembly, unlimited by any organic law; and if that sovereignty was maintained by a successful national war, there is no argument to the contrary in the fact that the new sovereignty allowed its agents, the state governments, to shape the articles of confederation, and to appoint delegates to the convention of 1787. The national sovereignty thus created *might* have disintegrated and died; New York or Virginia *might* have broken away and sustained herself as a sovereignty *in esse* as well as *in posse;* but there was in fact no such result. The national feeling held the nation together, and forced the unwilling state governments to stand sponsors to a new national assembly. Such a body was the convention of 1787. It could not have been an assemblage of ambassadors from sovereign states, for, as is noted hereafter, no state constitution ever purported to give its legislature power to send such ambassadors or make such a treaty, and no governor ever ventured to assume such a power. And the convention, when it met, proved its national character by disregarding altogether the articles of confederation, which were never to have been even amended, except by unanimous vote of *all* the legislatures; and by giving the ratification of the new form of government to state conventions, not even allowing the legislatures a voice in the matter. — Nevertheless,

state sovereignty adduces a great mass of argument from authority in all the transactions which led to the adoption of the constitution, and in the constitution itself. The convention itself struck out the word "national" from the first resolution proposed to it, "that a national government ought to be established." Its debates are marked by frequent use of expressions relating to the sovereignty of the states. "That the states are at present equally sovereign and independent has been asserted from every quarter of this house," said one delegate. The expression "We, the people of the United States," in the preamble to the constitution, and the omission of the names of the states, are usually cited as decisive proofs against state sovereignty. Undoubtedly the people of the nation were making the constitution, but it is very doubtful whether many of the delegates were aware of the fact: most of them probably still applied the word to the people of their own individual state, and felt, as the "Federalist" (No. 39) expressed it, that "each state in ratifying the constitution is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act." The omission of the names of the states seemed decisive to so respectable an authority as Mr. Motley, but unluckily the omission cuts the other way. In the first draft of the constitution, as reported by the committee, Aug. 6, 1787, the preamble reads, "We, the people of the states of New Hampshire, Massachusetts," etc. [naming them in order], and the names were left out in the final draft from the apprehension that one or more of the states named might, by virtue of its supposed "sovereignty," reject the constitution, drop out of the Union, and compel an after alteration of the preamble. To the same effect is the seventh article of the constitution, as finally adopted: "The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution *between the states so ratifying the same.*" What, then, was to be the status of the states which should refuse to ratify? Were they still in the Union, perhaps as territories? Or were they to secede from the Union? Or had the other states already seceded, and left them to keep warm the ashes of the old confederation, if they could? Was the constitution itself a successful secession from the confederation? or did it only provide for necessary secession in this seventh article? Such questions as these have always had an obvious fascination for the advocates of state sovereignty, while their opponents have usually avoided both Scylla and Charybdis by going overland and ignoring them altogether. But, in any candid discussion of the subject, they must be met and answered; and, in order to answer them, the effort has been made to state them fairly and strongly. — Such questions, with their tacit implication that "sovereignty" is a mere affair of words, that any body of men, in order to be sovereign, has only to call itself, or be called, sovereign, afford silent but weighty testimony to the peculiar natural advantages which the American people enjoy, and have always enjoyed. If the proximity of more powerful neighbors had ever compelled the American people to sacrifice one or more states or parts of states as the price of a treaty of peace, the fallacy of state sovereignty would have been exposed. But this has never been necessary, except in the partial example of Maine in 1842 (see MAINE); and annexation, which is the complement of such territorial sacrifice, is always ignored by the advocates of the doctrine. Free from dangerous neighbors, the American people did not, until 1861, learn the truth which bitter experience had made familiar to less favored quarters of the globe, that sovereignty is always potentially an affair of "blood and iron"; and that it needs not only men who know, or think they know, their rights, but men who, "knowing, dare maintain." Sovereignty is indivisible, as any controlling will is indivisible. As between the nation and the states, the only question must be, Which was the sovereignty? And it can only be answered by asking, Which dared to go alone, to carve out its own path, and achieve its own destiny? The question answers itself. Two states, Rhode Island and North Carolina, refused to ratify, and the constitution went into force without them. There could have been no more excellent opportunity than this to convert a sovereignty *in posse* into a sovereignty *in esse;* but this first and last test for sovereignty compelled each of these states to answer, "It is not in me." Within two years both were confessedly in their natural places as part of the nation, both had ratified the constitution, nominally as their voluntary act and deed, but actually, like other states, under stress of circumstances. We can not know how far Rhode Island was influenced by unofficial propositions to carve up her territory between Massachusetts and Connecticut, or how far North Carolina was influenced by official propositions in congress to suppress or restrain her commerce with the neighboring states. (See SECESSION.) We can only see the patent fact that these two states had and shrank from the opportunity to attempt to become sovereign in very truth. — But the constitutional phrase, "between the states so ratifying the same," brings up the further question, Where were Rhode Island and North Carolina between March 4, 1789, and their respective ratifications in 1789-90? Were they in or out of the Union? Unless the nation existed, and these states were still a part of it, we are completely at sea. The nation which had by successful war extorted from Great Britain a recognition of its boundaries, would not have been slow upon occasion to compel Rhode Island and North Carolina, and Vermont as well, to respect those boundaries, and to recognize themselves as included within them. But no such occasion arose, and no argument can fairly be drawn from a *forbearance* of the nation to enforce its sovereign will. Failure to overcome an open defiance would have been a different matter; but a father's authority is not to be fairly impeached from his forbearance in allowing a recalcitrant son

an hour for consideration. In point of fact, Rhode Island and North Carolina finally ratified the very constitution which they had at first rejected, without a single amendment to commend the chalice to their lips. There was no escape for them: they had to ratify; but the forbearance of the nation gave them an opportunity to do so "voluntarily." That the new scheme of government should have been defeated by the will of two states, or that these two should remove themselves without successful war, from the boundaries fixed in 1788, would have been equally impossible; but the nation had been guilty of an oversight in allowing state legislatures to form the articles of confederation, with their absurd provision for a unanimous ratification of amendments, and the nation scrupulously atoned for its oversight by forbearing to press even the weakest of its states. There is of course a still stronger argument drawn from the nature of the constitution, but that will best be considered under the second head of this article. — It would be unfair to deny that the various conventions which ratified the constitution in 1787–90 considered themselves as acting for "sovereign states." The debates of the Virginia convention show that the word "people" meant the people of the several and individual states, and not of the nation, in this declaration, which was a part of the ratification: "That the powers granted under this constitution, being derived from the people of the United States, may be resumed by them, whensoever the same shall be perverted to their injury or oppression"; and these words, in their literal meaning, have the essence of the doctrines both of state sovereignty and secession. But these words, again, are mere "authority," void as against facts. Whose was the uncontrollable will, the sovereignty, that extorted ratification from an unwilling majority in Virginia, New York, New Hampshire and Massachusetts, and, later, in Rhode Island and North Carolina? Was it the will of any state? or was it the will of the nation, acting, according to its own preference, through state organizations? The question answers itself, provided the questioner will confine himself to the facts of our history, and turn a deaf ear to the conflicting arguments from authority, the opinions, sometimes correct and sometimes incorrect, of the actors in the history. But the question is often triumphantly asked, What would have happened if a part of the states had refused finally to ratify? Either the recusants would have left the constitutional number of ratifying states (9), or less than that number. In the latter case the condition placed upon ratification by the national will would not have been fulfilled; and the whole scheme of the constitution would have failed. In the former case, the pressure upon the recusant states would have been gradually increased until the alternative of ratification or force would have been distinctly presented. In either event, that of general confusion or that of the forcible maintenance of the national will, the sword, the *ultima ratio* of sovereignty, would have made its appearance; and, whatever the result of the struggle might have been, "state sovereignty" would certainly have received before 1800 the quietus which it finally received in 1865. One sovereignty, or two, or three, might have emerged from the chaos, but state sovereignty, and even state rights, would hardly have survived. In this point of view the ratification debates of 1787–9 show the usual contradiction between authority and fact, between the constant assertion of state sovereignty and the ever-present fear that force might dispel the illusions of the assertion. A contemporary tradition is, that Washington, while signing the constitution, thus struck the key-note of this feeling: "Should the states reject this excellent constitution, the probability is that an opportunity will never again offer to cancel [substitute] another in peace: the next will be drawn in blood." "I fear a civil war," said Gerry. "Apprehending the danger of a general confusion and an ultimate decision by the sword, I shall give the plan my support," said Charles Pinckney. "Is it possible to deliberate between anarchy and convulsion on the one side, and the chance of good to be expected from the plan on the other?" asked Hamilton. "Suppose," said Thompson, in the Massachusetts convention, "nine states adopt this constitution: who shall touch the other four? Some cry out, Force them. I say, Draw them." In the Virginia convention Patrick Henry unconsciously drew a pregnant parallel between the forbearance of the nation in forming the confederation and in forming the constitution: "During the war America was magnanimous. What was the language of the little state of Maryland? 'I will have time to consider. I will hold out three years. Let what may come, I will have time to reflect.' Magnanimity appeared everywhere. What was the upshot? *America triumphed.*" (See TERRITORIES.) Where was the sovereignty, then, the uncontrollable, though self-controlled and "magnanimous," power in the cases of Maryland under the confederation, and of Rhode Island and North Carolina under the constitution? Finally, Dec. 14, 1787, in a public letter, Washington used the following language, which sums up the case against state "sovereignty" in framing the constitution: "Should one state, however important it may conceive itself to be, or a minority of the states, suppose that they can dictate a constitution to the majority, unless they have the power of administering the *ultima ratio*, they will find themselves deceived." — As a summary, we may say that the ratification of the constitution by the conventions of six of the states, New Hampshire, Massachusetts, Rhode Island, New York, Virginia and North Carolina, was not at all voluntary; that it was extorted by the evident preponderance of the national will, including minorities in their own states, as well as majorities in other states, and by a fear of arraying a *pseudo* sovereignty against a real sovereignty; that the whole process was a national act; and that

the strongest arguments from authority can not avail against the facts of the case. Nevertheless, there is one expression of opinion which should be cited here, not as an argument from authority, but as giving exactly and tersely the writer's belief. It is that of James Wilson, in the Pennsylvania convention of Dec. 4, 1787. "My position is, that in this country the supreme, absolute and uncontrollable power resides in the people at large; that they have vested certain proportions of this power in the state governments; but that the fee-simple continues, resides and remains with the body of the people." He who asserts the contrary, who holds that the will of a state is, or has ever been, uncontrollable, must prove it by adducing facts, not opinions, whether contemporary or subsequent to the revolution. — 8. After 1789 state sovereignty entered upon the seventy-five years struggle with the national idea which ended in 1865. (See KENTUCKY RESOLUTIONS; CONVENTION, HARTFORD; JUDICIARY; ALLEGIANCE; NULLIFICATION; SECESSION; RECONSTRUCTION; NATION.) Throughout this struggle almost every state in the Union in turn declared its own "sovereignty," and denounced as almost treasonable similar declarations in other cases by other states. Where these declarations stopped, and were intended to stop, at naked assertion, they come properly under our third head of "state rights." In this form they have always been common, and probably will again be common, though they have much decreased in frequency since 1865. So late as March 19, 1859, on the occasion of a supreme court decision against the Wisconsin "personal liberty law" (see that title), the state legislature passed a series of resolutions, the last of which spoke the following strong language: "that the several states which formed that instrument [the constitution], being sovereign and independent, have the unquestionable right to judge of its infractions; and that a *positive defiance* by those sovereignties of all unauthorized acts done under color of that instrument is the rightful remedy." References to sovereign states and the sovereignty of the states have since been by no means unusual in legislative resolutions and judicial decisions. A good example is in the message of Gov. Robinson, of New York, June 14, 1878, vetoing a bill to enable creditors of other states to sue through New York state officers: "It requires the state to lay down its dignity, its honor and its integrity as a sovereign state of the Union, and to become a collecting agent for speculators in state bonds." In none of them has there been any apparent notion of a possible maintenance of the so-called sovereignty by force in case of opposition to it. We are interested only in the cases where this final test of sovereignty has been brought in question. It is fairly doubtful whether the New England opposition to the embargo and the war of 1812 falls in the former or in the latter class. The probability is that it really meant state sovereignty to a few of the leaders, but only state rights to the mass of the leaders and followers. The action of Pennsylvania in the Olmstead case, in 1809, and of Georgia in the Cherokee case, in 1830–32 (see that title), inclined toward the forcible maintenance of the state's will. In the former case the national authority was enforced, and in the latter it was yielded. South Carolina's nullification of the tariff act in 1832 fulfilled every requisite of the theory of state sovereignty by employing a formal state convention to declare the uncontrollable will of the state. This was therefore the first fair and open attempt in our history to maintain the doctrine to its logical consequences, and it was a failure. The inability of the state to maintain its ground was so evident that an unofficial assemblage suspended the sovereign will of the state to a point beyond the designated time. From this time state sovereignty became inextricably blended with slavery, until the growing union of both ended in secession in 1860–61. (See SLAVERY, SECESSION.) It is very true, as most southern writers assert, that the fundamental issue on which the seceding states waged war in 1861–5 was the maintenance of "the right of self-government," that is, of state sovereignty; and that, in comparison with this, slavery was of little importance. It is true, that, when a state had once pronounced its will to secede, both the supporters and the opposers of secession felt bound to maintain the will of the state, even to the extent of war against the United States. But it is equally true, that no such issue would ever have been presented but for slavery and its progressive influence in arraying the will of the state against the will of the nation. When the issue was at last presented, it could no longer be avoided. There was no room for forbearance, or, as Patrick Henry termed it, "magnanimity"; sovereignty was brought to the touchstone, and state sovereignty was found wanting. — In the subsequent process of reconstruction (see that title), there was very much that was at variance not only with state sovereignty, but with state rights as well. The power over the militia, the elective franchise, the state courts, and the police regulation of cities and towns, which the universal national will decrees to be in the states, was for a time withheld from the lately seceding states. If this was intended in any way as a certificate of burial for the defunct theory of state sovereignty, it served the further purpose of bringing into plainer view the healthy doctrine of state rights; for the punishment was so abhorrent to the national instincts that it was very rapidly abandoned. Out of all the struggles of the past has come the unanimous will of the nation, equally opposed to state sovereignty and to centralization, that it shall be an indissoluble Union of indestructible states. — II. Under the first head the effort has been made to show the baselessness of state sovereignty from the single historical fact that the will of the nation has always been the controlling power, though it has always been forbearing in non-essentials. It is necessary further to adduce some other more isolated facts, all showing that the states were never

sovereigns. — 1. It is essential that a sovereignty should have complete power of independent action in external affairs as well as in internal affairs. Foreign nations, in their intercourse with a state, look, not to assertions of sovereignty, but to the fact, and regulate their recognition and diplomatic relations accordingly. What are we to think of a "sovereignty" that never declared or waged a war, never concluded a peace, never sent or received an ambassador, never flew a recognized flag, and never formed a treaty or an alliance? And yet this is the history of nearly if not quite all the states. The few exceptions, the New England union (see that title), the Indian wars and treaties of New England and the south, the pine tree flag and coinage, were *sub rosa* appropriations of the insignia of sovereignty, unrecognized by any others than the appropriators, and most of them occurred in colonial times, when sovereignty, other than the king's, was unthought of. Even when the colonies became states, the usual American political sense showed itself through all the declarations of state sovereignty: none of their state constitutions purported to give the state governments any of the powers above enumerated, nor was this withholding of power the consequence of any agreement in the articles of confederation, for all the state constitutions were framed before, most of them five years before, the articles of confederation went into force. It was the consequence of the instinctive national sense that these belonged to the real sovereignty, the nation. There is a single remarkable exception, the twenty-sixth article of the South Carolina constitution of 1776: "That the president [governor] and commander-in-chief shall have no power to make war or peace, or enter into any final treaty, without the consent of the general assembly and legislative council." But even this (unaltered until 1790) must be taken as only an argument from authority, since the implied treaty power of the state was never maintained in fact. — 2. The states have nowhere shown their lack of the essentials of sovereignty more conspicuously than in their self-confessed inability to stand alone. At the very outset of the struggle between the nation and the king, in 1775, the boldest of the states, Massachusetts, was the loudest in calling upon the continental congress for help to maintain her integrity. The first state to form a constitution, New Hampshire, did so only after seeking the patronage of congress, and all the other states, except South Carolina, waited, before taking the same step, for the general recommendation of congress, May 15, 1776, referred to above. In the articles of confederation each state legislature undertook to covenant with all the others for protection. This was found to be too weak a safeguard, and the nakedness of state sovereignty was fully exposed in the adoption of the constitution: "The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion and * * * against domestic violence." Even in 1861 the seceding states, which so loudly declared their sovereignty, were at the same time contradicting the assertion by their instinctive efforts to form a new nation for the protection of state sovereignty. A sovereignty incapable of self-maintenance, and always under the protection of a higher power, is a contradiction in terms. — 3. A still stronger objection is the nature of the governments, whether they be called federal or national, which have been formed in, for and by the Union. The first, or revolutionary, government of the continental congress, was absolutely opposed to state sovereignty. The armies which were mustered, the navies which were created, the war which was waged, the flag which was displayed, the treaties which were made, and the debt which was contracted, were all exclusively national, and depended for their credit on the will of the whole people. Congress even showed its national nature by declaring independence without the assent of New York, and by practically making Washington dictator in 1777. Even the articles of confederation, though they declared the sovereignty of each state, contradicted the assertion by leaving the insignia of sovereignty to the national government. When we come to the constitution, the objection becomes absolutely insuperable. The prohibitions upon the states in section 10 of article I. are all prohibitions of the exercise of sovereign powers; the states, then, were not in fact regarded as sovereignties, either by themselves or by others. The same argument can not be applied to the preceding section, prohibiting the exercise of certain powers by the United States; for these are all matters of routine, not sovereign powers. Under the constitution the states were not to have even the appearance of sovereignties: the powers to declare war, to make peace, to conclude treaties, to suppress insurrections, and to punish treason, were now placed where they belonged, in the national government. If states formed the constitution, they stultified their own assertions of sovereignty. The conclusion must be, not that states, state governments or the federal government is sovereign, possessed of uncontrollable power, but that the people of the nation, divided by its own will into states, is sovereign. — The idea that the sovereignty of the states was only suspended by the formation of the constitution, ready to be revived at any moment by the will of the state, though it was the general southern doctrine after about 1803 (see SECESSION), is altogether too fine spun for practical use or recognition. The idea of a comatose sovereignty, of a sovereignty which sleeps like Rip Van Winkle, but wakes at the exercise of its own suspended will, of an uncontrollable will which still exists though it has resigned its essence to another, of an abdicated sovereign peaceably reviving its own sovereignty, is certainly an extraordinary political dogma; and its evident fallacy is enough to disprove the notion that the states were ever sovereign. — Above all, the provision for amendment by three-fourths, not by all, of the states, is a flat negative to state sovereignty.

There is, with the obsolete exception of the retention of the slave trade until 1808, and with the always controlling retention of state lines, no limit upon the power of amendment. Can we imagine real sovereignties not only "suspending" the exercise of their own wills on points certain, but agreeing to accept as their own the unlimited and indefinite future will of three-fourths of their associates? And yet the only alternative for state sovereignty is to imagine the states as making the agreement without the intention of keeping it. This one provision for amendment is sufficient to outweigh all the arguments from authority that could be adduced. — 4. It is usually assumed that state sovereignty is essential to a federal government, and is only denied because of the desire to introduce the idea of a national or centralized government. In fact, the government is both national and federal: not, as the "Federalist" asserts, partly national and partly federal, by the will of the states; but together national and federal, by the will of the whole people. Powerful enough to have established the most centralized government, if it had been foolish enough to desire it, the national will has always, of its own motion, limited itself to such a government as the states should agree upon, a federal government. When the nation's first instruments, the state legislatures, proved unfit, the nation was strong enough to wipe out their work and substitute a better; but it still pledged itself to maintain the states intact, and to make no change in the constitution on which three-fourths of the states could not agree. This universal American predilection to a federal form of government has made it possible to argue in favor of the sovereignty of the original thirteen states, but the case is altogether different when we come to the states which have been subsequently admitted under the constitution. So difficult is it to ascribe their existence to their own uncontrollable will, or to anything else than the uncontrollable will of the nation, that the advocates of state sovereignty here find (and evade) *their* Scylla and Charybdis. Take the state of Missouri as an example. Its territory was sold by France to a sovereignty, the United States, not to any or all of the states. It was bought by the nation as a sovereignty, not by any permission given by the states in a written constitution. Its original acquisition, its erection into a territory, its government as a territory, were alike the results of the national will. And when its population had grown sufficiently to justify hope of stability, the national authority regulated the formation of a state government, established its boundaries, and finally, in its own time and on its own terms, admitted the new state to the Union. Will any man be bold enough to specify where and when the sovereignty, the uncontrollable will, of Missouri came into this long process as a factor? To whom, then, do the people of Missouri owe what would still often be called their "sovereignty," the absolute power over their own affairs, which they have enjoyed since 1820, but did not enjoy before 1820? Evidently, to the national will. There is not a state, old or new, in this Union, whose will has been considered in the establishment of its own boundaries. The boundaries of the original thirteen states and of Vermont were fixed by the royal power and its agents; the boundaries of new states, and the rearrangement of the boundaries of the old states, have been fixed under the supervision of the new national sovereignty; and neither of these classes of *pseudo* sovereignties has ever had the power to add one cubit to its area of its own uncontrollable will. Indeed, one of them (Iowa) was refused admission until she would accept the boundaries which the national will had fixed for her. The only fair arguments to the contrary are Rhode Island and Texas. (See those titles.) But these were only apparent. The long resistance of the former to the encroachments of her neighbors was passive, not active; and the boundaries of the latter, which her own power had been unable to establish as she claimed, were finally fixed by the United States. Texas, indeed, is a good deal of an anomaly in her entrance to our system. An undoubted sovereignty previously, she was rather united to the Union than admitted to it. Some of the whigs, who were opposed to the admission, even claimed at the time that it was a fair question whether the United States had annexed Texas, or Texas had annexed the United States; that the junction of the two republics had properly abolished the constitutions of both, and vacated the offices of their respective presidents; and that a new constitution and a new president were necessary for the new nation. But the overwhelming superiority of one of the two parties was taken as a sufficient offset for all legal informalities, and the "annexation" was consummated. Barring this anomalous case, the origin of state sovereignty in new states is a field of inquiry which the advocates of the theory of state sovereignty can not be induced to enter. The ablest and latest of them, in his "Republic of Republics," cited below, has a chapter of eight pages on "Sovereignty in the new states," in which the whole question is evaded carefully and successfully. Its only attempt at argument is in the closing sentences of the chapter: "Can you think, dear reader, of any political difference between Ohio and Connecticut, Virginia and Missouri, New Jersey and Texas, Georgia and California, as to *status*, capacity or rights?" And the answer must be: There is no difference; each and all owe their *status*, capacity and rights to the power which won them, by force or purchase, from Great Britain, France, Spain or Mexico, and which has since maintained them, the nation. — In fact, state sovereignty is the deadliest of all enemies to a federal government. In a government without the federal principle, the entrance of the error is impossible, or extremely difficult. As soon as the federal principle enters, its parasite enters with it, and usually succeeds in destroying it. A permanent federal Union, based upon the uncontrollable will of the states which composed it, would be as impossible as permanent

connection between man and woman without lawful marriage. The sovereign power of the nation, by the certainty which it gives to the bond, places in the category of the impossible countless grievances which, without a national power, would soon be magnified by state jealousy and state demagogues into good reason for dissolution of the bond. He, then, who denies state sovereignty, but upholds state rights, does so not in defense of the national power, which is perfectly able to defend itself, but in defense of the most beautiful and yet delicate of all schemes of government, the federal system. — III. STATE RIGHTS. From 1800 until 1865 the phrase "state rights" looked directly or indirectly to but one of the supposed rights of a state, the right of secession. The political revolution of 1800 was caused very largely by the revolt of the mass of the people against the federalist idea that the federal government was sovereign, a very different thing from the assertion that the nation is sovereign. The new party that then assumed control of the federal government did so on the theory that the federal government was the servant of the states, and that the Union was wholly voluntary on the part of the states. This theory was summed up in the name "state rights democrat." In the north and west the theory had disappeared in reality long before 1860, and men in those sections who called themselves "state rights democrats" were hard pressed to reconcile their party name and their support of the war against the rebellion. In the south the name and theory were kept in complete sympathy by the multifarious influences of slavery until state sovereignty and slavery went down in a common overthrow in 1865. "State rights" may now take its proper signification, that which belonged to it in reality even while "state sovereignty" was given as its formal name. — In reading the debates of the period from 1775 until 1789, no one can help noticing the peculiar way in which the word "sovereignty" is used. The same men who recognize at every step in fact the existence of a national sovereignty, continue to refer to the states as "sovereignties." The same Wilson, whose exact and satisfactory statement of the ultimate national sovereignty has been used above, speaks thus in another place: "The business of the federal convention * * * comprehended the views and establishments of thirteen independent sovereignties." And such apparent contradictions are not the exception, but the rule. "The American Statesman's Dictionary," says von Holst, "was written in double columns, and the chief terms of his vocabulary were not infrequently inserted twice: in the right-hand column, in the sense which accorded with actual facts, and was in keeping with the tendency toward particularism; in the left, in their logical sense, the sense which the logic of facts has gradually and through many a bitter struggle brought out into bold relief, and which it will finally stamp as their exclusive meaning." If they endeavored to "outdo the mystery of the Trinity by making thirteen one, while leaving the one thirteen," it was because they were conscious that the thirteen were thirteen by the will, protection and support of the one. It is by the citation of one member of each of these verbal contradictions that the advocates of state sovereignty have built up their argument from authority, making the "fathers of the republic" the fathers of their theory, while ignoring the practical application by which the fathers aforesaid explained their apparent contradictions. The contradiction will disappear if we take in set terms what the fathers took in practice, that the states were not sovereign of their uncontrollable will, but that they possessed absolute power in their own sphere by the will of the nation. "State sovereignty" then takes its proper form of "state rights." The nation may diminish or enlarge the sphere of the states: it has repeatedly done both by amendments; but, whatever the sphere of the states may be, they are supreme within it. It may be said that this reduces the states to the rank of counties, but the objection will not hold. The will of a state, to which the nation has abandoned the control of cities, towns and counties, is easily expressed and exercised: but the will of the nation can only be expressed and exercised with such enormous difficulty that the states are practically safe from it, unless an unusually great emergency calls it forth. What present hope is there for any suggested amendment to the constitution? It may further be said that such a theory allows the possible establishment of a monarchy in the United States. Be it so: pray, who is to prevent it if the national will should incline to a step so foolish? He who assumes to prevent it must do so by force. Who could have prevented it in 1775 or in 1787–9, if the nation had willed it? The report was common in 1787 that a part of the convention's plan was to call an English prince of the blood to the throne of the United States. Had the report been correct, and the step been ratified, the only difference in the result would have been that Rhode Island and North Carolina would have felt from a selfish royal personality a pressure very different from the magnanimous forbearance which a republican government could afford to exercise. But the sovereignty would have been alike in both cases, and its exponent the same in kind, differing only in degree. — And how in reality does this assail the dignity of the states, since it plants their authority on a base so broad as to be practically immovable? Federal government and state governments are alike exponents of the national will, and the effort to secede on the one hand, and to unconstitutionally oppress a state on the other, are alike defiances of the national will, though, if successful, the latter may be atoned for, while the former can not. It is notorious matter of fact, that, in a peaceable and legal struggle between the federal government and a state government, the national sympathy is rather with the latter than with the former; and the state government, supported by the consciousness of this general sympathy, and aided by its own greater intensity of interest, has a much greater

probability of success. If the struggle verges toward a settlement by force, national sympathy for the state government decreases, until the distinctive federal authority is formally or actually acknowledged; and then the controlling national feeling shows itself by marking as a victim for political punishment any department or officer of the federal government that has been instrumental in thrusting upon a state the alternative of force or submission. The national will approved the federalist measures of 1798, the action of President Adams against Georgia in 1824, the nullification proclamation drawn up by Edward Livingston against South Carolina in 1832, and the forcible suppression of ku-klux disorders by the Grant administration in 1871–3; and in all these cases the national sympathy almost instantly showed itself against the authors of the acts which had been approved. Even in ordinary politics, there is no greater danger to an American administration than the well or ill founded belief that it is endeavoring to coerce the will of its own party in a state. "[American] men," said Hamilton, bitterly, "are rather reasoning than reasonable animals"; and the national devotion to a federal system must be fully taken into account by any one who would attempt to study American political history.—And we can not doubt that the national feeling is justified by reason, by the events of the past, and by the probabilities of the future. It is so obviously impossible for any mere centralized government to consult wisely and well the diverse interests of California, Maine and Florida, as far apart in distance and climate as London, Teheran and Morocco, that the absolute necessity of the federal system is everywhere recognized without question. The people of each state feel that the principle on which their own happiness and comfort rest would be destoyed if they should connive at an encroachment by the federal government upon the sphere of another state. They know instinctively that in so vast a country the choice is between the federal system and disunion, for the most solidly based centralized government could not hold the nation together six months; and in the train of disunion come diplomatic relations, international wars, standing armies, and the subordination of the many to the few. Rather than admit the first appearance of such evils, they have denied to the states the power to recall their senators; rather than suffer the reality, they have surrendered the dearest prejudices of their nature, and conquered and reconstructed a portion of the states of the Union. They perceive that a federal system, so far from being in any need of state sovereignty, is injured by the first appearance of state sovereignty and the diplomatic relations implied in it; but that any abandonment or infringement of state rights is an insult and an injury to the nation, and a subtle attack upon the federal system, in which alone the nation can maintain its unity. And the lessons which the past has taught are of such a nature that the future can only add force to them. State sovereignty, with its shifting possibilities of rearrangements of federal associations, disunions and reunions, might have been possible in a limited area, with small population, slight internal interests, and no foreign intercourse; but it was impossible even in 1775, and every doubling of population and wealth since has only made the impossibility more patent. And in exactly the reverse order, the maintenance of state rights, comparatively unimportant in 1775, has grown every year more essential to the well-being of the people, whether viewed as states or as a nation. The area of the state of New York is closely similar to that of England, and there seems to be no great reason why New York should not expect to rival England in population and in wealth. At any rate, every advance toward that point is a stronger reason not only why the welfare and happiness of the increasing population of New York should be consulted, but also why the rest of the country, with its increasing stake in the welfare of New York, should consult it by maintaining the state rights of New York.—In this essential respect, there seems at present to be little fear for the future. It is, of course, not so easy for one who is in the current of events, as for one who looks from the outside, to calculate exactly their force and direction; but so far as can be seen now, the intensity of the national predilection for state rights is increasing, not diminishing. Mr. E. A. Freeman, in his magazine article, cited below, lays stress on the general American substitution of the word "national," since 1860, for the word "federal." "It used to be 'federal capital,' 'federal army,' 'federal revenue,' etc.; now, the word 'national' is almost always used instead. This surely marks a tendency to forget the federal character of the national government, or at least to forget that its federal character is its very essence.". The argument would be very strong if the change had taken place in a period of peace; but the change really shows no sign of permanence, and is only one of the last waves of the tremendous exertion of national sovereignty in 1861–5, never, it is to be hoped, to be again made necessary. A stronger argument is drawn from the passage of laws by congress, such as the national banking law, the general election law, and a few other statutes, which conflict with what were long considered state rights. But these are exceptional cases, due to causes entirely outside of state rights. It is far more noteworthy that state rights, even of the conquered states, have come unscathed through the storm of a desolating war directed against a number of the states. It would be difficult to specify any point in which the theory of government by states has been seriously marred since the adoption of the constitution. Wherein do the people of New York or Virginia govern themselves less now than in 1789? The only fear to the contrary is in the encroachments of the federal judiciary; but these would punish and correct themselves by so clogging the federal courts with business as to compel their reformation by the national

will. And while the outlines have been maintained, the state's power has grown *pari passu* with that of the nation: New York is now a stronger and richer state, a more powerful government, a more valuable friend in peace, a more formidable enemy in war, than the whole United States in 1789. Under the silent but potentially omnipotent sovereignty of the nation, New York has always enjoyed a power of self-government which her own sovereignty could not have made more absolute, and might easily have made much more doubtful. Under the shadow of the powerful commonwealths of Massachusetts and Pennsylvania, the little states of Rhode Island and Delaware are living their own peculiar life, under the national *ægis*, with an absolute fearlessness of interference from their neighbors for which many a stronger state elsewhere might well have bartered the Philistine armor of "sovereignty." The very same cause, the steady growth of the states in population, wealth and material interests, which would have made state sovereignty yearly more dangerous and hateful to the nation, makes state rights dearer and more evidently essential. — And it does not require a very close scrutiny of passing events to see that the same cause which has just been mentioned is actually developing a deeper shade of particularism than even state rights. As the state grows more populous and wealthy, a growing diversity of interests in different parts of the state develops a particularist feeling within the state itself. The germ of the feeling has always existed in some of the states. Western and eastern Massachusetts, New York, Pennsylvania, Virginia and North Carolina have quite regularly taken opposite political directions, and in one of them (Virginia) the fissure, expanding under the force of open war, has resulted in the formation of a new state. But in all the larger states, there are indications of the steady growth of the feeling; and the probability is, that, as soon as population becomes dense, the pressure of conflicting interests will be relieved by the throwing off of new states. Already New York has three fairly defined sections, the west, the north, and the southeast, any one of which is a potential state. The enormous and diversified area of Texas was never made for a single state; and only increasing density of population is needed to make the same thing evident in other cases. The silent growth of the feeling may be estimated from a single instance. In 1794 the so-called "whisky insurrection" (see that title), in western Pennsylvania, was suppressed by militia, a part of the force being drawn from New Jersey, Maryland and Virginia. In 1877 the same region was the scene of a part of the railroad riots, and the attempt was made to employ militia from the eastern part of the state in restoring order. Let him who remembers the delirium of passion with which men of all classes resisted the attempt, ask himself what the result would have been if New Jersey, Maryland or Virginia militia had again been introduced, and say whether the particularist feeling is less strong in that region now than in 1794. It is even evident that the particularist feeling is not confined entirely to sections of states, but that the great cities which have been growing up on our soil are also developing a particularism of their own. The shibboleth of "home rule," the abandonment of state and national parties in local elections, which has of late years developed so strong a following in Philadelphia, Brooklyn and New York city, is only a phrasing of this new and deeper shade of particularism, which will come out to full view as soon and as fast as it is needed. Mr. Freeman, in the article before referred to, notes this very peculiarity: "An American city is more thoroughly a commonwealth, it has more of the feelings of a commonwealth, than an English city has." Such evident tendencies may well offset a temporary exaggeration of the word national. They seem to show that the people of the United States are justified in their abounding confidence that their political machine has the power to correct its own errors and to guard against its own dangers. — A complete definition of state rights is an impossibility. Theoretically, they consist of all the powers of government which the nation has not transferred to the federal government or forbidden the states to exercise. (See CONSTITUTION.) By leaving the states and their governments *in situ* at the outbreak of the revolution, the nation confirmed to them a power over their own territory practically unlimited at the time; but the rights and powers which they have since lost have gone to the general government by direct transfer. The rights of the federal government and of a state government must be ascertained by two directly opposite questions: in the case of the former we must ask what rights have been directly transferred to it by the federal constitution; but in the case of the latter, what rights and powers have been forbidden to it by the state or federal constitutions. In the case of doubtful powers the presumption is against the federal government and in favor of the state, for the nation has given the federal government a limited charter, while it has only circumscribed the state government in certain particulars. The *onus probandi* is upon the asserter of federal authority and the denier of state authority. The state's direct and indirect powers cover all the field of daily life and interests, while multitudes of persons live and die without once coming directly in contact with federal power or practically realizing the existence of the federal government except by participation in biennial elections. But even this does not quite express the sum total of state rights. The states still assert a power to punish for treason, though the power in offenses against the United States has been transferred to congress (see TREASON); and there are certain powers, such as the passage of insolvency laws, and the regulation of congressional elections, which they exercise in default of action by congress. And, in general, they have whatever powers their courts may define as their right, and may succeed, by

persistence or ingenuity, in maintaining against the federal courts, always provided that the controversy does not take the aspect of force: in that case the state must yield to the more direct representatives of the national will. Even in this latter case, the chances are still decidedly in favor of the state; for it has, unless it is very evidently in the wrong, the pronounced sympathy of the nation, which works in its favor in innumerable ways. Conflicts of this kind are not uncommon: one is in progress at the present writing (1888) between the federal and state courts in New Jersey. They are always compromised or evaded, and results will show that the state court, by claiming more than its right, regularly obtains all it can fairly ask. (See, in general, CONSTITUTION, Art. I., §§ 4, 8–10; Art. III., §§ 2, 3; Art. IV., §§ 3, 4; Art. V.; Art. VII.; and Amendments, Arts. X.–XV.)—The theory of state sovereignty is best stated in 1 Tucker's *Blackstone*, Appendix, note D, and in Story's *Commentaries*, §§ 310–318. For the arguments in favor of it see, "Centz"'s *Republic of Republics;* 1 Calhoun's *Works;* 2 *ib.*, 197, 262; 3 *ib.*, 140; 1 Stephens' *War Between the States* (see index); Fowler's *Sectional Controversy*, 351; Harris' *Political Conflict in America*, 212; Pollard's *Lost Cause*, 33. For the Madison theory, see *Federalist* (No. 39); *North American Review*, October, 1830, 537; 2 Curtis' *History of the Constitution*, 377. See also 1 Austin's *Province of Jurisprudence*, 226; 1 von Holst's *United States* (Lalor's trans.) 1–63; 5 Bancroft's *United States*, 500; 6 *ib.*, 351; Greene's *Historical View of the Revolution*, 119; Prince's *Confederation* vs. *Constitution;* 2 Rives' *Life of Madison*, 371; Hurd's *Law of Freedom and Bondage*, cap. xi.; 3 Webster's *Works*, 448; 1 Benton's *Thirty Years' View*, 360; Brownson's *American Republic*, 195, 239; Mulford's *The Nation*, 310; Goodwin's *Natural History of Secession;* H. Adams' *Life of Randolph;* Poore's *Federal and State Constitutions; Journals of Congress* (under dates named); 1–3 Elliot's *Debates* (under dates and states named); Dillon's *Notes on Historical Evidence;* 2 *Whig Review*, 455; Freeman's *Impressions of America; Harper's Magazine*, June, 1880 (G. T. Curtis' article); 1 Bancroft's *History of the Constitution*, 146; 2 *ib.*, 47, 332; Hurd's *Theory of Our National Existence*, 104, 526. A. J.

STATE, The. Although natural, and founded on what is most imperious in our sympathies and our wants, society is not maintained and preserved without an effort. The bond which holds it together would be weak indeed and forever in jeopardy if a protective power were not established superior to individual wills to keep them within bounds and to defend the persons and the rights of each against the attacks of violence. Men may wish to see the authority here referred to invested with this form or that; they may attribute to it this or that historical origin; but all agree that it is indispensable to the maintenance of human society, and that only perfectly wise or perfectly brute creatures can do without government.—But it is clear that there is a great difference between the purely repressive authority with which the elders of a tribe are invested, and the complicated and powerful organism called the state in nations advanced in civilization. When society has reached a certain degree of development; when the cultivation of land possessed in common or appropriated by individuals requires security; when foresight inspired by offensive or defensive war has engendered the habit in a people of making certain preparations in common in view of common danger and enterprises in common; and when certain ideas, beliefs and feelings, held by all the members of a given society, have given birth to the moral unity of the nation, the nation is necessarily developed, and assumes a character of solidity, duration and permanence. It extends its sphere of action, and is completed by the addition and regular working of numerous wheels, each having a distinct existence, and all functioning in harmony. The living personification of the fatherland, the instrument of its strength at home and abroad, the author and enforcer of the law, the supreme arbiter of interests, judge of peace and war, the protector of the weak, the representative of all that is general in the wants of society, the organ of the common reason and of the collective force of society: such is the state in all its power and majesty. Superior to all it governs, the state nevertheless owes to its own citizens all that it is. But it is absolutely necessary that we should remark: what society has confided to the guardianship of the state as a precious deposit depends no more upon society than it does upon the state—the sacred deposit of justice. (See JUSTICE.) Justice does not emanate from the individuals who compose society; it imposes itself on them as their rule of action. In vain do certain publicists maintain that the state can do everything because it is above everything. Nothing is more destitute of foundation than such an assertion. Its rights would be limited by its duties even if they were not limited by positive guarantees written in the laws. The state, too, has a rule and bridle in justice. The law emanates from the state. But the power to make the law and to employ force in its service, does not imply that the state has the unlimited power to make what is unjust just, or the just unjust, at its pleasure. Human beings are subject to moral laws, against which the state has no more power than it has against the physical laws which govern matter.—(See NATION, CHECKS AND BALANCES, GOVERNMENT, GOVERNMENTAL INTERFERENCE, LEGISLATION, REPRESENTATION.) B.

STATES, Constitutional and Legal Diversities in. Nothing more forcibly evinces the complex character of American political institutions than the numerous variations in the constitutions or fundamental laws of the states forming the American Union. The controlling power of the federal constitution in matters where it is made the supreme law of the land is fully treated

elsewhere in this work. But the large variety of powers relating to the internal polity of states, to local administration, revenue, expenditure and taxation, to the laws of property, to corporations, municipal or private, to the administration of justice, to the domestic relations, etc., come within the cognizance of the several state constitutions, and of the laws made in pursuance thereof by state legislative bodies. States exercise not only the right of eminent domain within their own boundaries, limited only by the power granted to congress to regulate commerce between the states (a power of hitherto undefined and unknown extent), but they are continually adding statute to statute for the regulation of the community in every conceivable direction, until their constitutions and the body of laws enacted in each state form a vast and sometimes unwieldy mass of legislation, rendering it difficult to ascertain with precision the actual law on any subject, in any state. Still more complicated and vexatious, to the stranger studying our institutions, is the divided jurisdiction between the national and the state governments, and between the latter and the counties or municipalities and towns which combine to make up the state. A citizen of the United States, besides his allegiance to the national government, which manages foreign relations, and legislates for commerce and navigation, public lands, pensions, patents, copyrights, money, tariff and internal revenue, and other objects of national control, also owes allegiance to the state government, which taxes him to maintain a large body of legislative, executive and judicial officers, an extensive public school system, institutions for the care of the unfortunate classes, for the punishment of crime, and sometimes for a system of public and internal improvements of great extent, besides other collateral objects of expenditure. To this is to be added a citizen's share in local government and expenditure, including highways and the administration of justice, besides, in frequent cases, taxes for public buildings, bridges, or other objects of county necessity or ambition. Then, to close the chapter of his divided political allegiance, after he has discharged his obligation to the United States, to his state, and to the county to which he belongs, the citizen is still further subject to participation in the maintenance of a city or town government in the place of his immediate abode. — It had been designed to treat, under the head of Constitutions (variations of State), in the first volume of this work, the diversities prevailing in the political regulations of the various states of the Union; but it was found that very many of these variations are controlled by statute, and not by direct constitutional provisions. To sum up in connected order the more important differences which prevail in the various states in matters of the widest public interest, is the object of the present article. For greater convenience the several topics will be treated in alphabetical order. — ALIENS. Most of the state constitutions exclude aliens, or the subjects of foreign governments, from suffrage, until their residence is judged to have been long enough to familiarize them with our political system. But in fifteen states, aliens who have declared their intention to become citizens are invested by the constitution with the right to vote at elections, on the same terms with natives or actual citizens. These states, thus relaxing the rule which excludes from political power aliens who have not fulfilled the prescribed term for naturalization, are Alabama, Arkansas, Colorado, Florida, Indiana, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Nevada, Oregon, Texas and Wisconsin. (See ALIENS, 1 Cyc., p. 60.) Aliens have the right of purchasing, holding and conveying real estate and personal property by the laws of nearly all the states.—AMENDMENTS. (See *Constitutions and Constitutional Amendments.*)—BALLOT. With the single exception of Kentucky, the constitutions of all the states require the vote at the popular elections to be taken by ballots. Kentucky's constitution provides that the people shall vote *viva voce*, which, however, is suspended in the case of congressional elections by the United States law requiring congressmen to be chosen by ballot. Voting in state legislatures, however, is almost uniformly *viva voce*, and this is a constitutional requirement in Alabama, California, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Nevada, North Carolina, Pennsylvania, Tennessee and Texas. (See BALLOT, 1 Cyc., p. 198.) — BANKS. Some of the state constitutions prohibit absolutely the incorporation of any banks issuing circulation (*e. g.*, California, Illinois, Indiana, Oregon and Texas). The Wisconsin constitution prohibits the charter of any banks, except on approval by a majority of the qualified voters of the state at a general election. In most of the older state constitutions, adopted before the congressional legislation establishing the national bank system, the legislature is empowered to provide for the organization of banks by a general banking law. In ten or twelve states the constitution provides for the individual liability of the stockholders to the bank creditors to an amount equal to their respective shares. (See BANKING, 1 Cyc., p. 204.) — CAPITAL PUNISHMENT. (See *Death Penalty.*) — CAPITATION TAX. (See *Poll Tax.*) — CENSUS. While the constitution of the United States requires a decennial census, which is at intervals so far removed as greatly to lessen its value in a rapidly growing country, but few of the states have made provision for taking a state census in intermediate years. Constitutional provisions in the following named states require the legislature to provide for an enumeration of the people at the dates named respectively: New York and Wisconsin, in 1855, and every tenth year thereafter; Indiana (of voters only), in 1853, and every sixth year thereafter; Michigan, in 1854, and every tenth year thereafter; Kentucky (voters only), in 1857, and every eighth year thereafter; Kansas, Massachusetts, Minnesota and Oregon, in 1865, and every tenth

year following; Tennessee (of voters only), in 1871, and each tenth year thereafter; Florida, Iowa, Nebraska, Nevada and South Carolina, ["if deemed necessary"] in 1875, and each tenth year thereafter; Colorado, in 1885, and every tenth year thereafter; Louisiana, in 1890, and every tenth year thereafter; Maine and Mississippi, once in ten years, to be fixed by the legislature. The constitutions of New Jersey and Rhode Island permit the taking of a census by act of the legislature, and this was last done in 1875. No constitutional provision on the subject exists in Alabama, Arkansas, California, Connecticut, Delaware, Georgia, Illinois, Missouri, New Hampshire, North Carolina, Pennsylvania, Texas, Virginia, and West Virginia. The constitutions of Maryland, Ohio and Vermont, permit the taking of a census, but no legislative provision has been made for it. It thus appears that in less than half the states is there any provision for a general enumeration of the people which might serve at once as a check upon the national census, and a supplement to its statistics, of incalculable economic value for purposes of comparison. In several states whose constitutions formerly provided for a census, this requirement has been dropped out in new constitutions adopted within the last decade. The failure on the part of state legislatures to take an interest in a proper periodical census of their state resources, is to be attributed mainly to a spirit of false economy. Such great commonwealths as Ohio, Pennsylvania, Indiana and Illinois, while providing for certain classes of statistical reports through state officers, have no provision whatever for the record or publication of vital statistics, or of a complete periodical census of their populations. An attempt has been made by congressional legislation to encourage the state governments in the work of taking account of their population and resources by providing (act of March 3, 1879), that any state or territory which shall complete a census in 1885, 1895, etc., according to the forms used in the census of the United States, shall be paid from the treasury 50 per cent. of the expenses of actual enumeration in such state at the United States census, increased by one-half the percentage of gain in population in such state or territory between the two United States censuses next preceding. — CITIZENSHIP. (See *Suffrage.*) — CONSTITUTIONS AND CONSTITUTIONAL AMENDMENTS. All the state constitutions have certain common characteristics, while there are great diversities as to political regulations and the distribution and details of legislative, executive and judicial powers. The great cardinal features found in all embody (in some form) a declaration of rights; an assertion of the sovereignty of the people through a representative system; the creation of three co-ordinate departments of government, divided into legislative, executive and judicial; a prescription of the qualifications for the right of suffrage; and a recognition of local self-government. The latter, however, is usually implied rather than formally declared. Constitutions are not the source but the result of personal and political liberty; they grant no rights to the people, but define the rights which they already possess, and provide a systematic organization of governmental powers for their protection. A written constitution is to be viewed in the light of a limitation upon the powers of government in the hands of agents delegated by the people. — How far state constitutions shall enter into the details of government is a matter determined by the public opinion of the time, as reflected in the popularly elected conventions which frame them. While the earlier constitutions, adopted at the period of the American revolution and later, were more general in the scope of their provisions, many of the more recent ones descend into the particulars of governmental control in each department. The tendency has been to restrain the legislature from passing special acts, and all measures conferring corporate rights or special privileges. It may be said, in general, that, with the fewest exceptions, the states of the Union revise their constitutions in from ten to thirty years, each new constitution growing more democratic than the preceding. The southern states have had much more frequent adoption of new constitutions, since the civil war, growing out of the temporary ascendency of influences and opinions fully treated elsewhere. It is of course a cardinal principle in the making of a constitution that it must be ratified by the people, who alone possess the power of sovereignty. The only exception is in Delaware, whose constitution may be amended by the act of two successive legislatures. The long-established usage, when a constitution is revised or superseded by a new one, is for the legislative branch of the government to submit to the qualified voters the question of calling or refusing to call a constitutional convention. The method of doing this is prescribed by the constitution itself, which is to be made the subject of revision. The provisions in the constitutions of the various states differ widely as to the proportion of the legislative body required to submit to the people the question of amendment or revision; as to the time fixed for deliberation upon the proposed changes; and, finally, as to the majority of the popular vote required to call a constitutional convention, or to amend the constitution directly. The following analysis exhibits the requirements as to the recommendation and adoption of constitutional amendments in each of the thirty-eight states. Two-thirds of both houses of the legislature must concur in order to propose amendments to the constitution to the popular vote in the following states: Alabama, California, Colorado, Georgia, Illinois, Kansas, Louisiana, Maine, Michigan, Mississippi, Texas and West Virginia. In Florida and South Carolina a two-thirds vote of two successive legislatures is required to submit amendments. In Massachusetts a majority of the senate and two-thirds of the house of two successive legislatures are required, and in Vermont two-thirds of the senate and a majority of the house, confirmed by

a majority of the next legislature. In Vermont, also, constitutional amendments are adopted by a majority of the votes of the citizens voting thereon. In Delaware the constitution may be amended by vote of two-thirds of each house of the general assembly if the proposed amendment shall be ratified by three-fourths of the next succeeding legislature. This is without direct reference to the people, although the legislature must "duly publish in print" the proposed amendments, "for the consideration of the people," before the election of the legislature which is to pass upon them. Three-fifths of the legislature are required in Maryland, Nebraska, North Carolina and Ohio to propose constitutional amendments. A majority of the members of both houses is sufficient to propose constitutional amendments in Arkansas, Minnesota, Missouri and Rhode Island. A majority of two successive legislatures is required in Indiana, Iowa, Nevada, New Jersey, New York, Oregon, Pennsylvania, Tennessee, Virginia and Wisconsin. In Connecticut a majority of the house of representatives may take the initial step of referring proposed amendments to the next succeeding legislature, and two-thirds of each house must concur in recommending them to the popular vote. In New Hampshire the constitution provides for no legislative action, but requires the selectmen of towns to take a vote in town meeting every seven years whether a convention shall be called to revise the constitution. A majority of voters can order a convention, but two-thirds of the popular vote are required to adopt a constitutional revision or amendment. There is no submission of amendments without a convention. In Kentucky there is no provision for direct amendment, but a majority of the legislature may submit to the people the question of calling a convention; and this requires a majority of legal voters to be carried. — The provisions as to the majority of the popular vote requisite to ratify amendments to the state constitution also vary in different states. Thus, a majority of the whole number of qualified voters is required in Indiana, Missouri, Nevada, New Jersey, New York and Oregon. Rhode Island requires a majority of three-fifths of the votes cast to ratify constitutional amendments. Alabama, Arkansas, Mississippi and Tennessee require a majority of the votes cast for the general assembly to ratify. In South Carolina alone, of all the states, amendments of the constitution require in order to their adoption not only a majority of the qualified voters of the state, but they must afterward be ratified by two-thirds of each house of the general assembly next succeeding. In the remaining states, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, North Carolina, Ohio, Pennsylvania, Texas, Vermont, Virginia, West Virginia and Wisconsin, constitutional amendments are ratified by a majority of the votes cast on the question of amending the constitution. It very frequently happens in states requiring for ratification a majority of the voters qualified, instead of those actually voting, that the amendments proposed are lost from sheer lack of interest in them. Popular indifference to constitutional questions is very general, and a majority of all the voters has frequently elected candidates for office, while at the same poll constitutional amendments have been lost because failing to receive the required majority of the qualified voters. In the following states a convention to frame a new or revised constitution may be ordered by a vote of a majority of the votes cast: Alabama, California, Colorado, Connecticut, Iowa, Maine, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia and Wisconsin. In Maryland, New York and Ohio the question of calling a constitutional convention must be submitted to the people once in every twenty years, and a majority of those voting thereon legalizes it. In Michigan the question must be submitted every sixteen years, and in New Hampshire every seven years. In the latter state the town meetings act directly on the question, without intervention of the legislature. In Rhode Island three-fifths of the qualified electors must vote to call a convention. In Delaware, Indiana and Kentucky a majority of the legal voters is required to call such a body. In Florida, Illinois, Kansas, Michigan and Mississippi a majority of those voting at the same election for members of the legislature is required to call a constitutional convention. — CORPORATIONS. Most of the more recent state constitutions restrict the power of the legislature to create private corporations by special act, but permit their organization under general laws. The aim is to prohibit or curtail special privileges. Stockholders are generally made liable to creditors for the full amount of their respective interest in the stock. — COURTS. The court of highest powers or final jurisdiction, called in a few states the court of appeals, is designated in nearly all as the supreme court. The mode of appointment, the tenure of office, the number of judges constituting the supreme court, and their compensation, differ greatly in various states. In all, the constitution fixes the mode of appointment and the jurisdiction, both original and appellate, with power usually given to the legislature to modify the latter; in a few states the number of judges, and in most states their salaries, are left to be fixed by the legislature. The table on page 804 exhibits these variations in a succinct view. It will be seen that only four states provide a life tenure for the judges of the highest judicial tribunal; and in these the incumbents are removable by the legislature for cause or by impeachment. In the remaining thirty-four states the terms for judicial office vary from two years in Vermont, which is the shortest, up to twenty-one years in Pennsylvania, which is the longest, elective term prescribed; although in New Hampshire the judges must retire upon reaching seventy years of age. In all the states judges are re-eligible to

STATES.	Term of Office.	How Elected or Appointed.	No. of Judges.	Salary.
Alabama	6 years.	People.	3	$3,000
Arkansas	8 years.	People.	3	3,000
California	12 years.	People.	7	6,000
Colorado	9 years.	People.	3	5,000
Connecticut	8 years.	Legislature.	5	4,000
Delaware	For life, but not after 70.	Governor and Council.	4	* 2,500 † 2,000
Florida	For life.	Governor and Senate.	3	* 3,500 † 3,000
Georgia	6 years.	Legislature.	3	3,000
Illinois	9 years.	People.	7	5,000
Indiana	6 years.	People.	5	4,000
Iowa	6 years.	People.	5	4,000
Kansas	6 years.	People.	3	3,000
Kentucky	8 years.	People.	4	5,000
Louisiana	12 years.	Governor and Senate.	5	5,000
Maine	7 years.	Governor and Council.	8	3,000
Maryland	15 years.	People.	8	3,500
Massachusetts	For life.	Governor and Council.	7	* 6,500 † 6,000
Michigan	8 years.	People.	4	4,000
Minnesota	7 years.	People.	5	4,000
Mississippi	9 years.	Governor and Senate.	3	3,500
Missouri	10 years.	People.	5	4,500
Nebraska	6 years.	People.	3	3,500
Nevada	6 years.	People.	3	6,000
New Hampshire	Until 70 years.	Governor and Council.	7	2,700
New Jersey	7 years.	Governor and Senate.	9	7,000
New York	14 years.	People.	7	‡ 7,000
North Carolina	8 years.	People.	3	2,500
Ohio	5 years.	People.	5	§ 3,500
Oregon	6 years.	People.	3	2,000
Pennsylvania	21 years.	People.	7	* 8,500 † 8,000
Rhode Island	For life.	Legislature.	5	* 4,500 † 4,000
South Carolina	6 years.	Legislature.	3	* 4,000 † 3,500
Tennessee	8 years.	People.	5	4,000
Texas	6 years.	People.	3	3,500
Vermont	2 years.	Legislature.	7	2,500
Virginia	12 years.	Legislature.	5	3,000
West Virginia	12 years.	People.	4	2,250
Wisconsin	10 years.	People.	5	5,000

* Chief Justice. † Justice. ‡ And $2,000 expenses. § Hereafter $5,000.

that high office. The people elect the judges in twenty-four states; in six states they are chosen by the legislature; while in eight states the governor appoints the supreme court, subject to confirmation by the senate or the council. — DIVORCE. (See *Marriage and Divorce.*) — DUELING. This barbarous practice can not claim to be in any popular favor in the United States, since the mark of reprobation has been placed upon it by the constitutions of twenty-five states. The giving or accepting a challenge to fight a duel, or engaging therein either as principal or accessory, is made a disqualification for office by the constitutions of Alabama, Arkansas, Colorado, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Missouri, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee and West Virginia. The constitutions of nine states go further, and declare that a duelist (actual or intended) shall forfeit the privilege of voting at elections, viz., Connecticut, Delaware, Florida, Michigan, Mississippi, Nevada, Texas, Virginia and Wisconsin. Several state constitutions further require that the legislature shall make laws to enforce these disabilities, and to visit other punishments upon offenders. In most of the remaining states special statutes have assigned to dueling a place in the rank of infamous crimes. — EDUCATION. The constitutions of all the states, except that of Delaware, contain provisions designed to favor the increase of knowledge and the creation of intelligent citizenship through the education of the young. While any system of compulsory education or of training in the higher branches of learning is much controverted, it is generally conceded that the state has the right to require that every child should receive some degree of elementary education. This is directly recognized in all the later and in most of the earlier constitutions, and the general assembly is required to legislate for the establishment and maintenance of a public school system. State school funds are created and invested in most states for educational objects, and the lands granted by congress to the states for school purposes, with their proceeds or income, constitute in many the basis of this fund. Various other funds are pledged to educational purposes in some states. The supervision of common schools is intrusted to a state officer, variously known as superintendent of public instruction, commissioner of common schools, or the secretary of the state board of education, who is usually elected for two years (sometimes four) by the people of the state. Several states devote the entire proceeds of the capitation tax to the school fund, *e. g.*, Alabama, Arkansas, California, Louisiana, Mississippi, North Carolina, Tennessee, Texas, Virginia and West Virginia. Many states devote

a specific quota of every dollar of tax raised to the fund for public instruction, which is regularly apportioned by the treasury among the county or local officers. Many state constitutions prohibit the legislature, and the counties, towns and school districts, from devoting any school funds to institutions controlled by any sect. Colorado, Florida, Mississippi and Virginia have a state board of education, composed of the superintendent of public instruction (president), the secretary of state, and the attorney general. Missouri adds the governor to these three officers. The constitution of North Carolina provides that the governor, lieutenant governor, secretary of state, treasurer, auditor, superintendent of public instruction and attorney general shall constitute a state board of education. In Texas, the governor, comptroller and secretary of state constitute the board of education. — Educational statistics do not come within the purpose of this article, but the variations of what is fixed by law as the school age in the different states may here be noted. In Connecticut the age for enrollment in the public schools is from four to sixteen years; in Florida and Maine, four to twenty-one; in Oregon and Wisconsin, four to twenty; in Massachusetts, New Hampshire and Rhode Island, five to fifteen; in California, five to seventeen; in New Jersey, five to eighteen; in Maryland, Michigan and Vermont, five to twenty; in Iowa, Kansas, Minnesota, Mississippi, Nebraska, New York and Virginia, five to twenty-one; in South Carolina, six to sixteen; in Georgia, Louisiana and Nevada, six to eighteen; in Kentucky and Missouri, six to twenty; in Arkansas, Colorado, Delaware, Illinois, Indiana, North Carolina, Ohio, Pennsylvania, Tennessee and West Virginia, six to twenty-one; in Alabama, seven to twenty-one; and in Texas, eight to fourteen. — Regarding compulsory attendance in the public schools, although it has been strongly urged for many years, no wide foothold for the system has yet been acquired in the United States. Connecticut enforced the first practical compulsory education law by its colonial code adopted in 1650; at present, however, even in the "land of steady habits," the difficulty of enforcing the law, with a large school population of foreign birth, is very great. The amended law forbids manufacturers to employ minors under fourteen, unless they have attended school at least three months in each year. Massachusetts has a similar law, and compels parents and guardians to send children between eight and fourteen to school, for twenty weeks every year, unless otherwise under instruction. The Maine school law authorizes towns to enforce the attendance of scholars between six and seventeen. In 1871 New Hampshire and Texas passed laws requiring compulsory school education. In 1872 Michigan passed a compulsory school law, requiring at least twelve weeks' schooling yearly of all between eight and fourteen, not otherwise taught. Nevada, in 1873, passed a law requiring sixteen weeks' attendance. In 1874 similar compulsory laws were passed by California, Kansas, New Jersey and New York. The New York law (unlike the others) specifies the studies in which the child is to be instructed; namely, spelling, reading, writing, arithmetic, geography and English grammar. Laws enacting some degree of compulsion to attend school also exist in Ohio, Rhode Island, South Carolina, Vermont and Wisconsin; though in some of these states they are generally disregarded. In no other states, so far as known, are compulsory education laws enforced. — ELECTIONS. The time of holding elections for state officers is fixed in some states by the constitution, while in others it may be prescribed or altered by the legislature. By act of congress (March 3, 1875) elections of representatives in congress are required to be held on the Tuesday next after the first Monday in November every second year, in 1876 and following years. The states which had different seasons for election of state officers have by degrees assimilated their laws so as to hold all state elections on the Tuesday after the first Monday in November, the only exceptions being Alabama, Arkansas, Georgia, Iowa, Kentucky, Louisiana, Maine, Ohio, Oregon, Rhode Island, Vermont and West Virginia. Annual elections formerly prevailed in most states; but the tendency has been steadily toward electing state officers and legislatures biennially, and the former even once in every four years only, as in California, Louisiana, Mississippi, Missouri, Nevada, Oregon and West Virginia. The only states now holding annual elections are Connecticut, Iowa, Massachusetts, New Jersey, New York, Ohio, Pennsylvania and Rhode Island. — ELECTORS. (See *Suffrage*.) — EXEMPTION. (See HOMESTEAD AND EXEMPTION LAWS, 2 Cyc., p. 464.) — GOVERNORS. The following table gives the variations as to length of terms of office and salaries of governors of the various states:

STATES.	Term.	Salary.
	Years.	
Alabama	2	$ 3,000
Arkansas	2	3,000
California	4	6,000
Colorado	2	5,000
Connecticut	2	2,000
Delaware	4	2,000
Florida	4	3,500
Georgia	2	3,000
Illinois	4	6,000
Indiana	4	5,000
Iowa	2	3,000
Kansas	2	3,000
Kentucky	4	5,000
Louisiana	4	4,000
Maine	2	2,000
Maryland	4	4,500
Massachusetts	1	4,000
Michigan	------	1,000
Minnesota	2	3,800
Mississippi	4	4,000
Missouri	4	5,000
Nebraska	2	2,500
Nevada	4	5,000
New Hampshire	2	1,000
New Jersey	3	5,000
New York	3	10,000
North Carolina	4	3,000
Ohio	2	4,000
Oregon	4	1,500
Pennsylvania	4	10,000
Rhode Island	1	1,000
South Carolina	2	3,500
Tennessee	2	4,000

(CONTINUED.)

STATES.	Term.	Salary.
	Years.	
Texas	2	$ 4,000
Vermont	2	1,000
Virginia	4	5,000
West Virginia	4	2,700
Wisconsin	2	5,000

See *Pardoning Power, Succession, Veto Power.* — HOMESTEADS. (See HOMESTEAD AND EXEMPTION LAWS, 2 Cyc., p. 464.) — INSOLVENCY. The general subject of bankruptcy has been treated in vol. I., p. 223. In the absence of any general law of the United States, most of the states have provided acts regulating insolvency and assignments for the benefit of creditors. The states which have no laws for insolvent debtors are Alabama, Colorado and North Carolina. In California the act of 1880 provides for both voluntary and involuntary bankruptcy through the courts. In the following states assignments of property for the benefit of creditors do not discharge the debtor, except upon the amounts paid, the balance of liabilities standing against him: Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Nebraska, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina and Virginia. In Connecticut the debtor can procure a discharge from liabilities to creditors when his estate pays 70 per cent., but not otherwise. In the following states, debtors making assignments can be released only upon the consent of all the creditors: Maryland, Mississippi, Missouri, Oregon, Tennessee and Texas. Louisiana provides for a discharge of the debtor upon the consent of a majority of his creditors in number and amount. In New York an insolvent debtor is discharged on the concurrence of two-thirds in amount and value of his creditors. In Maine, creditors representing three-fourths of the indebtedness must agree in writing to accept a certain percentage, before the debtor can have his discharge. In Massachusetts, voluntary insolvency is provided for, on giving up all property not exempted by law. Involuntary proceedings against a debtor may be instituted by any creditor, on proof of insolvency or fraud. If the assets pay 50 per cent. the debtor is entitled to his discharge; if not, he must obtain the written consent of a majority in number and value of his creditors. In Vermont, the provisions of the insolvent law are similar. In the following states a discharge from indebtedness is granted to the debtor upon surrender of his entire estate for the equal benefit of creditors: Arkansas, Florida, Michigan, Nevada, West Virginia and Wisconsin. — INTEREST AND USURY. The legislatures of all the states in the Union have fixed what shall be the legal rate of interest on money. In thirteen states, however, any rate of interest that may be agreed upon between borrower and lender is legalized; in twenty-four states, there are two interest rates legalized, the lower one to prevail in all cases in the absence of contract, the higher rate to be legalized upon express agreement in writing. Usury is punished by various forfeitures, in thirty-two states and territories. The following table exhibits the various interest rates and penalties for usury in the thirty-eight states, the eight territories, and the district of Columbia:

STATES AND TERRITORIES.	Legal Rate of Interest.	Rate Allowed by Contract.	Penalties for Usury.
	Per Cent.	Per Cent.	
Alabama	8	8	Forfeiture of entire interest.
Arizona	10	Any rate.	No penalty.
Arkansas	6	10	Forfeiture of principal and interest.
California	7	Any rate.	No penalty.
Colorado	10	Any rate.	No penalty.
Connecticut	6	6	No penalty.
Dakota	7	12	Forfeiture of excess.
Delaware	6	6	Forfeiture of principal.
District of Columbia	6	10	Forfeiture of entire interest.
Florida	8	Any rate.	No penalty.
Georgia	7	8	Forfeiture of excess.
Idaho	10	18	Forfeiture of three times excess of int.
Illinois	6	8	Forfeiture of entire interest.
Indiana	6	8	Forfeiture of excess of interest.
Iowa	6	10	Forfeiture of 10 per cent per year on amt.
Kansas	7	12	Forfeiture of excess of interest.
Kentucky	6	10	Forfeiture of excess over 10 per cent.
Louisiana	5	8	Forfeiture of entire interest.
Maine	6	Any rate.	No penalty.
Maryland	6	6	Forfeiture of excess of interest.
Massachusetts	6	Any rate.	No penalty.
Michigan	7	10	Forfeiture of excess of interest.
Minnesota	7	10	Forfeiture of excess over 10 per cent.
Mississippi	6	10	Forfeiture of excess of interest.
Missouri	6	10	Forfeiture of entire interest.
Montana	10	Any rate.	No penalty.
Nebraska	7	10	Forfeiture of interest and cost.
Nevada	10	Any rate.	No penalty.
New Hampshire	6	6	Forfeiture of thrice the excess.
New Jersey	6	6	Forfeiture of entire interest.
New Mexico	6	12	No penalty.
New York	6	6	Forfeiture of principal and interest.
North Carolina	6	8	Forfeiture of entire interest.
Ohio	6	8	Forfeiture of excess above 6 per cent.
Oregon	8	10	Forfeiture of principal and interest.
Pennsylvania	6	6	Forfeiture of excess of interest.
Rhode Island	6	Any rate.	No penalty.

(CONTINUED.)

STATES AND TERRITORIES.	Legal Rate of Interest.	Rate Allowed by Contract.	Penalties for Usury.
	Per Cent.	Per Cent.	
South Carolina	7	Any rate.	No penalty.
Tennessee	6	10	Forfeiture of excess of int. and $100 fine.
Texas	8	12	Forfeiture of entire interest.
Utah	10	Any rate.	No penalty.
Vermont	6	6	Forfeiture of excess of interest.
Virginia	6	8	Forfeiture of excess over 6 per cent.
Washington	10	Any rate.	No penalty.
West Virginia	6	6	Forfeiture of excess of interest.
Wisconsin	7	10	Forfeiture of entire interest.
Wyoming	12	Any rate.	No penalty.

— JUDGES. (See *Courts.*) — LEGISLATURES. All the state constitutions limit and define more or less fully the legislative powers of the body variously styled "the General Assembly," "the Legislature," and (in Massachusetts) "the General Court." The qualifications required for membership in state legislatures vary considerably, prescribing a greater or less term of residence in the state, a limit of age (in certain states only), and, in nearly all cases, the requirement of being qualified voters. The number of senators and representatives prescribed in the state constitutions varies greatly in different states. The senatorial bodies are conveniently small, running from nine members only in Delaware, to fifty-one in Illinois, while the members of the other house vary from twenty-one to 321 in number. The popular branch is usually styled "the House of Representatives," but is called "the Assembly" in California, Florida, Nevada, New Jersey, New York and Wisconsin; in Maryland, Virginia and West Virginia it is styled "the House of Delegates," and in all the other states its constitutional designation is "the House of Representatives." The legislative sessions were formerly held annually in most of the states. Of late years, however, there has been a steady drift toward less frequent meetings of state legislatures, nearly every constitution adopted within thirty years providing that the sessions shall be held only biennially, unless special or extraordinary sessions are called. The states whose legislatures still meet every year are six only: Connecticut, Massachusetts, New Jersey, New York, Rhode Island and South Carolina. In Ohio, however, the legislature holds adjourned sessions practically amounting to annual meetings. Some constitutions limit the length of session to terms variously running from forty days to 150. In sixteen states, however, the legislature is without limit save its own discretion as to length of session. The following table exhibits the numbers, terms of office and salaries of state legislatures:

STATES.	Sessions.	Limit of Session.	No. of Senators.	No. of Representatives.	Term of Sen's.	Term of Rep's.	Salary.
Alabama	Biennial.	50 days.	33	100	4	2	$4 per day and 10c. per mile.
Arkansas	Biennial.	60 days.	31	94	4	2	$6 per day.
California	Biennial.	60 days.	40	80	4	2	$8 per day, 10c. mileage, and $25.
Colorado	Biennial.	40 days.	26	49	4	2	$4 per day and 15c. per mile.
Connecticut	Annual.	None.	24	249	2	1	$300 and mileage.
Delaware	Biennial.	None.	9	21	4	2	$3 per day and mileage.
Florida	Biennial.	60 days.	32	76	4	2	$6 per day and 10c. per mile.
Georgia	Biennial.	40 days.	44	175	2	2	$4 per day and mileage.
Illinois	Biennial.	None.	51	153	4	2	$5 per day, 10c. mileage and $50.
Indiana	Biennial.	60 days.	50	100	4	2	$6 per day and 20c. per mile.
Iowa	Biennial.	None.	50	100	4	2	$550 per year.
Kansas	Biennial.	50 days.	40	125	4	2	$3 per day and 15c. per mile.
Kentucky	Biennial.	60 days.	38	100	4	2	$5 per day and 15c. per mile.
Louisiana	Biennial.	60 days.	36	98	4	4	$4 per day and mileage.
Maine	Biennial.	None.	31	151	2	2	$150 and 20c. per mile.
Maryland	Biennial.	90 days,	26	91	4	2	$5 per day and mileage.
Massachusetts	Annual.	None.	40	240	1	1	$500 per year.
Michigan	Biennial.	None.	32	100	2	2	$3 per day and 10c. per mile.
Minnesota	Biennial.	60 days.	47	103	4	2	$5 per day and 15c. per mile.
Mississippi	Biennial.	None.	37	120	4	2	$400 per year.
Missouri	Biennial.	70 days.	34	141	4	2	$5 per day and mileage, and $30.
Nebraska	Biennial.	40 days.	33	100	2	2	$3 per day and 10c. per mile.
Nevada	Biennial.	60 days.	20	40	4	2	$8 per day and 40c. per mile.
New Hampshire	Biennial.	None.	24	321	2	2	$3 per day and mileage.
New Jersey	Annual.	None.	21	60	3	1	$500 per year.
New York	Annual.	None.	32	128	2	1	$1,500 per year and 10c. per mile.
North Carolina	Biennial.	60 days.	50	120	2	2	$4 per day and 10c. per mile.
Ohio	Biennial.	None.	33	105	2	2	$600 per year and 12c. per mile.
Oregon	Biennial.	40 days.	30	60	4	2	$3 per day and 15c. per mile.
Pennsylvania	Biennial.	150 days.	50	201	4	2	$1,000 for 100 days and 5c. per mile
Rhode Island	Annual.	None.	36	72	1	2	$1 per day and 8c. per mile.
South Carolina	Annual.	None.	35	124	4	1	$5 per day and 10c. per mile.
Tennessee	Biennial.	75 days.	33	99	2	2	$4 per day and 16c. per mile.
Texas	Biennial.	60 days.	31	106	4	2	$5 per day and mileage.
Vermont	Biennial.	None.	30	240	2	2	$3 per day.
Virginia	Biennial.	90 days.	40	100	4	2	$540 per year.
West Virginia	Biennial.	45 days.	26	65	4	2	$4 per day and 10c. per mile.
Wisconsin	Biennial.	None.	33	100	4	2	$500 per year and 10c. per mile.

—LIBEL, AND LIBERTY OF THE PRESS. The declaration of rights in nearly every state constitution prohibits any laws to restrain or abridge the liberty of speech or of the press. Many constitutions couple this with a provision that in all prosecutions for libel the truth may be given in evidence to a jury, and if they find the matter charged as libelous to be true, the party shall be acquitted. This clause is a part of the constitutions of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, West Virginia and Wisconsin. In the constitutions of the following states the jury is empowered to determine both the law and the facts in cases of libel: Alabama, California, Colorado, Connecticut, Delaware, Georgia, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, Pennsylvania, South Carolina, Tennessee, Texas and Wisconsin. —LIEUTENANT GOVERNORS. In twenty-seven states the lieutenant governor is *ex officio* president of the senate, and succeeds to the office of governor only upon the death, disability or resignation of that officer elect. The constitutions in eleven states provide for no such officer as lieutenant governor, viz., Alabama, Arkansas, Delaware, Georgia, Maine, Maryland, New Hampshire, New Jersey, Oregon, Tennessee and West Virginia. —LIMITATIONS, STATUTES OF. Limitation laws are designed to fix a reasonable time within which a party is permitted to sue for the recovery of his rights, and imply that his failure to do so furnishes legal presumption that he has no rights in the premises. The following table gives the present state of the laws, barring actions in civil and criminal matters in the various states and territories:

STATES AND TERRITORIES.	Assault, slander, replevin etc.	Open accounts.	Notes.	Judgments.	Sealed and witnessed instruments.
	Years.	Years.	Years.	Years.	Years.
Alabama	1	3	6	20	10
Arkansas	3	3	5	10	10
California	1	2	4	5	4
Colorado	1	6	6	3	3
Connecticut	1	6	6	6	17
Dakota	6	6	6	20	20
Delaware	3	3	6	20	20
Dist. of Columbia	1	3	12	12	12
Florida	2	4	5	20	20
Georgia	2	4	6	5	20
Idaho	3	3	5	5	5
Illinois	2	5	10	10	10
Indiana	2	6	6	20	20
Iowa	2	5	10	20	10
Kansas	1	3	5	5	15
Kentucky	1	2	5	15	15
Louisiana	1	3	5	10	20
Maine	2	6	20	20	20
Maryland	3	3	3	12	12
Massachusetts	2	6	20	20	20
Michigan	2	6	6	10	10
Minnesota	2	6	6	10	20
Mississippi	1	3	6	7	7
Missouri	1	5	10	5	10
Montana	2	2	6	5	4
Nebraska	1	4	5	20	10
Nevada	2	4	6	6	6
New Hampshire	2	.....	.....	20	10
New Jersey	2	6	6	20	16
New Mexico	4	4	6	15	10
New York	6	6	6	15	15
North Carolina	1	3	3	10	10
Ohio	1	5	15	15	15
Oregon	2	6	6	10	20
Pennsylvania	1 and 2	6	6	20	20
Rhode Island	1	6	6	20	20
South Carolina	6	6	6	20	20
Tennessee	1	6	6	10	.....
Texas	1	2	4	10	10
Utah	1	2	4	5	7
Vermont	2	6	14	8	8
Virginia	5	5	5	10	20
Washington Ter.	2	3	6	6	20
West Virginia	5	5	6	10	10
Wisconsin	2	6	6	10	20
Wyoming	1	5	5	10	21

—LOTTERIES. The mischiefs arising from the lottery system, as exhibited in the early decades of this century in many states of the Union, led to constitutional and legal interdiction of these demoralizing games of hazard. In seventeen states the constitution absolutely prohibits the legislature from authorizing any lottery, and in most of them requires it to pass laws prohibiting the sale of lottery tickets. These states are Alabama, Arkansas, California, Colorado, Illinois, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, Tennessee, Texas, Virginia, West Virginia and Wisconsin. In the following eleven states the constitution itself prohibits lotteries absolutely: Florida, Georgia, Indiana, Iowa, Kansas, Nevada, New York, Ohio, Oregon, Rhode Island and South Carolina. In Louisiana alone the constitution provides that "the general assembly shall have authority to grant lottery charters or privileges; *provided*, each charter or privilege shall pay not less than forty thousand dollars per annum in money into the treasury of the state; *and provided, further*, that all charters shall cease and expire on the first of January, 1895, from which time all lotteries are prohibited in this state." Kentucky tolerates lotteries by law. In the remaining nine states there is no constitutional provision on the subject, but lotteries are illegal. —MARRIAGE AND DIVORCE. In view of the vast importance of the marriage relation to the moral and material well-being of every community, the hasty and shifting legislation which makes a chaos of conflicting state laws, instead of a uniform system, can not be too much deplored. The recently growing laxity of the laws, and still more, of the practice under them, in many states, has led to an unprecedented multiplication of divorces. It is here proposed to note only the diversities prevailing in the statutes regulating marriage and divorce in the various states. —Marriage is defined as a civil contract in the codes of fifteen states: Arkansas, California, Colorado, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Nevada, New York, North Carolina, Oregon and Wisconsin. Whether a marriage by simple consent of the parties (without civil or ecclesiastical formalities) is valid at common law, has been disputed; but the supreme

court of the United States decided that the intervention of a clergyman is not necessary, and that in the absence of a statute containing express words of nullity, a marriage by mere consent is valid. (96 U. S. Reports, 76.) In two states only, California and Iowa, do the laws expressly recognize simple consent of the parties as adequate to constitute a binding marriage. On the other hand, three states declare void all marriages not solemnized by authorized persons. In twenty-two states whose laws do not declare such marriages invalid, the courts have usually sustained them, when followed by cohabitation, as valid under the common law. Six states, Maine, Maryland, Massachusetts, North Carolina, Tennessee and Vermont, do not recognize such marriages, but require consent before a magistrate or a minister. In some other states, both the law and its adjudication are doubtful on this point. — Whether a valid marriage can be contracted between those of different race and color, is a question variously decided. The statutes of eighteen states prohibit or render void marriages between whites and persons of African descent, viz., California, Colorado, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Michigan, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oregon, Tennessee, Texas and Virginia. — The required ages to render a marriage valid vary greatly. The old common law limit of at least fourteen years for the groom and twelve for the bride, is fixed by statute in Kentucky, Louisiana, New Hampshire, Tennessee, Virginia and West Virginia; the ages of sixteen and fourteen are required in Iowa, North Carolina and Texas; seventeen and fourteen in Alabama, Arkansas, Georgia, Illinois and Indiana; eighteen and fifteen in California, Minnesota, Oregon and Wisconsin; and eighteen and sixteen in Delaware, Michigan, Nebraska, Nevada and Ohio. In other states the common law limit of fourteen and twelve years is upheld without special statute. In seven states, marriages may be annulled because of impotence, and the same disability is made ground for divorce in thirty states. Consanguinity within certain degrees renders marriage void in twenty-seven states. A marriage between an uncle and a niece is valid in Maryland if contracted before 1878, and absolutely void in Connecticut. In thirty-one states a marriage license or certificate is required, and if the parties are minors, consent of parents must be shown. — The persons before whom marriages must be solemnized are variously directed to be judges of courts, mayors, justices of the peace, notaries, elders, ministers of the gospel, etc. Public registration of marriages is required by law in thirty-three states, but by no means generally enforced. — Regarding divorce, three widely different views prevail: 1. That marriage is a sacrament, and indissoluble for any causes arising after marriage. This is the view of the Roman Catholic church. 2. That marriage is a sacred relation, and should be dissolved only for adultery and desertion. 3. That marriage is simply a civil contract, without any religious element, which, while not revocable by mutual consent, may properly be dissolved for a variety of cogent reasons. The legislation of the various states now recognizes divorce as procurable for cause in all except South Carolina, which, in 1878, repealed all acts permitting divorces. The constitutions of several states prohibit the legislature from granting divorces by special acts; doubtless upon the principle that this is in its nature a judicial act, to be determined on evidence and inquiry, and that legislatures should be restrained from usurping (as the British parliament set the example of doing) the power to declare marriages dissolved. No such restriction of the legislature exists in the New England states, or in New York and Delaware. The latter, however, is the only state where individual cases of divorce are legislatively taken up, and in 1881, thirteen divorces were actually granted. The former law of Connecticut, permitting courts to grant divorces for "any misconduct permanently destroying the happiness of the petitioner, and defeating the purposes of marriage," in force for nearly thirty years, produced a scandalous and constantly increasing crop of divorces, and was repealed in 1878. Among the legal causes for divorce are: 1, previous marriage, undissolved, in seven states; 2, impotence, in thirty states; 3, insanity at time of marriage, in two states; 4, consanguinity, in five states; 5, pregnancy at time of marriage, without the husband's knowledge or agency, in nine states; 6, conviction of an infamous crime before marriage, concealed, in two states; 7, adultery, in thirty-seven states; 8, desertion, in thirty-seven states; 9, cruelty, in thirty-seven states; 10, conviction of or imprisonment for crime, in thirty states; 11, habitual drunkenness, in thirty-five states; 12, neglect or refusal on the part of a husband to provide for his wife, in nine states; 13, gross neglect of duty in four states. In New York alone the sole recognized ground for an absolute divorce is adultery. As to desertion, willful absence continued for one year is ground for divorce in eight states—Arkansas, California, Colorado, Florida, Kansas, Kentucky, Missouri and Wisconsin; absence for two years, in nine states—Alabama, Illinois, Indiana, Iowa, Michigan, Mississippi, Nebraska, Nevada and Tennessee; absence for three years, in thirteen states—Connecticut, Delaware, Georgia, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, Ohio, Oregon, Texas, Vermont, and West Virginia; and desertion for five years, in three states—Louisiana, Rhode Island and Virginia. In the other states, no limit of willful absence is specified by statute.—PARDONING POWER. In most of the states the governor is invested by the constitution with the power of granting pardons, reprieves or commutation of sentence to convicted criminals under sentence; exceptions are made, in the constitutions of twenty states, of treason and impeachment, as cases where no pardoning power can be exercised. In the constitutions of fourteen states impeachment alone with-

draws the convicted person from the exercise of the pardoning power. In Vermont alone the crime of murder is added to the two cases just named as beyond the reach of executive clemency. In Oregon the only crime not subject to pardon is treason. In Illinois the governor may grant pardon for all offenses without exception. In Kansas the governor is to exercise the pardoning power only under such restrictions as provided by law. While in twenty-seven states the governor alone is invested with the pardoning power, this power is vested in the governor and council in the states of Maine, Massachusetts, New Hampshire and Vermont; and in the governor and the senate in Rhode Island. Four state constitutions create a board of pardons, to share the responsibility of exercising this power. In New Jersey this board consists of the governor, the chancellor, and the six judges of the court of appeals, a majority of whom must concur in granting pardons. In Florida and Nevada the governor, the justices of the supreme court and the attorney-general, or a majority of them, of whom the governor must be one, may grant pardons. In Pennsylvania the governor may exercise the power of pardon only on the written recommendation of the lieutenant governor, secretary of state, attorney general and secretary of internal affairs, or any three of them, after full hearing and public notice recorded and filed in the secretary's office. In Connecticut the governor can grant reprieves only until the end of the next legislative session; he has no pardoning power. In California neither the governor nor the legislature can pardon when the convict has twice been convicted of felony, except on the recommendation of a majority of the judges of the supreme court. The states in which the governor alone is invested with the pardoning power are Alabama, Arkansas, California, Colorado, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin. In Louisiana the governor can pardon only on the recommendation of the lieutenant governor, attorney general, and the presiding judge of the court trying the case, or of any two of them. — POLL TAX. While a capitation tax is imposed upon males over twenty-one years of age in most of the states by their constitutions or laws, Kansas, Maryland and Ohio have prohibited by their constitutions the levying of any poll tax. No capitation tax is levied in Delaware, Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, New York and Pennsylvania. In the remaining states a poll tax is levied, varying in amount from fifty cents to three dollars per annum. These states are Alabama, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Louisiana, Maine, Massachusetts, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia and Wisconsin. The payment of this tax is a condition precedent of the right to vote in two states only, viz., Massachusetts and Rhode Island. In Virginia the making the payment of a poll tax a condition of suffrage was abolished by constitutional amendment in 1882. In Nevada the legislature may make such payment a condition of the right of voting. In Delaware and Pennsylvania a county tax must have been paid by all electors to entitle them to suffrage. The constitution of Kansas prohibits making the payment of a tax a qualification for exercising the right of suffrage. — REGISTRATION. In view of the great importance of a well-regulated registration system to secure fair elections, it is not surprising to find it required by law or constitution in twenty-nine states. The constitutions of Colorado, Florida, Maryland, Mississippi, Nevada, North Carolina, Pennsylvania and South Carolina require registration as a prerequisite to suffrage. Missouri's constitution requires it in cities only, doubtless on the theory that in country voting precincts fraud is more easily detected, and less probable, than in populous cities, with floating populations. In like manner the laws of New Jersey and New York require registration in all cities of 10,000 inhabitants and upward, but not elsewhere. No registration is required in Arkansas, Delaware, Georgia, Indiana, Kentucky, Ohio, Oregon, Tennessee, Texas and West Virginia. The constitutions of three states prohibit registration, viz., Arkansas, Texas and West Virginia. In the remaining states a registration system is established by law. It has been asserted (though not generally sustained) that acts of the legislature requiring registration as a prerequisite to voting are unconstitutional in states where the constitution is silent as to registry, because it establishes a test for qualifications of electors not found in the fundamental law. — RELIGION. Most state constitutions embody in a bill of rights, or elsewhere, a declaration that no religious test shall be required for the enjoyment of any civil or political right. But persons who deny the existence of God are disqualified for office by the constitutions of Arkansas, Mississippi, North Carolina, South Carolina and Tennessee; while the constitutions of Maryland, Pennsylvania and Texas imply a belief in a Supreme Being as a qualification for office. Tennessee goes further in requiring belief in a future state of rewards and punishments as a qualification for office, and this after adopting, in its declaration of rights, a provision that "no religious test shall ever be required." The majority of constitutions declare that no preference shall be given by law to any religious sect; New Hampshire alone provides in its constitution that the legislature may authorize towns and parishes to provide for the maintenance of *Protestant* teachers of religion. Connecticut gives the same guarantee to every society or denomination of *Christians*. The free enjoyment of all religious sentiments and modes of worship is guaranteed in

nearly all constitutions. The constitutions of the following states declare that no witness shall be held incompetent to testify because of his religious opinions: California, Florida, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Nevada, New York, Ohio, Oregon, Texas, West Virginia and Wisconsin. Clergymen are ineligible to the legislature by the constitutions of Delaware, Kentucky, Maryland, Mississippi, New York and Tennessee, and in several of these states they are excluded from any civil office. — SUCCESSION. Various methods of providing for the succession to the chief magistracy, in case of the death, resignation or disability of the governor, prevail in the different states. Eleven states have no lieutenant governor, and in nine of these the constitution devolves the office of governor upon the president of the senate and the speaker of the house, successively, in case of vacancy. In Maryland the general assembly must elect a governor, if in session when the office is vacant; otherwise, it is filled as in other states. In Oregon, vacancy or inability in the office of governor, devolves it on, 1, the secretary of state, 2, the president of the senate. In nine states the succession falls, first, to the lieutenant governor; second, to the president of the senate *pro tempore;* third, to the speaker of the house. In twelve states the same constitutional provision exists, except that there is no provision for a vacancy in the third degree. In Wisconsin the vacancy is filled, first, by the lieutenant governor, and secondarily by the secretary of state. In Massachusetts, if the offices of governor and lieutenant governor both become vacant, their duties devolve upon the council. In case of a double vacancy, the constitutions of Indiana, South Carolina, Vermont and Virginia require the general assembly to provide by law what officer shall act as governor. — SUFFRAGE. The right to participate in elections is fixed in each state by its own constitution and laws; these being subject only to the 15th amendment to the constitution of the United States prohibiting any disabilities as to suffrage on account of color or race. While aliens are generally excluded, fifteen states admit to the suffrage foreigners who have declared their intention to become actual citizens. Other qualifications for suffrage embrace in some states registration (see above), and in all, a certain time of residence within the state and locality where the voter seeks to exercise the suffrage. The constitution of Kentucky requires two years' residence in the state before one can vote; and this is the longest residence required by any state. The constitutions of Maine and Michigan require only three months' residence in the state; and this is the shortest period anywhere required. Nine states require six months' residence, viz., Colorado, Indiana, Iowa, Kansas, Mississippi, Nebraska, Nevada, New Hampshire and Oregon. All the other states require one year's residence within their boundaries before conferring the right to vote. Residence within the county is required for periods varying from one month to one year, and within the voting precinct for various times running from only ten days to six months. The restrictions upon the right of suffrage are somewhat numerous, but of late years are becoming steadily lessened in number. A property qualification, which formerly prevailed in some states, now exists only in Rhode Island, where the possession of property to the value of 184 dollars in real estate over all incumbrances is required, or (as an alternative) the payment of a tax to the amount of one dollar. The payment of a tax is a prerequisite to the right of suffrage in Delaware, Massachusetts, Pennsylvania and Tennessee. In all the states voters must be male citizens of twenty-one years of age or upward, although a limited suffrage has been extended to women, enabling them to vote at school district elections only, in Colorado, Massachusetts, Minnesota, and some other states. Illiteracy, it has been widely claimed, should be a bar to suffrage, but this view has prevailed continuously in two states only; Massachusetts requiring that a voter shall have the capacity to read the constitution and to write his name, and Connecticut that he shall be able to read the constitution or statutes. Among the most widely enforced disabilities, idiots and insane persons are expressly excluded from the suffrage by the constitutions of Alabama, Arkansas, California, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, Ohio, Oregon, Rhode Island, South Carolina, Texas, Virginia, West Virginia and Wisconsin. Paupers are excluded in Delaware, Maine, Massachusetts, Missouri, New Hampshire, New Jersey, South Carolina, Texas, West Virginia and Wisconsin. Persons convicted of crime are excluded by the constitutions of all the states except Indiana, Maine, Massachusetts, Michigan, Missouri, New Hampshire, Ohio, Pennsylvania, Tennessee and Vermont. In most other states the laws make the same exclusion. Persons under guardianship are excluded in Florida, Kansas, Maine, Maryland, Massachusetts, Minnesota, Rhode Island and Wisconsin. Bribery, or offer to bribe an elector to influence votes, is made a disqualification for suffrage or office by the constitutions of Alabama, Connecticut, Indiana, Louisiana, Maryland, Missouri, New York, Pennsylvania, Vermont and Wisconsin. Most of the other states have provided by law severe penalties for bribery, including, in some cases, exclusion from suffrage for a term of years or indefinitely. — SUNDAY. The laws against desecration of the first day of the week have no constitutional sanction except the recognition of Christianity (in the constitutions of a few states) and the permission to the legislature to make laws promoting religion and morality. The prohibition of labor or sports on Sunday, although found in the laws of most states, is not rigidly or continuously enforced in any. While these laws may be defended on authority and long custom, the fact that their enforcement has more and more fallen into desue-

tude, is too palpable for denial. These laws may rest either upon specially religious grounds, or upon the humane argument that experience shows one day's rest in seven to be needful to human welfare. Many judicial tribunals, in applying the Sunday laws, have preferred to rest their enforcement upon the second ground rather than the first, but if this utilitarian view of enforced Sunday rest as a benefit to the individual is to prevail, the argument against special Sabbath laws, made by those who rest on the seventh day of the week, is unanswerable. The Jew may urge that the law discriminates against his religion, and is therefore unconstitutional in most of the states. Sunday as a religious obligation properly rests upon the consciences of the community; and the sanction thrown around it by state laws, while of indefinable extent, and often incapable of enforcement, marks the deference that is shown to the habits of the majority in the state. Contracts made on Sunday are void by the laws of many states, though by no means of all. — USURY. (See *Interest and Usury*.) — VETO POWER. In thirty-four states the assent and signature of the governor are required by the constitution to enact any law. The uniform provision is, that, in case of disapproval of any act by the governor, he shall return it to the house in which it originated, with his objections; the vote must then be taken in both houses by yeas and nays. In nine states the constitution provides that a majority of the whole number of members of the legislature shall be sufficient to enact a law notwithstanding the objections of the governor, viz., in Alabama, Arkansas, Connecticut, Indiana, Kentucky, New Jersey, Tennessee, Vermont and West Virginia. In twenty-three states two-thirds of the members of each house are required to pass a law over the governor's veto, namely, in California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New York, Oregon, Pennsylvania, South Carolina, Texas, Virginia and Wisconsin. In two states, Maryland and Nebraska, the constitution requires three-fifths of the legislature to make a law without the approval of the governor. The constitutions of four states confer no power on the governor to veto any act of legislation; these are Delaware, North Carolina, Ohio and Rhode Island.—WOMEN. The separate rights of married women to their property acquired before marriage, as well as to that acquired afterward by gift or otherwise, are guaranteed by the constitutions of eleven states, including the provision that the wife's property shall not be liable for the debts of her husband. Essentially the same provision has been incorporated in the statutes of nearly all the states. Women are made eligible to offices connected with schools by the constitutions of Louisiana, Minnesota and Pennsylvania, while the right to vote in the election of school officers is conferred upon women in Colorado, Massachusetts, and several other states. A. R. SPOFFORD.

STATISTICS. From the numerous definitions of statistics which have been given since Achenwall, the learned professor of Göttingen, established this science and gave it a name, we might think that it is very difficult to define its nature and the extent of its domain. Such is not the case, however. The most different definitions have served as introduction to the most similar works, and the ordinarily informed person is no more ignorant than the adept, that, without figures, without "numerical terms," there is no statistics. The quantity of explanations, developments and deductions which can be added without encroaching upon some neighboring domain, is all there can be any discussion about. — The question whether statistics is a method or a science, as if it could not be both, will also be discussed. As a method, it is an instrument of observation; instead of saying that the use of such and such a remedy succeeds *often* or *sometimes* in such and such a disease, the professor of medicine should say to his pupils: According to the experiments made up to the present time, the remedy has produced its effect in 63 cases out of 100, or in such and such a settled proportion. As a method of observation, it is applied only to large numbers. To speak of 33 per cent. or of 25 per cent. when only three or four experiments have been made, is to abuse scientific forms, and sometimes knowingly to deceive the public. — As a science, statistics embraces all social and political facts presented in their numerical relations to one another, as well as to space and time. As there is no political or social fact without men, we need not add, as certain authors have done, that all statistical facts must have relation to men. — It seems that there are here well-determined limits, and that there is no need of so many definitions. If no author has been satisfied with the definition of his predecessors, it is not because he wished to see his own figure in the introduction to treatises on statistics; it is because statistics, since its origin, has followed a two-fold tendency. The one gave rise to descriptive statistics, as Achenwall defines it: the thorough knowledge of the respective and comparative situation (*status*) of each state; or of which Schlözer said that it was history at rest, while history is statistics in motion (in other words, statistics is the situation of a people taken at a given moment); finally, what Napoleon I. called the budget of things. Statistics thus understood is a more or less reasoned inventory. The other tendency which statistics has followed would prove relations, discover laws; it is what, in the last century, was called political arithmetic. It was probably from this point of view that Goethe viewed it when he said: "If figures do not govern the world, they show at least how it is governed." For this purpose the inventory is not sufficient; it is necessary to go to the bottom of "numerical terms," to scrutinize them, compare them, draw deductions from them; according to some, averages, and according to others, laws. Here is M. Guerry's definition: "General statistics * * ex-

cludes descriptions, and consists essentially in the methodical enumeration of variable elements, whose average it determines." And M. Dufour's: Statistics is "the science which teaches how to deduce from analogous numerical terms the laws of the succession of social facts." — Thus, some make of statistics a descriptive science more or less allied to geography; others, a science of deduction, employing mathematical processes, and notably the calculation of probabilities. We believe that it is very easy to combine these two points of view. People always commence by describing the present; this is one of the forms of established statistics. When many descriptions have succeeded one another, it is possible to compare the present situation with previous situations; this is done for the whole of the facts as well as for one of the details; from this comparison is drawn a theory, averages, laws; and this is how the form of statistics, once called political arithmetic, is developed. — This term leads us to the consideration of another subject of discussion. Are "numerical terms" applicable to political facts or to social facts? William Playfair says of statistics, that it consists of investigations into the political material of states. The definitions of Peuchet, Gioja, Schubert, Quételet, Villermé and many others, insist chiefly upon the political application, while, with M. Dufour, M. Moreau de Jonnès applies statistics only to social facts. He says: "Statistics is the science of social facts, expressed in numerical terms. Its object is the thorough knowledge of society, considered in its elements, its economy, its situation and its movements." Nevertheless, the discussions maintained as to the distinctions between the political domain and the social domain, are so trifling that perhaps none of the authors whom we have cited have had the least scruple to pass from "political facts" to "social facts," and *vice versa*. Moreover, are not these two categories of facts most frequently confounded? We will not stop, therefore, at these useless distinctions. — Let us limit ourselves to a few words upon another point, which has been very much debated. M. Moreau de Jonnès maintains that "statistics without figures, or whose figures do not enumerate social facts, does not merit the title which it borrows." Statistics without figures is like a river without water, but a statistics consisting only of figures is not the ideal one; in this shoreless sea, where can the ship land? A text is therefore necessary. But there is no general rule as to the amount of explanations which must accompany the "numerical terms." In addressing specialists, accustomed to study political and social questions, few should be given; they should be given more amply when it is intended to enlighten or convince that portion of the public whom figures repel, and who find "numerical terms" very dry, and, to speak plainly, perfectly wearisome. It is therefore only a matter of judgment, of tact. — This settled (and we have commenced by clearing the ground of obstacles easily removed), we approach a much more delicate point. Let us again quote an author: we are so fond of leaning upon something, even upon a cane which bends under our hand. M. Moreau de Jonnès says: "It [statistics] proceeds constantly by numbers, which gives it the character of the precision and certainty of the exact sciences." This is a quality which people do not tire of denying to statistics. Rightly or wrongly? Rightly *and* wrongly. In fact, numbers are always precise, but they are not always exact. It is not difficult, however, to know what figures are exact and what are not; we have only to find out how they were obtained. That is the whole secret. If the verification has been made in a positive and material manner, by counting, measuring and weighing, the exactness is absolute, and no one has the right to attack such figures, unless because of false entries in the public accounts. A great deal of information is obtained in this manner for the wants of public administration. Thus the amount of the finances rests upon mathematical elements, and error is impossible. The case is about the same with the statistics of hospitals, prisons, births, marriages and deaths, justice, means of communication, the post-office and other similar things. But there are statistics, like those of agriculture, industry, consumption, the revenue, and, in general, of all facts which can not be determined by exterior, palpable signs, which often leave something to be desired on the score of exactness, and give occasion for serious criticism. However, there are two kinds of exactness; one is absolute, the other approximative. The approximation is a makeshift; but at bottom it is makeshifts which rule in life; the absolute contrary of the makeshift would be the ideal. But we do not insist upon this. Every one understands that approximation is sufficient for almost every use, even when there is question of information which can be obtained with great exactness. For example, if we should say: The budget of receipts is 2,450,000,000, would it not be generally satisfactory? and would it be necessary to give it to a cent? We said, for almost every use, and notably for the descriptive part of statistics; mathematical exactness is indispensable only when it is intended to state laws. For the rest, it is necessary to beware of the evil tendency of certain authors to set up statistical laws, and to have ever present to the mind that an *average* is not a *law*. Averages only show that there are constant relations between such a fact and such another; this constancy permits us to think that these relations are necessary, and often this conjecture will be seen to be well founded, but the indication of figures has need of confirmation. Therefore, leaving out of the question all bad faith, there are statistics naturally exact, and others more or less so, according, 1, as the external signs of the facts to be collected are more or less evident; 2, as individuals are less interested to dissimulate; and 3, as agents bring more skill, knowledge or conscience to bear upon their statements. But there is also a secondary cause of

inaccuracy, or rather of apparent contradiction, in the statement of statistical facts, namely, that different figures often bear the same title. It often happens that one lays stress, without knowing it, or saying so, upon the net product, another upon a gross product, a third upon a product still more gross. Again, one will understand by the word *England* only the country which bears that name, a second will add to it the principality of Wales, a third the islands, a fourth may go so far as to confound England with Great Britain or even with the United Kingdom: this confusion often occurs in ordinary conversation. We could cite examples by the hundred in which there was no question of ignorance, or of bad faith, or of negligence, but of too great conciseness or a lack of precision. — These examples explain, in some measure, the reproach so often brought against statistics, of furnishing arms at once both *for* and *against* the same proposition. To the extent that this reproach is founded—and this extent is not large—it is deserved by the statistician, and not by statistics. Thus, *the art of grouping figures* is only a branch of the art of maintaining all theses, of having arguments for all paradoxes and all sophisms. When one wishes to defend his point of view at any cost, he *chooses* figures, or makes some prominent, and leaves others in the shade. The enthusiastic man may sometimes proceed thus with the best faith in the world: passion blinds. Still, beyond the art of grouping figures, there remains also, to justify the difference of conclusions, the possibility and even a certain facility of interpreting the same fact in different ways. It is wrong to say of a fact or of a set of figures that it is brutal. A man stretches out his hand to another: is it to give him an alms or a thrust with a dagger? A man places a sum of money in the hand of his companion: how will you interpret the act? Is he giving aid, or the price of a crime? In such a year 100,000,000 kilogrammes of meat were consumed in Paris: was it evidence of plenty or of dearth? The fact or the figures alone mean nothing; it is the interpretation which renders them eloquent. Now, the field of interpretation is vast, and commentators can often launch out in opposite directions; so much the worse for the one who is deceived and for those he deceives. To sum up: if statistics gives arms for and against, it is not because of the nature of statistics, but because of the nature of our mind, for the same reproach is applied to religion, philosophy, the law, and to all moral and political sciences, and, in a less degree but still in a degree great enough, even to the sciences called exact.— Statistics must have a very certain utility, if it has been able to withstand all the attacks of which it has been the object, attacks which embrace in their generality at once the accurate part and the inaccurate part of the science of "numerical terms." In fact, it remains always true that statistics is the budget of things, that inventory which no government can dispense with. It is no less true that the comparison of many *well-proven* facts makes us find, or at least catch a glimpse of, truths which might have escaped us. The faults of the instrument impose upon us a prudence which is nowhere out of place, but do not oblige us to renounce its employment. Fortunately, it is not with this instrument, as with many others, whose use is prohibited for fear of abuse. The person who does not know how to manage it, does not touch it, therefore no one will be wounded through his awkwardness; the only inconvenience which it can have is to remain inert in hands which have not learned the use of it. In other words, figures are a language which everybody does not know how to read, and from which few know how to draw all the information contained in it.* MAURICE BLOCK.

* Statistics is the picture or representation of social life at given periods of time, and especially of the present time, drawn on a scale in accordance with the laws of development discovered by means of the theoretical sciences: political economy, the science of finance, administrative science, etc. Schölzer calls statistics *history standing still*. Statistics, as thus defined, is as far removed from saying too much as from saying too little. To give a complete tableau of its object, statistics should, of course, take in the life of a people in all its aspects. But it should look upon such facts only as its own property, the meaning of which it is able to understand; that is, such only as can be ranged under known laws of development. Unintelligible facts are collected only in the hope of penetrating into their meaning in the future, by comparing them with one another. In the meantime, they are to the statistician what unfinished experiments are to the investigator of nature. — The view is daily gaining ground, that statistics should be occupied (without, however, confining themselves to them) with *present* facts, with "facts affecting society and the state which are susceptible of being expressed in figures." The more deceptive the immediate observation of an individual, isolated fact is, in cases in which a great number of simultaneous or scattered individual, isolated facts of national life are observed, the more important it is to discover proper numerical relations, by noting all the like acts or experiences of men, the time and place in question, and the relation of the aggregate of these phenomena to the sum total of the population, or to the sum total of corresponding phenomena in other places. When this is done, and the facts are completely enumerated, and correctly recorded, there is no danger of subjective error. And this species of "political and social measurement," as Hildebrand calls it, may be applied not only to quantities, but to all qualities accessible to the observation of the senses; since the individual or isolated qualities of the things enumerated may be again made objects of enumeration. Without doubt, this mode of numerical procedure is the most perfect for all those divisions of statistics in which it can be followed, and hence it should be our endeavor to make the numerical side of statistics as comprehensive as possible. But one side of a science is not a science itself. As there is no natural science proper, called microscopy, embracing all the observations made by means of the microscope, so, care should be taken not to deduce the principle of a science from the chief instrument it employs. There will always be many and important facts in national life, which can not be subjected to numerical calculation, although they may be established with the usual amount of historical certainty. Were statistics to be limited in the manner mentioned above, it would remain a collection of fragments, and, instead of being a science, become a method. Besides, it is evident, that, of statistics in general, economic statistics constitutes a chief part, and precisely the part most accessible to numerical treatment. As economic statistics needs to be always directed by the light of political economy, it also furnishes the latter with rich materials for the continuation of its structure, and for the strengthening of such foundations as it already has. It is, moreover, the indispensable condition of the application of economic theorems to practice." — WILLIAM ROSCHER.

STEPHENS, Alexander H., was born in Wilkes (now Taliaferro) county, Ga., Feb. 11, 1812, and died at Atlanta, March 4, 1883. He was graduated at the university of Georgia in 1832, and was admitted to the bar in 1834. On the formation of the whig party in the state from the old state rights, or Troup, party, he became one of its prominent leaders. After six years' service in the state legislature, he became congressman from his state, 1843–59, taking rank as a whig leader in congress until the whig party was dissolved, and afterward as an independent democrat. In 1860–61 he opposed secession earnestly, but yielded when his state seceded. (See ALLEGIANCE, III.) He then became vice-president of the confederacy until the downfall of the rebellion. (See CONFEDERATE STATES.) In 1877 he was again sent to congress as a democrat, where he remained until his election as governor in the autumn of 1882.—See Johnston & Browne's *Life of A. H. Stephens* (1878); Savage's *Living Representative Men*, 451; Bartlett's *Presidential Candidates of* 1860, 179; Cleveland's *A. H. Stephens in Public and Private* (1866); A. H. Stephens' *Constitutional View of the War Between the States*, and *The Reviewers Reviewed.* ALEXANDER JOHNSTON.

STEVENS, Thaddeus, was born at Peacham, Vt., April 4, 1792, and died at Washington city Aug. 11, 1868. He was graduated at Dartmouth in 1814, and was admitted to the bar in Pennsylvania. After serving in the state legislature at intervals from 1833 until 1841 (see BROAD SEAL WAR), he was sent to congress as a whig 1849–53, and as a republican 1859–68. During this latter term of service he became most conspicuous as a leader in the work of reconstruction by congress. (See RECONSTRUCTION, and authorities under it.) — See *Thaddeus Stevens, Commoner*, and the *Memorial Addresses* in the house on his death, published in 1868. Harris' *Political Conflict in America* was originally designed as a biography of him, but it is written from a very adverse standpoint.
ALEXANDER JOHNSTON.

STOCK EXCHANGE CLEARING HOUSE. (See CLEARING, AND CLEARING HOUSES.)

STOCK JOBBING. (See AGIOTAGE.)

STORY, Joseph, was born at Marblehead, Mass., Sept. 18, 1779, and died at Cambridge, Mass., Sept. 10, 1845. He was graduated at Harvard in 1798, and was admitted to the bar in 1801. He served as a democratic congressman 1808–9, and in 1811 was appointed associate justice of the supreme court. In his judicial work he was the founder of admiralty jurisprudence in the United States; and, in conjunction with Chief Justice Marshall, was instrumental in securing recognition for the national existence of the United States by the supreme court. (See NATION, II.; JUDICIARY.) This latter part of his work he put into form in 1833 in his "Commentaries on the Constitution."—See Story's *Life and Letters of Story;* Story's *Miscellaneous Works;* 2 Webster's *Works*, 297; Story's *Commentaries on the Constitution;* and his decisions in Cranch's, Wheaton's and Peters' *Reports*, and Gallison's, Mason's, Sumner's and Story's *Reports* (Circuit).
ALEXANDER JOHNSTON.

STRICT CONSTRUCTION. (See CONSTRUCTION.)

STRIKES AND LOCKOUTS are suspensions of work growing out of differences between employers and employed. Though it is customary to speak of all such interruptions of labor as strikes, some are more properly termed lockouts, there being an essential difference between a strike and a lockout. A strike is a suspension of work resulting from a dispute originating in some demand of the employed; a lockout, in some demand of the employer. A stoppage of work, for example, resulting from a demand on the part of employés for an advance in wages, would be a strike; a stoppage resulting from a demand by the employer for a reduction, would be a lockout. An apparent exception to this definition, are those strikes and lockouts entered upon for the purpose of influencing the settlement of other strikes and lockouts, as, when workmen who are satisfied with their own wages cease work, to assist in enforcing the demands of other workmen who are not satisfied, or, when employers "lockout" their employés with whom they have no differences, depriving them of work and its wages for the purpose of preventing them from assisting striking workmen. In these and similar apparent exceptions, however, there is always a formal or implied demand. — It is frequently difficult to determine whether a labor contest should be classified as a strike or a lockout. Practically the distinction is of little importance, except as it bears on the question of the relative tendency of employer and employed to take the initiative in these industrial conflicts. Unless, therefore, it is expressly stated to the contrary, the word strike in this article will include both strikes and lockouts. — *Classification of Strikes.* Strikes and lockouts may be divided into three general classes.* They are occasioned by 1, differences as to future contracts; 2, disagreements as to existing contracts; or 3, quarrels upon some matter of sentiment. These contracts may be agreements more or less formal, or customs of the trade and methods of work and administration, which, from long usage, have the force of agreements. The first class named would include strikes arising from differences as to the present and future wages of labor; from attempts to change existing agreements, customs or methods, or to introduce new ones. Disagreements under the second class would arise either upon matters of fact or con-

* This is substantially the classification of Sir Rupert Kettle, in his admirable work, "Strikes and Arbitrations," London, 1866.

struction; while quarrels of the third class grow out of the offended *amour propre*, either of the individual or the class. — *Causes of Strikes.* In the early history of labor troubles the causes of strikes were few. They arose chiefly from differences as to rates of wages, which are still the most fruitful sources of strikes, and from quarrels growing out of the dominant and servient relations of employers and employed. While labor remained in a state of actual or virtual servitude, there was no place for strikes. With its growing freedom "conspiracies of workmen" were formed, and strikes followed. The scarcity of labor in the fourteenth century, resulting from the "black death," and the subsequent attempts to force men to work at wages and under conditions fixed by statute, were sources of constant difficulties, while the efforts to continue the old relation of master and servant with its assumed rights and duties, a relation that English law recognizes to this day, were, and still are, the causes of some of the most bitter strikes that have ever occurred. — With the rise of the craft-guilds, the opportunities for strikes were increased, and the list of causes enlarged. These craft-guild strikes rarely grew out of differences as to wages, but from disputes regarding presumed infringements of privileges, or innovations of trade customs, and were sometimes undertaken for the most trivial causes. The custom of blacklisting or "reviling," as it was termed, practiced by these guilds as a method of punishment, was also a constant source of strikes, the craftsmen refusing to work for the "reviled" master, or with the "reviled" journeyman, until he had made atonement, and had been recognized as honorable by the guild. In many respects strikes growing out of modern trades unionism resemble those of the craft-guilds, which organizations are the precursors, if not the parents, of modern unionism. In addition to these causes named, many of which are still as potent as ever, the changes in the relations of employer and employed, and of workmen to each other, and to their occupations, arising from the modern organization of labor and industry, have introduced new sources of discontent, and consequently increased the list of causes from which strikes may arise. The possible causes of strikes at the present time, therefore, are much more numerous than they were formerly, and the liability to trouble greatly increased. — While this is true, a careful analysis of the various causes shows that they can all be grouped under a few general heads. Strikes are caused by differences as to: 1, *rates of wages*, demands for advances or reductions, chiefly; 2, *payment of wages*, changes in the method, time or frequency of payment; 3, *hours of labor;* 4, *administration and methods of work*, for or against changes in the method of work or rules and methods of administration, including the difficulties regarding labor-saving machinery, piece-work, apprentices and discharged employés; 5, *unionism;* 6, *miscellaneous*, including strikes from matters of sentiment, and a few others that do not admit of classification. — Strikes result most frequently from differences regarding rates of wages. In an investigation into the strikes of 1880, made for the United States census by the writer, a classification according to causes gave the following result:

CAUSES.	Number.	Percentage of each to whole.
Rates of wages	582	71.59
Payment of wages	35	4.30
Hours of labor	7	.86
Administration and methods of work	107	13.17
Trades unionism	22	2.70
Miscellaneous	9	1.11
Not given	51	6.27
Total	813	100.00

This exact proportion will not hold good for all years, but it is safe to assert that strikes growing out of disputes regarding rates of wages will always be more than 50 per cent. of the whole number of strikes. The proportion of strikes arising from demands for advances or demands for reduction, the two chief causes of difficulties connected with rates of wages, will vary greatly in different years, depending chiefly upon the condition of business, demands for advances being more frequent in years of high prices, and for reductions in years of low prices. Of the strikes arising from differences as to rates of wages, which were reported upon in the above table, 86 per cent. were for advances, and 14 per cent. against reductions. — *Conditions Influencing the Frequency of Strikes.* Our information is too meagre, and what is available too fragmentary and inexact, to justify the formulating of any universal laws as to their frequency, or any unconditional proposition as to their justice or policy. There are, however, certain facts which a study of strikes and lockouts seems to make evident. Consider, first, the conditions that influence their frequency. As has already been indicated, the modern organization of industry and labor has largely increased the possibility of strikes. While I can not accept the definition of some writers, that strikes are "refusals of a number of workmen in combination to work on the terms offered by the employer,"* there can be no doubt that the opportunities offered for combination by the aggregation of large bodies of workmen of the same trade in the same locality, and the ease of communication between those of the same class employed in different localities, have greatly increased the number of strikes, and made those that have occurred of much greater importance. It will, therefore, be found, as a rule, that in those trades in which a large number of men are engaged in the same occupation, and in localities where large bodies of workmen congregate, strikes are comparatively

* This is Prof. T. E. Cliffe Leslie's definition. It does not seem to me that "a number of workmen in combination" are essential to a strike, and all strikes, using the word as Prof. Leslie does, to indicate strikes and lockouts, are certainly not refusals of workmen to work on the terms offered by the employers.

frequent. There are but few strikes in the agricultural occupations; but many in the mining, mechanical and manufacturing industries. — Frequently changes in the prices of commodities increase the number of strikes. These render necessary more frequent changes in the rates of wages, and in the relations of employer and employed, and, as it is not possible always to agree as to what these changes shall be, strikes follow. The improved methods of communication and transportation, and the remarkable development of manufacturing industry in modern times, has much to do with these fluctuations, and consequently with the increase of strikes. Under the methods and facilities of some centuries ago, the periods of fluctuations were spread over many years. Agreements concerning work, or "terms of hiring," as they were called, were for the year, and demands for advances or reductions were made at the time of the yearly contracts. This is changed now; fluctuations in prices follow each other at times with the greatest rapidity, and with them come demands for an increase or reduction in wages, which, if not granted, end in strikes or lockouts. It will be found, however, that strikes arising from these fluctuations are not always the most frequent during the period of rapid advances, nor lockouts during a decline, though demands for changes in wages are most prevalent at such times. They generally occur at or near the beginning of such periods, or near their close. When the market is rapidly advancing or declining, the conditions are usually such as to render opposition futile, and a demand made is conceded, but when the advance or decline in prices is beginning, or when it is nearing its end, there is so much opportunity for differences, not only as to the existing conditions of business, but as to its future, that a peaceable solution can not be reached so readily as when there is no uncertainty as to the state of prices. — It is upon the existence of one or both of these conditions, viz., opportunities for combination, and the fluctuations in prices of commodities, and the advantage taken of their presence, that the frequency of strikes and lockouts largely depends. Whatever may be the real or apparent necessity for an appeal to industrial warfare, neither employer nor employed will inaugurate a strike or lockout, except in very rare cases, without a reasonable prospect of success. In estimating these probabilities the strength and character of the combination that the workmen may form, or that the employer must meet, as well as the state of the market, are the chief determining elements. It will be found that it is a belief, that the party making the demand is strong enough to enforce it, or that the condition of the market is such that the party upon whom the demand is made can concede it, and will eventually be forced to do so, that determines whether or not a strike or lockout shall be undertaken. — *Trades Unions and Strikes.* Much has been written as to the influence of trades unions upon the frequency of strikes. As has already been stated, there can be no doubt that combinations of workmen, or trades unions, have had a marked influence in increasing the number of strikes. Many never would have been undertaken had it not been for a conviction of success through the power of combination. While this is true regarding all combinations, it is very doubtful if it is true of the strong, well-organized unions that have represented certain classes of workmen for some years. While many of these unions are responsible for some of the most determined, hotly contested and important strikes of the century, some of which were totally indefensible, it is also true, as a rule, that their utterances and influence are against strikes. Their refusals to undertake general strikes, or to countenance local ones, are quite frequent. Not only has their positive influence been exercised against strikes, but indirectly they have had a marked effect in reducing their number. Adjustments of wages to which they have been parties have, as a rule, been for longer periods than when rates have been fixed without unions; their strength has made them respected, and deferred demands upon the trades they represented until a real necessity for reductions existed; while their accumulated funds and the force of public opinion, to which they are quite sensitive, have rendered them conservative and disinclined to enter upon a strike until no other course seemed open. — *The Statistics of Strikes.* It is manifestly impossible to secure complete and accurate statistics of strikes. Many are never heard of by others than the parties engaged, and when information concerning those that are known is not refused, the statements made are frequently so incomplete and inaccurate, and so evidently colored by the views and supposed interests of the party giving them, that they are far from reliable in many of their particulars. Notwithstanding this, the published statistics of strikes are of great importance. They render available much valuable information concerning the number, character, losses and results of strikes, and furnish many facts necessary to a decision as to their policy and justice. The most important publications on this subject are the "Report of the British Social Science Association" ("Trade Societies and Strikes," London, 1860); a paper read by Mr. G. Phillips Bevan before the statistical society, London, Jan. 20, 1880, the first attempt to give the statistics of the strikes of any country for a series of years; the "Report of the Massachusetts Bureau of Labor Statistics" for 1880, and of Pennsylvania for 1882, giving the statistics of strikes in these states for a series of years; and the "Report on Strikes in the United States for 1880," compiled for the United States census by Jos. D. Weeks. The reports of several of the royal and parliamentary committees of Great Britain on labor subjects, and the annual reports of many trades unions also, contain much valuable information on strikes. These latter, however, are not generally available. Mr. Bevan reports on 2,352 strikes in Great Britain, covering the years from 1870 to 1879. The loss in wages alone from 114 of these strikes was £5,067,825. In the writ-

er's "Census Report," statistics more or less complete are given of 762 strikes that occurred in the United States in 1880. In 414 of these, 128,262 persons were engaged. The report gives quite full returns from 236 strikes, in which 64,779 persons took part. The time lost was equal to the work of one man 1,989,872 days, and the wages unearned for this time, $3,711,097. Of the direct losses in the remaining 506 strikes no statement was received, nor of the indirect losses to capital, to the workmen not directly engaged, and to the wealth of the country. It is probable that the striking workmen recouped their losses in part from their society funds and from contributions, as well as by working at other employments; but, after all allowances are made, it still remains a deplorable fact that the waste and loss from strikes are enormous. — *Results of Strikes.* The history of strikes abundantly proves that as a rule they are not successful; that is, the demand which was the cause of the strike is not conceded. Of 351 of the strikes reported upon by Mr. Bevan in his paper already referred to, 189 were unsuccessful, 71 successful, and 91 compromised. Of 149 reported upon by the Massachusetts bureau of labor statistics, only 18 were successful, 109 unsuccessful, 16 compromised, and 6 partially successful. The report of the Pennsylvania bureau on 185 strikes showed 45 successful, 66 unsuccessful, 13 compromised, and 11 partially successful. The census report gives the results of 481 strikes, of which 169 were successful, 227 unsuccessful, and 85 compromised. This report shows also that the workmen are more successful in strikes growing out of demands for advances than they are in resisting demands for reductions. With the exception of the census report on strikes, these statements cover a series of years, including periods of great depression in business, as well as prosperous times, and may, therefore, be regarded as giving fairly average results. — *The Expediency of Strikes.* Of the utter folly of many strikes, there can be no question. They have been doomed to defeat from their inception. They have been undertaken in defiance of all economic laws, in ignorance of the real condition of trade, and without any just cause. They have wasted capital and decreased the wealth of the country. They have brought hunger, misery, debt; have broken up homes, severed long associations, forced trade to other localities, and driven men and women and little children into the very shadow of death; and yet men, knowing that all of these possibilities are before them, will deliberately enter upon strikes, will cheerfully bear all these privations, and, what is more remarkable still in many instances, the wives of the strikers, upon whom the misery falls with the most crushing force, will be the most determined in their resolution. It would seem that there must be some reason for this, and I believe it will be found that strikes are not wholly wrong, and that even unsuccessful ones are in many ways advantageous to the strikers. Labor has had to fight for every advantage it has gained, and though it is often defeated in its struggles that are called strikes, it has not only learned in these contests how better to wage future battles, but it has so impressed employers with its strength that it has made them shy of encountering antagonists constantly growing more formidable. The most hopeful indication of modern industrial society is the great increase of mutual respect and good-will between employers and employed, as well as a greater regard on the part of each for the rights of the other. To this result strikes have contributed in no small degree. They have also asserted the right of combined labor to deal with combined capital, and have denied the claim that the true labor market was found in the "higgling" of capital with all its power, and one individual workman with his weakness and necessities. In addition to this, it will be found that many of the movements that have bid fair to improve the condition of labor, such as co-operation, industrial partnerships, boards of conciliation and arbitration, as well as wise rules and policy on the part of trades unions, owe much to strikes.

Jos. D. Weeks.

SUBSIDIES. This word has been used in three quite distinct senses. 1. In earlier English constitutional history it is applied to the form of special tax most frequently resorted to until the last century. It was assessed not directly upon property, but upon persons. Its most important element was a land tax of one-fifth the nominal rental. A single subsidy yielded about £70,000. On extraordinary occasions more than one at a time was granted by the house of commons. (Blackstone, vol. i., p. 311.) 2. In the last century and the beginning of the present century, we find the term commonly used to denote payments to an ally to assist in carrying on a war. This practice was largely resorted to by England; but since 1815 it has fallen into disuse. 3. In its modern use, dating from about 1840, it has been applied to any direct pecuniary aid rendered by the state to industrial enterprises of individuals. In its widest sense it includes all such government aid, even to mercantile and manufacturing industry, as, for instance, the system of bounties on exports, which holds so important a place in the commercial policy of France. Practically, it is better to apply the term only to grants in aid of transportation interests.— The earlier form of state aid to these enterprises was by enabling them to secure monopoly rights. These were fully embodied in the early trading charters; the principle survives to this day in the navigation laws of the United States. Our earliest railroads attempted to secure similar provisions. But the development of the transportation system in the present century, and the growing repugnance to monopolies, made this policy more unwise than ever; and the system of subsidies, that is, of direct state aid, was resorted to instead. Such aid may be given either by assuming part of the burden and risk of construction, or by increasing the current receipts for a term of years. The former policy has prevailed for railroads, the latter for

steamships. — Railroad building has been encouraged in three ways: 1. By the state building the lines for the companies to operate for a term of years, either with or without payment of rent; 2. By a guarantee of interest on a part or the whole of the bonded debt, or even on the capital stock; 3. By direct grants, either of money or of public lands. Every large European state, except England, has adopted one or more of these methods. France built the roadbed for most of her main lines, and guaranteed the interest on the bonded debt incurred by the operating companies in building branches. Prussia gave extensive guarantees of interest, until the adoption by her government of the policy favoring state ownership and control of railways. Austria started with a system of state railways, but, between 1850 and 1860, ceded to private companies, for very inadequate compensation, the right to operate most of them for long terms of years. Practically, the results to the companies have been much the same as under the French system. Austria also gave extensive and ill-judged guarantees of interest, on stock as well as bonds. Nearly the same course of events has taken place in Italy. Russia has given interest guarantees, and also direct pecuniary aid in large amounts. — In the United States payments of money to assist railways have been mainly appropriated by towns and other local organizations. Much has been spent in this way, but in such a manner as not to attract public attention. National aid to railroads has been, with one exception, in the form of land grants. Even before the time of railroads, there had been such grants in aid of canals, two million acres in 1827 being the chief instance. But the system really took its start in the year 1850, with the grants to the Illinois Central and the Mobile & Ohio railroads. These grants, like those that followed them, were for form's sake not made directly to the railroads, but through the medium of the states of Illinois, Alabama and Mississippi, in which the lands were situated. Similar grants followed in Missouri in 1852, Arkansas in 1853, and in a number of other states in 1856. By these and subsequent concessions nearly fifty-seven million acres of land in organized states were granted in all, of which fully three-fifths have been certified to the corporations. In addition to this, immense tracts of the so-called swamp land, often very valuable, have been appropriated by individual states for the same purpose. — The matter took a new shape in 1862, when Thaddeus Stevens, in order to bind California closer to the Union, introduced and carried the Pacific railroad bill. By the terms of this act there were granted 12,800 acres of land to each mile of road built (ultimately amounting to about 33,000,000 acres in all); and, in addition, the credit of the United States was pledged to the amount, on an average, of $25,000 per mile, or about half the cost. On the money thus advanced, the United States had paid, up to 1880, principal and interest, about $112,000,000, and had received from the road about $15,000,000 worth of payment. When it came to the incorporation of the Northern Pacific railroad, the promoters would have been glad to cite this as a precedent; but, as they could not obtain the government credit, they secured a double grant of land per mile, 47,000,000 acres in all. Subsequently the two southern routes secured together about 70,000,000 acres. There have been granted to railroads, in all, nearly 160,000,000 acres of territorial land, besides the state lands above mentioned. — Land concession came to an abrupt end twelve years ago. It is a question whether, apart from its abuse, it was a good system. Its advocates claim: 1, that the country was the gainer by the construction of long lines of useful railroad at a much earlier time than would have been possible otherwise; 2, that the government was no loser, because the land was only granted in alternate sections, and the immediate increase in value of those sections retained by the government was more than an equivalent for the much slower increase in the value of the whole which would otherwise have accrued; 3, that the settler was a gainer because he could better afford to pay the additional price for the sake of being near a railroad. On the other side it is charged: 1, that it stimulated unsound railroad schemes and caused too much railroad building; 2, that the provisions intended to protect the government interests were almost systematically disregarded; 3, that the settler, once established so far from markets and from competing transportation routes, was placed at the mercy of the railroad; while the real gainer by these enhanced values was generally the land speculator. The comparative force of these arguments must be decided by the special circumstances of each case where they are applied; but there have been so many mistakes, and so much corruption, that the burden of proof in every case lies upon the advocates of the land-grant policy. — England never adopted any system of railroad subsidies. Her inland relations were such that her people were only too ready to undertake the construction of the necessary lines without government encouragement. But England's foreign and colonial relations were such as to force her government to take the lead in the matter of steamship subsidies; and it did so with great promptness. It was not until 1838 that the practical importance of ocean steam navigation was made to appear. Proposals for a line of Atlantic mail steamers were at once invited, and in 1839 the contract was awarded to Samuel Cunard, whose bid was the most favorable. The original contract was for three ships at an annual compensation of £55,000; it was soon modified to four ships at £81,000. This contract was extended and modified to the advantage of the company in 1846, 1854 and 1858; it is only within the last fifteen years that it has been greatly reduced. In 1840 a contract for fourteen ships at £240,000 was made with the Royal Mail steam packet company, for the carriage of the mails to the West Indies and southern United States. This company afterward extended its field of operations to South America.

In 1845 the Peninsular & Oriental company, which had had for some years a small mail contract, engaged to run seven mail steamers to India for £160,000; and this company gradually extended its engagements with the government, so that for a series of years it has received more than £400,000, and often £500,000, annually. The contracts with these three companies have been by far the most important; of the rest only those with the Pacific steam navigation company and with the Union steamship company, to Africa, need be mentioned. Under contracts like these, England expended in forty years nearly £45,000,000 sterling. The expense is now gradually decreasing, but still amounts annually to some £700,000 sterling. — These payments are so often cited as an example for America to follow, that we must consider carefully how far they were actually of the nature of bounties for the encouragement of the shipping interest. The early contracts with Mr. Cunard were unquestionably of this nature. Ocean steam navigation was then an experiment; and Great Britain's colonial relations made it a political necessity for her to try the experiment first. Her statesmen were forced to take the burden of risks which no private individual could prudently bear; hence the apparent disproportion of the payments to the cost of the steamships. Nor is there good reason to doubt the candor of the commons committee, who, in 1846, reported, in answer to some complaints on this head, that the service was better performed by that company for the price than it would be by any other. But twelve years later, when the business was thoroughly established, the conservatism of the admiralty allowed the Cunard contract to be renewed at a figure which was then quite in the nature of a bounty, and was felt by the postoffice to be burdensome and unfair. There was somewhat the same spirit shown in dealing with the Royal Mail company, especially in renewing their contract in 1868, when, for certain reasons, the business was not thrown open to public competition, as had been the case in all other instances since 1860. The question is a complicated one; but it is impossible to read the correspondence of the authorities with a rival line, and particularly a report for the government by Mr. Scudamore (Parl. Papers, 1867–8, xli.), without feeling that there was an anxiety not merely to have the service well done, but to keep in good condition the line which had done it in the past.— The company whose case is oftenest cited as an example of what is done by government subsidy, is the Peninsular & Oriental. But here there is much less ground for so doing than in the two former cases. The company owed its origin and early development to private enterprise; so far from being favored by government contract, it often seemed as if partiality was shown against it; and when it was finally recognized as the only agency competent to perform certain necessary parts of the mail service, the contracts were awarded grudgingly at a sum which was considered scarcely an equivalent for the extra liabilities and expense incurred. The facts which have given rise to the public impression, are the enormous aggregate sum paid to the company, the renewal of one of its contracts some years before its expiration, on terms which seemed especially advantageous, and, above all, the guarantee, for some years in force, of a 6 per cent. dividend on the capital stock of the company. The enormous aggregate pay is explained by the enormous aggregate service. The contract renewal in 1870 was really sought by the authorities to obviate some difficulties under the old contract, which gave them far more trouble than they did the company. The guaranteed dividend requires a word of explanation. In 1867 the company was disinclined to take the government contract, believing that the pay offered would not compensate the service required. The authorities were equally persuaded that it would. As no other company would undertake the work, the matter was compromised; the company taking the contract with the proviso that if they should, under its terms, be unable to pay a 6 per cent. dividend (not 8 per cent., as has been frequently stated), the government should make good the deficiency. Experience proved the company's original estimate a correct one. How the matter was regarded by the government is illustrated by the following extract from Mr Scudamore's report (Parl. Papers, 1867–8, xli., 131, incl. 3): "It would seem that in dealing with ocean services the postoffice has only two questions to consider: first, what is the nature of the service required; and, second, what is the proper price to pay for it. In the case of communication with the east, parliament has openly declared in favor of a more frequent and equally regular and rapid communication; the postoffice has ascertained that only one company will undertake the maintenance of that communication, and I think I may also claim to say that it has ascertained, with a reasonably close approximation to accuracy, the proper price to pay for it. For the proper price must in every such case be that which, taken together with the revenue from traffic, will cover the working expenses and give a moderate dividend on capital. It is impossible to obtain good service on other terms. The question can not be dealt with on commercial principles, because the conditions of the postal service compel the contractors to disregard commercial principles. * * For the sake of keeping up such communication with the east as the nation requires, they must set commercial principles at defiance; and, cost what it may, the nation must either pay them what they lose thereby, or forego the communication." (See also Rep. of Com. on Affairs of Oriental S. S. Co., 1867, ix.) — Of England's mail contract system it may be fairly said: 1, that its aims are political and not commercial. It is a necessity for England to have constant communication with her colonies, and she has spent large sums for this object. It is almost equally important for her to have an efficient naval reserve and transport service, and she has made

her mail contracts one among several means toward this end. 2. That the incidental commercial advantage to the subsidized companies has not been generally great, except at a very early period of the system. This is evinced by the fact that rival unsubsidized lines have been equally successful, and that the largest contracts have been on terms which made them a matter of indifference to the party receiving them. — The French government encouraged the Mediterranean steamship service from the first, and in the years 1861–5 extended its operations to the support of lines to North and South America, India and China. The annual amount recently paid under these contracts has been more than four and a half million dollars. These efforts met with some degree of success; but the attempt, by the law of January, 1881, still further to increase the French carrying trade by bounties on ship building, sometimes as high as 60 francs per ton, and by a navigation bounty with a maximum of 1.50 francs per ton per thousand miles, did not produce the desired results. Of other nations, Italy, in 1880, spent more than three million dollars on steamship subsidies; Brazil, one million seven hundred thousand; Japan, half a million. Belgium, in 1878, spent over a quarter of a million; Austria, a mileage rate, with a maximum of about three hundred thousand dollars; Russia, a moderate fixed sum, and a mileage rate in addition. The subsidies of Portugal and Holland are small; those of Germany and Denmark apply only to Baltic steamers. The most successful ocean steamship lines of the continent, those of Hamburg and Bremen, receive no pay from the government other than the very moderate postage rates. (45th Cong., 2d Sess., Ex. Doc. 38; 46th Cong., 3d Sess., House Com. Report, 342.) — The United States was reluctant to allow England to get the start in ocean steam navigation. In 1841, only two years after the first Cunard contract, T. Butler King, of Georgia, chairman of the house committee on naval affairs, presented a report urging similar subsidies on the part of the United States. In 1845 an act was passed authorizing the postmaster general to make contracts for the carriage of the foreign mails in American steamships. The first line established under this system was from New York to Bremen; the first passage was made in 1847. The steamers ran ultimately twice a month, to Havre and Bremen alternately, for an annual subsidy of $350,000. Mr. King continued to push the subject; and in March, 1847, an act was passed requiring the secretary of the navy to contract for mail service from New York to Liverpool, to New Orleans, Havana and Chagres, and from Panama up the Pacific coast. From these contracts arose the Collins line, the George Law line to Aspinwall, and the Pacific Mail steamship company. In 1848 there were further resolutions in congress looking to the establishment of lines to China, to Antwerp, and to the mouth of the Elbe, but these proposals were never actually carried out. By the act of March 3, 1851, the amount expended for Pacific mail service was largely increased, provision being at the same time made for the Panama railroad; and in July, 1852, the subsidy for the Collins Line to Liverpool, originally $385,000, was increased to $858,000. Oct. 1, 1852, the United States foreign mail service was as follows:

No. of Route.	Points.	No. of Trips.	Amount of Pay.
1.	New York to Bremerhaven	Once a month.	$ 200,000
2.	Charleston to Havana	Twice a month.	50,000
3.	New York to Aspinwall; New Orleans to Aspinwall; New York via Havana to New Orleans	Twice a month.	296,000
4.	Panama to Oregon	Twice a month.	*348,250
5.	New York to Liverpool	26 per year.	858,000
6.	New York to Havre	Once a month.	150,000
7.	Aspinwall to Panama	Twice a month.	50,436
	Total		$1,946,686

— By far the most ambitious of these enterprises was the Collins line to Liverpool. The United States government had demanded such vessels as would afford a very high rate of speed; therein departing from the English policy, which demanded regularity and great safety at comparatively slow rates, as exemplified in the Cunard and Peninsular & Oriental lines. The Collins steamships thus cost a large sum in their construction, and a career of exceptional prosperity was needed to support them even with the assistance of the subsidy. This prosperity they enjoyed for four years, from 1850 to 1854. In September of that year they lost the steamship "Arctic," and little more than a year later the "Pacific." Under the dissatisfaction produced by these disasters, combined with other reasons, the subsidy was withdrawn. The line succumbed, and in 1858 the steamships were sold. The other subsidies were discontinued at about the same time. The Bremen line withdrew its steamships on the expiration of the contract in 1858; the Havre line continued operations until after the breaking out of the rebellion. A considerable portion of the United States mail service was at this time maintained by Vanderbilt's steamships without subsidy; but these ceased in the war time to be employed in this way. At the beginning of 1864 we had no steamships crossing the ocean, and none engaged in foreign trade except the Havana and Pacific lines. (See Memorial of New York Chamber of Commerce, 1864.) — In that year congress authorized a mail contract for twelve round trips, of vessels of not less than 2,000 tons, from New York to Brazil, at an amount not exceeding $150,000. The most favorable offer was made by J. F. Navarro, representing what afterward became the United States & Brazil steamship company. The negotiations dragged on for a long time; there were many irregularities, including most suspicious and persistent efforts on the part of the company to make the government accept

* Owing to a misprint in the original report to congress, both this sum and the total are usually quoted half a million dollars too large.

unsuitable vessels. In the latter part of 1865 a conditional contract for ten years was entered into and finally ratified. (See 39th Cong., 1st Sess., Ex. Doc. 121.) — Early in 1865 a contract was made with the Pacific Mail steamship company for a monthly mail service to China, in vessels of 3,000 tons, at an annual payment of $500,000. No further lines were subsidized, in spite of the well-known report of the Lynch committee in 1870, favoring an extension of this policy. But in 1872 an additional subsidy of $500,000 was offered the Pacific Mail for the establishment of a second service per month; this time in vessels of 4,000 tons. But the Pacific Mail was unfortunate in every way. Before the subsidy contract of 1865 it had been a sound and well-managed concern; since that time it had been the plaything of speculators. It lost nine vessels in as many years. Foreign shippers had become dissatisfied with its rates and methods. The shares had fallen from above par to below 40. Nor did the supplementary contract bring the expected relief. It was found impossible to complete the vessels for the new service within the contract time. As there had been apparently no lack of intention on the part of the company, the government hesitated what to do, and seemed disposed to grant the company special favor. But then came the disclosures as to how the contract of 1872 had been obtained, the evidence of vast amounts of money spent for corrupt purposes. Public sentiment was strongly aroused, as was evinced by the vote on Mr. Holman's anti-subsidy resolution. In the face of feeling like this a much better case than that of the Pacific Mail would have had no chance of a favorable hearing; and the decision of the senate judiciary committee that the subsidy of 1872 had been forfeited by non-fulfillment of the contract, was almost a foregone conclusion. (43d Cong., 2d Sess., Senate Rep., 268; House Rep., 674.) The subsidy of 1865 ran on till the middle of 1875. The Brazilian line subsidy expired at about the same time. With that year ended the second systematic attempt at thus supporting steamship lines, even more completely and decisively than the former attempt had ended in 1858. Since that time there has been more or less agitation in favor of subsidies, but without distinct results. Even the Russell committee of 1880, with their obvious leanings in that direction, did not venture to propose anything specific. An attempt on the part of the Pennsylvania railroad company to support a line from Philadelphia to Liverpool by similar payments, was, after full trial, finally abandoned. — It is urged by the advocates of a subsidy system for the United States steam marine, 1, that we stand almost alone among maritime nations in not doing so; 2, that we lose not merely the carrying trade, but a large part of our foreign commerce; 3, that we are left defenseless in case of war. To this the reply is made, 1, that the example of England does not really apply to our own case, while that of France and other nations can hardly be appealed to as successful; 2, that the loss of our carrying trade and foreign commerce is due to other causes, and can not be remedied in this way. The third point is more difficult to meet directly. There can be no doubt that England's brilliant success in Egypt, and her power of waging distant wars elsewhere, are due to the readiness and efficiency of her transports, and that this reserve transport service was partly connected with her system of mail contracts. Nor is there any doubt that at the beginning of the rebellion the control of a number of really swift steamers would have been of inestimable service to the government. But such a naval reserve is much more needed for offensive than for defensive war, the general carrying trade being, in the latter case, a source of actual weakness. And whether, in the existing machinery of the United States government, and the liabilities to fraud on government contracts, such a naval reserve could be secured by a system of subsidies, is, to say the least, doubtful; whether it would ever be worth the money we should have to spend upon it, is even more doubtful; not to speak of the possibility of obtaining the same result on a larger scale, with less cost and less fraud, by the removal of some of the restrictions upon commerce. (For a strong statement of some of the arguments against subsidies, see David A. Wells' "Our Merchant Marine," chap. viii. See also, ENCOURAGEMENT OF INDUSTRY BY THE STATE.) ARTHUR T. HADLEY.

SUB-TREASURY. (See INDEPENDENT TREASURY.)

SUFFRAGE means a vote or a participation in government, and, specifically, the privilege of voting under a representative government, upon the choice of officers, and upon the adoption or rejection of fundamental laws. This privilege has always and everywhere been conditioned, at least, upon age and sex. Universal suffrage, therefore, is an inaccurate though popular description of manhood suffrage—that of males of full age, and there is no right of suffrage except in the sense that this privilege is created and sanctioned by positive law. The object of suffrage is the continuity of government and the preservation and perpetuation of its benefits. — There are two important theories regarding the basis of suffrage. 1. That it is a privilege granted by the state to such persons or classes as are deemed most likely to use it for the public weal, a device to secure good government whose application must depend upon social conditions, civil institutions and political aptitudes. Most states have acted upon this theory, and, at different times, conditioned suffrage upon age, sex, nativity, religious profession, rank, military service, possession of property, tax payment, character, intelligence, residence. "While the action of a state in determining what political status shall be given to children, women, aliens, inferior races and others, is necessarily arbitrary and artificial, and reflects the convictions of the nation and generation upon the moral claims which arise from the natural facts that differentiate these

groups of persons and form their relations" to other groups of persons possessing political power, no disfranchisement is a violation of institutional liberty if it only recognizes natural (physical, mental or moral) inequalities of condition, or of political justice if civil institutions bear equally upon all who are in the same political status, or of equality before the law if due relation is preserved between the political rights and duties that are imposed. 2. That, like life, it is a gift from nature—a natural right of all persons. This political dogma of the eighteenth century is a pure fiction. If this so-called natural right is denied by a state, it can not be enforced: if it exists, it must be unconditioned, but few who affirm it work to secure its enjoyment to females, and none claim that it can be safely exercised by minors. The democratic spirit, formulated in the second theory, and voiced in the American and French revolutions, has been a powerful dissolvent of political privileges justified, in their origin, by the first theory. In one century it has led to a wide adoption of manhood suffrage. Statesmen have sought to direct this movement; demagogues, to profit by it; fools, to stay it. — Advocates of any extended suffrage claim: 1, that it gives the state the greatest practicable security against internal violence; 2, that the chances of a wise conduct of both its internal and external affairs are increased with every addition of individuals or classes consulted; 3, that each individual and class best knows its own interests and wants; and 4, that no individual or class can be as safely intrusted to protect another's interest as that other itself. These claims are now being tested by manhood suffrage, which is of too recent origin to yield anything more than material for suspended judgment. Yet it is undeniable that the first results of this greatest political experiment of the century are not unmixed good: it has sometimes, especially in cities, borne the evils of ignorant rulers, insecurity of life and property, extravagant and corrupt administration. But good or evil, no large curtailment of this suffrage is now possible. The old qualifications are felt to be unjust: the intellectual and moral development of man has made a wide bestowal of the suffrage not only possible but expedient. Any disfranchisement, to be successful, must follow closely the lines of least reasonable resistance, and clearly tend to lessen the enumerated evils. Within such lines there are three such qualifications which may be prescribed by the state with justice, and which only apply the principle that political rights should be correlated to political duties. 1. An educational qualification evidenced by ability to read and write. "No one," says Mill, "but those in whom an *a priori* theory has silenced common sense, will maintain that power over others, over the whole community, should be imparted to people who have not acquired the commonest and most essential requisites for taking care of themselves—for pursuing intelligently their own interests, and those of the persons most nearly allied to them." Intelligence is not an infallible test of political wisdom, but it is essential to the safe conduct of government; and if it is an admitted evil to withhold the suffrage from any person, the prevention of greater evil demands its denial to the illiterate. So low an educational test can not, with present private and public aid for elementary instruction, long bar any one from the electorate who would strengthen the state. 2. An economic qualification evidenced by maintenance without municipal aid, and the payment of a poll tax. In politics, as elsewhere, only that which costs is valued. The industrial virtues imply self-denial, which prepares their possessors to wield political power; but pauperism raises a presumption of unfitness to share in political power. The person who can not support himself has no moral claim to rule one who can. The payment of one direct tax is a political object-lesson, useful to all, and imperatively needed by those who pay no other tax and occasion the greater part of all police expenditure. In cities an additional qualification—the payment of such taxes or rent as give a substantial interest in the economical administration of the municipality—should be imposed upon the electors of the local body which makes municipal appropriations and lays municipal taxes. Its necessity is fully set forth in the report of the commission appointed in the state of New York, in 1876, to devise a plan for the government of cities. (See CITIES.) "Non-taxpayers," says Mill, "have every motive to be lavish, and none to economize. As far as money matters are concerned, any power of voting possessed by them is a violation of the fundamental principles of free government, a severance of the power of control from the interest in its beneficial exercise." 3. A moral qualification evidenced by habitual obedience to the positive law of the state. Such obedience, practically, is the interpretation given by the courts to the phrase "good moral character." Theoretically the wisdom of thus restricting the suffrage has long been admitted. One of the present state constitutions mentions "good moral character" as one of the conditions to citizenship; the United States statutes require an alien applying for naturalization to "make it appear to the satisfaction of the court admitting such alien, * * that during that term (five years) he has behaved as a man of good moral character." Practically, the enforcement of these constitutional and statutory requirements has been impossible, for the law has never given naturalization courts and registrars of elections any adequate means for the determination of the law-abiding character of applicants for citizenship and registration. — The political injustice of allowing law-breakers, inflicting heavy taxes upon law-keepers, to become and remain voters, that is, law-makers, is equaled only by its danger, for wherever a bare majority rule, and the will of law-breakers is allowed legal expression, the action of the majority and of the state may be determined by its basest elements. This danger can be diminished by 1, Laws estab-

lishing a systematic registration of criminals, with provisions for the publication and exchange of criminal registers. 2. Laws so extending the use of disfranchisement as a penalty for crime for males, that conviction for any felony shall, in addition to other punishments, entail, *ipso facto*, permanent political disability; and that a single conviction for certain misdemeanors which imply unfitness to discharge the duties of a voter (as, for example, illegal voting and *petit* larceny), or such repeated convictions for any misdemeanor or different misdemeanors as may by statute law and judicial construction constitute one an "habitual misdemeanant," a "common drunkard," or a "repeater," shall, in addition to any other penalties, be followed by a temporary loss of the suffrage. 3. Laws requiring clerks of criminal courts to report at stated times the names and descriptions of all persons convicted of disfranchisable crimes to clerks of naturalization courts and to registrars of elections, whose duty it shall be to refuse to such persons citizenship and registration until the disability is removed. — This policy of punishing crime politically, if adopted and maintained, would tend. first, to purify the electoral body by purging it of its most corrupt and corruptible elements, and so preserve the national life by limiting its control to law-abiding citizens; second, to lower taxes by divesting the most wasteful and least productive members of society of all power, directly or indirectly, to appropriate the public moneys, and by substituting, in many cases, an inexpensive disability for an expensive confinement; third, to reform occasional offenders, and to deter the young from criminal acts by appealing to two of the strongest motives to lawful action which operate in a democratic country, viz., fear of permanent political inferiority, and hope of civic honor. — *In the American Colonies*, 1619–1789. The original settlers, with unimportant exceptions, all had a voice in public affairs. The founders of Virginia and of New England (the original forces which determined the course of colonial development) were mainly Englishmen, accustomed to self-government, and in each colony homogeneity of character, community of interests and belief, economic conditions, and military necessities, found expression in equality of political privileges till the arrival of men of other blood and religion, of "indented servants," "redemptioners," transported felons, and negroes, introduced social inequalities. From that time electoral qualifications varied greatly, and often in different colonies, the most constant tests being religious profession and possession of property. The influx of immigrants of different religions soon compelled the abolition of the former test, and the economic conditions of the country, tending powerfully to equality of condition, early in the colonial period produced a movement which has been "constant though not steady, and is not yet spent, toward absolute equality of political rights and privileges." The first legislative body that ever sat in America (at Jamestown, July 30, 1619) was elected by all the male inhabitants. Notwithstanding some fluctuation, both before and after, the Virginia colony, from 1670, restricted the suffrage to "freeholders and housekeepers," the reason stated being that the "usual way of choosing burgesses by the votes of *all persons who, having served their time, are freemen of this country*," produced tumults at the election, and that it would be better to follow the English fashion and "grant a voyce in such election only to such as by their estates, real or personal, have interest enough to tye them to the endeavor of the publique good." The first legislative body in New England (at Plymouth, 1620,) was composed of all the male inhabitants, and this township type and school of government was adopted in other New England settlements. It was ordered, May 18, 1631, before there was a representative body in Massachusetts, "that no man should be admitted to this body politic but such as are members of some of the churches within the limits of the same." This was not repealed until Aug. 3, 1664. It excluded for thirty years three-fourths of the male inhabitants from the ballot box; and a parallel law is found only in New Haven colony, where, June 4, 1639, a fundamental agreement was adopted providing "that church members only shall be free burgesses, and they only shall choose among themselves magistrates and officers to have the power of transacting all public civil affairs of this plantation." The first representative court in Massachusetts, in 1634, ordered "that none but freemen should have any vote in any town." The Massachusetts charter of 1691 restricted suffrage to the possessors of an estate of freehold in land to the value of 40s. per annum, or other estate to the value of £40. At the beginning of the eighteenth century a freehold test had become common in the colonies, though all attempts (see Locke's "Fundamental Constitutions of Carolina," 1669,) to limit political power to *hereditary* wealth had failed. In some colonies, laws imposed penalties on absentees from town meetings or elections, a survival of which appears in the constitution (article xii.) of Georgia, in force 1777–89. From 1700 to 1776, inclusive, no change occurred in the social condition of the colonies necessitating any radical change in the suffrage, except that parliament, in 1746, substituted for the various naturalization acts which their need of immigrant laborers had induced several colonies to pass before the close of the preceding century, a uniform system of naturalization, on the basis of seven years' residence, an oath of allegiance, and profession of the "Protestant Christian faith." Independence brought about some extension of the suffrage, but, though the demonstrated capacity for self-government of the colonists led to a declaration of the right of self-government in all classes of mankind, the principle was not consistently followed by revolutionary statesmen. "They extended it just so far as the conditions of the time and place at once necessitated and made safe; and sought to shun

two opposite dangers: danger to the government from the supremacy of any class, and danger to the government by the exclusion of any class which might have sufficient unity, self-conscious power and independent interest to attempt the same kind of revolution which the colonists had themselves sanctioned." The last survival of the test of religious profession appears in the constitution of South Carolina (article xiii.) in force 1778–90, which limited suffrage to "every free white man who acknowledges the being of a God, and believes in a future state of rewards and punishments."—When the federal constitution was adopted, each state was left by its constitution, or by its charter from the crown (under which two states, Rhode Island and Connecticut, continued to act), to prescribe for itself who should have the privilege of voting. No state then granted that privilege to all of its citizens. It was limited to the following classes of persons: in New Hampshire, "every male inhabitant of each town and parish with town privileges, and places unincorporated in the state, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their request"; in Massachusetts, "every male inhabitant of twenty-one years of age and upward, having a freehold estate within the commonwealth of the annual income of three pounds, or any estate of the value of sixty pounds"; in Rhode Island, "such as are admitted free of the company and society," freeholders of estate of the value of $134, and the eldest sons of such freeholders; in Connecticut, such persons as had "maturity in years, quiet and peaceable behavior, a civil conversation, and forty shillings freehold or forty pounds personal estate," if so certified by the selectmen; in New York, "every male inhabitant of full age who shall have personally resided within one of the counties of the state for six months immediately preceding the day of election, if during the time aforesaid he shall have been a freeholder, possessing a freehold of the value of twenty pounds within the county, or have rented a tenement therein of the yearly value of forty shillings, and been rated and actually paid taxes to the state"; in New Jersey, "all inhabitants of full age, who are worth fifty pounds, proclamation money, clear estate in the same, and have resided in the county in which they claim a vote for twelve months immediately preceding the election"; in Pennsylvania, "every freeman of the age of twenty-one years, having resided in the state two years next before the election, and within that time paid a state or county tax which shall have been assessed at least six months before the election"; in Delaware "as exercised by law at present," all resident tax-paying freemen; in Virginia, "as exercised by law at present," persons having a freehold estate of one hundred acres of unimproved land, or twenty-five acres of improved land, or a house and lot in a town; in Maryland, "all freemen above twenty-one years of age, having a freehold of fifty acres of land in the county in which they offer to vote, and residing therein, and all freemen having property in the state above the value of thirty pounds current money, and having resided in the county in which they offer to vote one whole year next preceding the election"; in North Carolina, for senators, "all freemen of the age of twenty-one years who have been inhabitants of any one county within the state twelve months immediately preceding the day of election, and possessed of a freehold within the same county of fifty acres of land for six months next before and at the day of election," and for members of the house of commons, "all freemen of the age of twenty-one years who have been inhabitants of any one county within the state twelve months immediately preceding the day of any election, and shall have paid public taxes"; in South Carolina, "every free white man of the age of twenty-one years, being a citizen of the state, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land, or a town lot of which he hath been legally seized and possessed at least six months before such election, or (not having such freehold or town lot), hath been a resident within the election district in which he offers to give his vote six months before said election, and hath paid a tax the preceding year of three shillings sterling toward the support of the government"; and in Georgia such "citizens and inhabitants of the state as shall have attained to the age of twenty-one years, and shall have paid tax for the year next preceding the election, and shall have resided six months within the county."—*In the United States*, 1789–1884. During this period freehold franchise has given way to manhood suffrage. The French revolution, intensifying the democratic spirit till Americans abhorred all political privileges as British badges; the transfer of political leadership from conservative statesmen of long experience to radical politicians echoing the French dogma of political equality; the vast expansion of territory, with the settlement of new states bidding against each other with political franchises for immigrants; the growth of population, with the rise of large cities inhabited by many uninterested in the soil; the anti-slavery agitation, spreading the doctrine of the "rights of man"; the gradual popular recognition that the principles of the declaration of independence had not been logically applied; the private interest of demagogues, and the fierce competition of parties careful for the next election if neglectful of the next generation; and, finally, the alleged necessity imposed by a war, one of whose incidents was the emancipation of a race—are some of the causes which have united to produce the existing electoral franchise. Eleven of the thirteen original states have abolished the tax and property tests, as follows: New Hampshire, the tax test in 1792; Georgia, the property test in 1798; Maryland, the property test in 1801 and 1809; Massachusetts, the property test in 1821; New York, the property test in 1821, and the tax test in 1826;

Delaware, the property test in 1831; New Jersey, the property test in 1844; Connecticut, the property test in 1845; South Carolina, the property test in 1865; North Carolina, the property test in 1854 and 1868; Virginia, the property test in 1850, and the tax test, established in 1864, in 1882. The only new states which have required a property or even a tax qualification, are the following: Tennessee, admitted in 1796 with a freehold qualification, abolished it in 1834; Ohio, admitted in 1802 with a tax qualification, abolished it in 1851; Louisiana, admitted in 1812 with a tax qualification, abolished it in 1845; Mississippi, admitted in 1817 with a militia or tax qualification, abolished it in 1832. Long before they disappeared, tax and property tests had become forms. Parties or candidates paid the taxes of unqualified citizens whose votes were needed and could thereby be had, or conveyed land to them before election, which was deeded back after election. Thus, by degrees, all native-born white males of age were allowed to vote upon taking the freeman's oath, after a brief term of residence in a state or town, and the competition of new states for laborers led to the gradual extension of suffrage to alien declarants, who now have it in thirteen states. After the rise of the American party, Massachusetts, during 1859–63, denied the suffrage to aliens, unless "they shall have resided within the jurisdiction of the United States two years subsequent to naturalization, and shall be otherwise qualified." Free black males of age, who could vote in some slave states, as Tennessee (Const. of 1834), were disfranchised in some free states, as Connecticut (Const. of 1818). — In the southern states political power was held exclusively by the property-owning and educated classes till the close of the rebellion. When slavery was abolished by the 13th amendment (see Const. III., Amendments) in 1865, the dominant party in congress apparently had no intention of interfering with the control of the suffrage in the states. But the inadequate protection given the negro in the southern states, and the unwillingness of the northern states that his freedom should increase the political power of those lately in rebellion, led to the adoption of the 14th amendment (see Const., III., Amendments) in 1868. This conferred citizenship upon the negro, guaranteed to him the same rights enjoyed by white citizens of the United States, and made it for the interest of the southern states to voluntarily extend the suffrage to the negro, by providing that when the right of voting is denied to any of the male inhabitants of any state, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, such state's representation in congress shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state. This amendment not being promptly ratified when proposed, in 1866 (see Const., III., Amendments), was followed by the reconstruction act of March 2, 1867 (see RECONSTRUCTION, for temporary political disabilities), which made it a condition of the restoration of the seceding states that new constitutions should be adopted, framed by "delegates elected by the male citizens twenty-one years old and upward, of whatever race, color or previous condition," and securing "to all such persons" the elective franchise, and by the adoption of the 15th amendment, in 1870, which provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude." The reasons for this amendment were (Cooley's Con. Law, 264, 265; Hunt J., in U. S. *vs.* Reese, 92 U. S. R., 214, 247): "1. That unless the ballot was given to the freedmen, the government of the southern states must for a considerable time be in the hands of those lately in rebellion, and that the existence in a political community of a great body of citizens against whom the laws discriminate in a particular which makes the discrimination a stigma and a disgrace, must always be an occasion of discontent, disorder and danger. 2. That it would benefit the colored race by giving them importance, securing to them respect, protecting them against unfriendly action or legislation, and by acting as an educational process." This enfranchisement of the negro is the last of a series of extensions of the suffrage which began in the colonial period, and have ended by nominally conferring political supremacy in some states upon those whose former status as slaves leaves them illiterates and non-taxpayers, unhabituated to the obedience of law. — The existing conditions of the suffrage in the United States are now the following: The constitution of the United States confers the right to vote upon no one. That right is not a "privilege or immunity" of citizens of the United States: when they possess it at all, even for electing representatives and presidential electors—the only federal officers chosen by popular vote—it is created by state constitutions and state laws. (Const. of U. S., Art. I., Sec. 2; Art. II., Sec. 1.) The fifteenth amendment to the constitution does not confer the right of suffrage upon any one, but it invests citizens of the United States with the right of exemption from discrimination in the exercise of the elective franchise, on account of their race, color or previous condition of servitude, and empowers congress to enforce that right by appropriate legislation. The power of the states to exclude from the franchise upon other grounds, including those of nativity, sex, illiteracy and non-payment of taxes, remains intact. The power of congress to legislate at all upon the subject of voting at state elections rests upon this amendment, and can be exercised by providing a punishment only when the wrongful refusal to receive the vote of the qualified elector at such elections is because of his race, color or previous condition of servitude. The third and fourth sections of the act of May 31, 1870 (16 Stat., 140), not being confined in their

operations to the above-described unlawful discrimination, are beyond the limit of the 15th amendment, and unauthorized. (U. S. *vs.* Reese, 92 U. S., 214.) Qualifications of electors are defined in the several state constitutions, and no additional qualifications can be required by the state legislature, but the legislature may prescribe by law "such conditions to the exercise of the elective franchise as shall seem reasonable to protect the privilege, and to prevent impositions and other frauds, and also all proper regulations for receiving and canvassing votes." (Cooley's Con. Law, 252.) The qualifications prescribed by existing state constitutions are shown in the table on pages 828, 829.— Some constitutions require registration; some disfranchise any persons while under guardianship; some, any person while kept in any poor-house or other asylum at public expense, or while confined in any public prison; some, any person stationed in any state while in the military, naval or marine service of the United States; some, idiots or insane persons, but these persons, without express mention, are excluded from voting, as incapable of exercising legal volition. The educational test shown in the table was established in Connecticut in 1855, in Massachusetts in 1857, in Missouri in 1876. The constitutions of Alabama and Mississippi forbid the imposition of such a test. That of Florida allows it after 1880; that of Colorado, after 1890. The economic test shown is at least the prepayment of some tax, in Massachusetts, Rhode Island, Pennsylvania, Delaware, Tennessee and Georgia. The constitutions of Alabama, Arkansas, California and Mississippi, expressly forbid a property test, and the constitution of Arkansas also expressly forbids a poll-tax test; that of Nevada allows it. Paupers are expressly disfranchised in Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, South Carolina, Texas and West Virginia. A moral test exists in all the states except four (Colorado, Massachusetts, New Hampshire, and West Virginia), but if satisfactory proof of the reformation of the offender is given, the constitutions of ten states (Connecticut, Florida, Kansas, Minnesota, Nebraska, Nevada, North Carolina, New Jersey, Rhode Island and Wisconsin) expressly permit restoration to the suffrage; some of them by a two-thirds vote of the legislature, others by a majority vote.—The table on page 831 shows the offenses for which states disfranchise for crime by the express terms of their constitutions, or for which their legislatures may make disfranchisement a penalty. It shows that conviction of the offenses enumerated, does or may disfranchise, specifically as follows: of bribery, in twenty-three states; of felony, in sixteen states; of infamous crime, in sixteen states; of treason, in eleven states; of dueling, in eleven states; of perjury, in ten states; of forgery, in seven states; of larceny, in seven states; of embezzlement of public funds, or fraud, in seven states; of election misdemeanors, in six states; of other high crimes or malfeasance in office, in six states; of murder, in two states; of robbery, in two states. Conviction of some of the enumerated crimes also disqualifies for jury service in some of the states, while permanent ineligibility to office is the sole political disability that is inflicted upon those guilty of bribery or of dueling in other states. Three states (Nebraska, Nevada and Wisconsin) admit the principle of the exterritoriality of crime in their constitutional provisions for disfranchisement. — *Territories.* The ordinance of 1787, for the government of the northwest territory, provided that "so soon as there shall be 5,000 free male inhabitants of full age in the district, they shall receive authority to elect representatives to a general assembly: provided, also, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold, and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative." The constitution having given congress power to make all needful rules and regulations respecting the territory belonging to the United States, two forms of territorial government have from time to time been established: 1, by an executive and judges of federal appointment, who together constitute a legislature; 2, by an executive and judges of federal appointment, and a legislature composed of representatives chosen by the people of the territory. In the second form of government, the basis of suffrage has been substantially uniform, being limited commonly, as it now is by law in the first election in a territory, to "every male citizen above the age of twenty-one years, including persons who have legally declared their intention to become citizens in any territory hereafter organized, and who are actually residents of such territory at the time of the organization thereof." At subsequent elections the qualifications of voters may be prescribed by the legislative assembly of each territory, provided that the right of voting shall be exercised only by citizens of the United States above the age of twenty-one years, and by alien declarants above that age, who have taken the required oath; that it be not denied to a citizen on account of race, color or previous condition of servitude; and that no person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote by reason of being on service in the territory, unless it has been for six months his permanent domicile. — *District of Columbia.* The government of this district, over which congress has the power of exclusive legislation, was originally vested in a board of three commissioners under the act of July 16, 1790. This board was abolished by act of May 1, 1802, and the city of Washington was incorporated by act of May 3, 1802, which provided that its council should be elective "by the free white male inhabitants of full age who have resided twelve months in the city, and paid taxes therein the year preceding." An act of May 15, 1820, provided that both the mayor and the council should be elective by "every free white male citi-

STATES.	Description of Person.		Residence.			Age	Taxes.	Education.	Character.
	Citizen.	Declarant of intention to become citizen.	State.	County.	District, town, city, precinct or ward.				
Alabama	Every male citizen of U. S.	Declarant.[a]	1 year.[b]	3 months.	30 days.[c]	21			
Arkansas	Every male citizen of U. S.	Declarant.	12 mos.	6 months.	1 month.	21			
California	Every native male and every male naturalized citizen of U. S. who shall have become such 90 days prior to any election.[d]		1 year.	90 days.	30 days.	21			
Colorado	Every male citizen of U.S.	Declarant not less than 4 months before he offers to vote.	6 mos.	"Such time as may be prescribed by law."	"Such time as may be prescribed by law."	21			
Connecticut	Every male citizen of U. S.		1 year.		6 months.	21		Who shall be able to read any article of the constitution, or section of statutes of the state.	Good moral character.
Delaware	Every male citizen.		1 year.	1 month		21	Who has, if 22 years or upward, paid a county tax assessed 6 months previous to election.[j]		
Florida	Every male citizen of U. S.	Declarant.	1 year.	6 months.		21			
Georgia	Every male person born or naturalized in U. S.	Declarant.	6 mos.	30 days.		21	Who has paid all taxes for year preceding.		
Illinois	Every male citizen of U. S.		1 year.	90 days.	30 days.	21			
Indiana	Every male citizen of U. S.	Declarant who shall have resided in U. S. 1 year, and state 6 mos.	6 mos.		In township 60 days. In ward 30 days.	21			
Iowa	Every male citizen of U. S.		6 mos.	60 days.		21			
Kansas	Every male citizen of U. S.	Declarant.	6 mos.		30 days.	21			
Kentucky	Every male citizen.		2 years.	1 year.[i]	60 days.	21			
Louisiana	Every male citizen of U. S. born or naturalized.		1 year.	Parish 6 months.	30 days.	21			
Maine	Every male citizen of U. S.		3 mos.			21			
Maryland	Every male citizen of U. S.		1 year.	6 months.		21	Who shall have paid * * any state or county tax within 2 years preceding election, assessed upon him in any town or district.	Who shall be able to read the constitution in the English language and write his name.	
Massachusetts	Every male citizen.		1 year.		6 months.	21			
Michigan	Every male citizen and civilized male inhabitant of Indian descent, a native of U. S., and not a member of any tribe.		3 mos.		10 days.	21			
Minnesota	Every male[g] citizen of U. S., and persons of mixed white and Indian blood,[h] or of Indian blood described in note.[i]	Declarant who shall have resided in U. S. 1 year.	4 mos.		10 days.	21			

Mississippi	All male inhabitants of this state, citizens of U. S., or naturalized.		6 mos.	1 month.		21			
Missouri	Every male citizen of U. S.	Declarant not less than 1 year nor more than 5 years.	1 year.	60 days.	60 days.	21		Who shall be able to read and write.	
Nebraska	Every male citizen of U. S.	Declarant.	6 mos.	Term provided by law.	Term provided by law.	21			
Nevada	Every male citizen of U. S.		6 mos.	30 days.	30 days.	21			
New Hampshire	Every male inhabitant.					21			
New Jersey	Every male citizen of U. S.		1 year.	5 months.		21			
New York	Every male citizen who shall have been a citizen for 10 days.		1 year.	4 months.	30 days.	21			
North Carolina	Every male person born or naturalized in U. S.		12 mos.	90 days.		21			
Ohio	Every male citizen of U. S.		1 year.	"Such time as may be provided by law."	"Such time as may be provided by law."	21			
Oregon	Every male citizen of U. S.	Declarant[d] for 1 year previous to election.	6 mos.			21			
Pennsylvania	Every male citizen of U. S. for one month.		1 year.		2 months.	21	Who[j] shall have paid within 2 years a state or county tax assessed 2 months, and paid 1 month before election.		
Rhode Island	Every male citizen of U. S.		1 year.		6 months.	21		Property. In his own right possessed of real estate of the clear value of $134, or which shall rent for $7 per year clear.	
	Every male native citizen.		2 years.		6 months.	21	Who[k] has paid taxes within a year amounting to $1, or done military service,	Militia Service. or has been enrolled and done military service 1 year, or paid taxes within 1 year of $1.	
South Carolina	Every male citizen of U. S.		1 year.	60 days.		21			
Tennessee	Every male citizen of U. S.		12 mos.	6 months.		21	"Who has paid the poll taxes assessed against him for such preceding period as the legislature may prescribe."		
Texas	Every male citizen of U. S.	Declarant.	1 year.	6 months.		21			
Vermont	Every male native or naturalized citizen of U. S.		1 year.			21			"Who is of quiet and peaceable behavior."
Virginia	Every male citizen of U. S		12 mos.	3 months.	3 months.	21			
West Virginia	Male citizens of the state.		1 year.	60 days.		21			
Wisconsin	Every male citizen of U. S., and persons of Indian blood described in note.[l]	Declarant.	1 year.			21			

(See notes to this table on page 830.)

zen of the United States of lawful age, who shall have resided in the city for one year next preceding the day of election, and shall be a resident of the ward in which he shall offer to vote, and who shall have been assessed for the year ending on the 31st day of December next preceding the day of election, and who shall have paid all taxes legally assessed and due on personal property, when legally required to pay the same." The act of May 17, 1848, re-enacted this qualification, with the addition that it apply to persons assessed "as subject to a school tax for that year (except persons *non compos mentis*, vagrants, paupers or persons who have been convicted of any infamous crime), and who shall have paid the school tax and all taxes on personal property due from him." An act of March 4, 1855, for the codification of the laws of the District of Columbia, provided for the submission of the proposed code to the votes of "every free white male citizen of the United States above the age of twenty-one years, who has resided in said district for one year next preceding such election." The act of Jan. 8, 1867, extended the suffrage in the District of Columbia to "every male person, except paupers and persons under guardianship of the age of twenty-one years and upward, who has not been convicted of any infamous crime, and excepting persons who have voluntarily given aid and comfort to the rebels in the late rebellion, and who shall have been born or naturalized in the United States, and who shall have resided in this district for one year, and three months in the ward in which he shall offer to vote, without distinction on account of race or color." The act of Feb. 21, 1871, created a legislative assembly for the District of Columbia, consisting of a council and house of delegates, to be elected by "all male citizens of the United States above the age of twenty-one years, except such as are *non compos mentis*, and persons convicted of infamous crimes, who have been actual residents of the district for twelve months prior to any election therein, and of the election district or precinct in which they shall respectively reside, for thirty days immediately preceding such election." This act applied a severe test to the political theories of the advocates of unrestricted suffrage. The white population of the district always contains a large mobile element which has no large interest in its weal; almost the whole black population was ignorant, and without political responsibility. From 1860 to 1870 the white population had increased from 60,763 to 88,278, and the black population from 14,316 in 1860, to 43,404 in 1870. Under these conditions unrestricted suffrage produced extravagance, corruption and other incidents of bad government. Congress was petitioned for relief, and by the act of June 11, 1878, representative government was abolished, a population of 177,000 left without a voter, and the government vested, as originally under the act of July 16, 1790, in a board of commissioners. — WOMAN SUFFRAGE. The political dogma of the eighteenth century, that suffrage is a natural right, led to an early demand for its extension to woman. Condorcet published July 3, 1790, in *Journal de la Societe de* 1789, a plea for citizenship of women. The constitution of New Jersey, framed in 1776, permitted all inhabitants of certain qualifications to vote, and an act to regulate elections under it, passed in 1798, provided that "every voter shall, openly, and in full view, deposit his or her ballot, which shall be a single written ticket containing the names of the persons for whom he or she votes." This act was repealed in 1807. Agitation against slavery in the United States gave prominence to the dogma of "natural rights," and small groups of persons before the close of the first half century demanded its universal application. The first woman's rights convention was held at Seneca Falls, N. Y., July 19, 1848. It based the claims of woman on the declaration of independence, and demanded equal rights. The first national woman's rights convention was held at Worcester, Mass., Oct. 23, 1850. The attention of the English people was called to the subject of woman suffrage by an article in the "Westminster Re-

Notes to Table on pp. 828, 829.

The adjective "white" before "male" in some constitutions, adopted before the 15th amendment, is here omitted.

a Declarant means a male person of foreign birth, who shall have declared his intention to become a citizen of the United States, conformably to the naturalization laws of the United States.

b "Immediately preceding the election at which he offers to vote."

c "The general assembly may prescribe a longer or shorter residence in any precinct or county, or in any ward in any city or town having a population of more than 5,000 inhabitants, but in no case to exceed three months." (Const., Art. VIII., Sec. 1.)

d "Provided no native of China shall ever exercise the privileges of an elector."

e "Provided that no person shall be denied the right to vote at any school district election, or to hold any school district office, on account of sex." (Const., Art. VII., Sec. 1.) And "The general assembly may enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon." (Idem, Sec. 2.)

f "In the county, town or city in which he offers to vote."

g "The legislature may provide by law that any woman of the age of twenty-one years and upward may vote at any election held for the purpose of choosing any officers of schools, or upon any measure relating to schools, and may also provide that any such woman shall be eligible to hold any office pertaining solely to the management of such schools." (Const., Art. VII., Sec. 8.)

h "Who have adopted the customs and habits of civilization."

i "Persons of Indian blood residing in the state, who have adopted the language, customs and habits of civilization, and shall have been pronounced (by any district court of the state) capable of enjoying the rights of citizenship."

j "If twenty-two years of age or upward."

k "Provided, that no person shall at any time be allowed to vote in the election of the city council of the city of Providence, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall, within the year next preceding, have paid a tax assessed upon his property therein, valued at least at $134."

l "Who have once been declared by law of congress to be citizens of the United States, and civilized persons of Indian descent, not members of any tribe."

STATES.	Treason.	Felony.	Bribery.	Perjury.	Forgery.	Dueling.	Embezzlement of Public Funds, Fraud.	Electoral Misdemeanors.	Infamous Crimes.	Larceny.	Other Offenses.
Alabama	Treason.	Felony.[a]	Bribery.				Embezzlem'nt of public funds.			Larceny.	Malfeasance in office.
Arkansas		Felony.									
California			Bribery.[a]	Perjury.[a]	Forgery.[a]	Dueling.	Embezzlem'nt or misappropriation of public moneys.		Infamous crimes.[b]		Malfeasance in office, or other high crimes.[c]
Colorado											
Connecticut			Bribery.	Perjury.	Forgery.	Dueling.	Fraudul'nt bankruptcy.		Infamous crimes.[a]	Larceny.[a]	
Delaware[d]		Felony.									
Florida		Felony.	Bribery.	Perjury.		Dueling.		Election wager.	Infamous crimes.	Larceny.	
Georgia	Treason.	Felony.	Bribery.			Dueling.	Embezzlem'nt of public funds.				Malfeasance in office.
Illinois									Infamous crimes.		
Indiana									Infamous crimes.		
Iowa									Infamous crimes.		
Kansas[e]	Treason.	Felony.	Bribery.				Defrauding United States or any of the states thereof.				
Kentucky			Bribery.	Perjury.	Forgery.						Other high crimes or misdemeanors.
Louisiana[f]	Treason.	Felony.[a]	Bribery.	Perjury.	Forgery.						
Maine			Bribery.[f]								
Maryland			Bribery.[g]					Illegal voting.[g]	Infamous crimes.	Larceny.	
Massachusetts											
Michigan						Dueling.					
Minnesota	Treason.	Felony.	Bribery.	Perjury.					Infamous crimes.		
Mississippi			Bribery.	Perjury.	Forgery.	Dueling.[g]			Infamous crimes.		Other high crimes and misdemeanors.
Missouri		Felony.						Election misdemeanors.	Infamous crimes.		
Nebraska	Treason.	Felony.[h]									
Nevada	Treason.[i]	Felony.[i]	Bribery.[j]			Dueling.	Embezzlem'nt or defalcation of public funds.[j]				
New Hampshire											
New Jersey	Treason.[k]		Bribery.	Perjury.[k]	Forgery.[k]					Larceny.	Subornation of perjury, blasphemy, piracy, arson, rape, sodomy, polygamy, conspiracy, murder, "robbery."
New York			Bribery.					Election wager.[l]	Infamous crimes.		
North Carolina		Felony.							Infamous crimes.		
Ohio			Bribery.	Perjury.					Infamous crimes.		
Oregon		Felony.									
Pennsylvania			Bribery.[l]					Willful violat'n of the election laws.[m]			
Rhode Island			Bribery.						Infamous crimes.		
South Carolina	Treason.					Dueling.					Murder, robbery.
Tennessee			Bribery.[n]						Infamous crimes.		
Texas		Felony.[o]	Bribery.	Perjury.	Forgery.	Dueling.					Other high crimes.
Vermont			Bribery.[p]								
Virginia	Treason.	Felony.	Bribery.			Dueling.	Embezzlem'nt of public funds.			Larceny.[q]	
West Virginia[r]											
Wisconsin	Treason.	Felony.	Bribery.			Dueling.[g]		Election wager.[l]	Infamous crimes.	Larceny.	

(See notes to this table on p. 832.)

view" in 1851, and effective demand for the enfranchisement of woman dates from this time, 1850–51. Its advocates argue that it is a natural right, and that "the consent of the governed" is not "the governed property holders, nor the governed voting men, nor the governed married men," but all the governed men and women; that taxation without representation is tyranny; that the voting of males is no longer conditioned upon military service; that no class is as safe a guardian of the interests of another class as that other class itself; and that woman needs a vote to adequately protect and advance her interests. Its opponents reply, that the suffrage is not a natural right, that in all ages and countries it has been conditioned by qualifications of expediency; that representation of tax-paying women practically exists; that the interests of the family and of the state will be best preserved by continuing the division of labor which hitherto has exempted women not only from military service, but from the performance of political duties; that the interests of women are not so distinct from those of men as to make their representation as a class either necessary or expedient; and that their interests can be adequately protected without their having a vote. The agitation has resulted in the limited and tentative enfranchisement of woman in certain states, and for certain purposes. In 1866 the American equal rights association presented the first petition ever laid before congress for woman suffrage. In 1868 the New England woman suffrage association was formed, and the first systematic effort begun for memorializing legislatures and congress, obtaining hearings before these bodies, holding conventions, publishing and distributing tracts and documents, and securing lecturers. The agitation had, by 1870, assumed such dimensions in Massachusetts, that the republican convention, held Oct. 5, 1870, admitted Lucy Stone and Mary A. Livermore as regularly accredited delegates. The Massachusetts republican state convention of 1871 indorsed woman suffrage, and the national republican conventions of 1872 and 1876 resolved that the subject "should be treated with respectful consideration." The legislature of the territory of Wyoming, by an act approved Dec. 10, 1869, granted the right of suffrage to women. The same right was extended to women in the territory of Washington in 1883, and has long been exercised by them in the territory of Utah. Woman suffrage limited to school elections has at various times been conferred as follows: Women may vote at school meetings in Kansas, Nebraska, New Hampshire, Vermont, Dakota and Wyoming; at school elections in Colorado and Minnesota; and for members of school committees in Massachusetts; at school meetings in Michigan and New York, if they are tax payers; in Washington territory, if they are liable to taxation. Widows and unmarried women in Idaho may vote as to special district taxes, if they hold taxable property. In Oregon, widows having children and taxable property may vote at school meetings. In Indiana, "Women, not married nor minors, who pay taxes and are listed as parents, guardians, or heads of families, may vote at school meetings." In Kentucky any white widow, having a child of school age, is a qualified school voter; if she has no child, but is a tax payer, she may vote on the question of taxes. — The first European legislature to give the right of suffrage to woman was the house of keys, in the Isle of Man, which passed an act, approved Jan. 5, 1881, to extend this privilege to women having certain property qualifications. The Brit-

Notes to Table on p. 831.

[a] A crime punishable by death or imprisonment in a state prison.

[b] * The constitution adopted by California in 1879 expressly disfranchises for infamous crime, embezzlement or misappropriation of public money, and dueling, and says that laws shall be made to exclude from the right of suffrage persons convicted of the above starred crimes.

[c] Theft is the term used in the constitution of Connecticut.

[d] The legislature may make the forfeiture of the right of suffrage a punishment for crime.

[e] No person who has been dishonorably discharged from the service of the United States is qualified to vote or hold office in Kansas.

[f] Since 1876 "the legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years," for this crime at any election.

[g] These crimes forever disqualify for voting.

[h] "Under the law of the state, or of the United States, unless restored to civil rights."

[i] "In any state or territory of the United States, unless restored to civil rights."

[j] The constitution of Nevada, Art. IV., Sec. 10, makes ineligible for office persons convicted of embezzlement, or defalcation of public funds, or bribery, and empowers the legislature to make these crimes punishable as felonies; and by Art. II., Sec. 1, felony disfranchises.

[k] The constitution of New Jersey, Art. II., Sec. 1, says that "no person convicted of a crime which now excludes him from being a witness, unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector." The laws of the state make persons convicted of the tabulated crimes incompetent as witnesses, and if the crime is perjury or subornation of perjury, a pardon does not remove the incompetency.

[l] Disfranchises "*at such election*," as do all corrupt offers to give or receive money or other valuable thing for a vote, in both New York and Pennsylvania.

[m] Any person convicted of this offense "shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years."

[n] "Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct."

[o] "Subject to such exceptions as the legislature may make."

[p] "Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall forfeit his right to elect at *that time*, and suffer such other penalty as the law shall direct."

[q] "Petit larceny."

[r] "No person who is under conviction of treason, felony or bribery in an election, shall be permitted to vote *while such disability* continues." (Const. of W. Va., Art. IV., Sec. 1.) This phrase, "while such disability continues," has not received judicial interpretation in West Virginia, but is construed by election officers to mean *during imprisonment*.

[s] "These crimes are treason, felony, and the '*crimen falsi*,'—which term includes crimes which involve a charge of such falsehood as may injuriously affect the public administration of justice by the introduction therein of falsehood and fraud, such as forgery, perjury, subornation of perjury, or conspiracy to procure the absence of a witness."

[t] And persons "who may be under interdiction."

ish parliament, by an act approved Aug. 2, 1869, granted the municipal franchise to women in England and Wales; by an act approved June 8, 1881, extended the municipal franchise in Scotland to unmarried woman, and women not living in families with their husbands; and by an act approved in 1870, extended the privilege of voting for school boards to rate payers, including women. Prior to the passage of these acts, women had, by the custom of London, and the custom of some other parts of England, certain rights of suffrage in municipal affairs. — A summary of the laws relating to suffrage, in the Dominion of Canada and in the principal countries of Europe, will be found in the books below, cited under the title "In foreign states." — See, on suffrage: Mill's *Representative Government*, chap. viii.; Lieber's *Civil Liberty and Self-Government*, chap. xvi. and app. i.; Woolsey's *Political Science*, vol. i., pp. 299–302, and vol. ii., pp. 111, 112; Sumner's *Theory and Practice of Elections*, in "Princeton Review," March and July, 1880. On suffrage in the United States: Poore's *Charters and Constitutions;* Bancroft's *History of the United States, passim;* Hildreth's *History of the United States*, vol. iii., pp. 381, 506; Frothingham's *Rise of the Republic*, chap. i.; Cooke's *Virginia*, pp. 222–225; De Tocqueville's *Democracy in America*, vol. i., chaps. v., xiii.; Cooley's *Constitutional Law*, chap. xiv., secs. 1, 2; *Minor* vs. *Happersett*, 21 Wal., 172, 173; *Slaughter-House Cases*, 16 Wal., 36; *U. S.* vs. *Reese*, 92 U. S. Rep., 214; *Spencer* vs. *Board of Registration*, 1 McArthur (D. C.) 169. In the territories: Poore's *Charters and Constitutions; Revised Statutes of U. S.*, Secs. 1859, 1860. In the District of Columbia: *Const. of U. S.*, Art. I., Sec. 8; *Stat. at Large*. On negro suffrage, *N. A. Rev.*, vol. 128, pp. 161, 225. On disfranchisement for crime, *Journal of Social Science* for 1882, No. 17, p. 71. On woman suffrage, Mill's *Representative Government*, chap. viii., and *Subjection of Women;* Condorcet's *Plea for Citizenship of Women*, Fort. Rev., vol. xiii., p. 719; *Journal of Social Science*, No. 10, p. 42; Stephens' *Liberty, Equality and Fraternity*, chap. v.; Robinson's *Massachusetts in the Woman Suffrage Movement*, N. A. Rev., vol. 129, pp. 303, 413, and vol. 130, p. 16; *Report of Bureau of Education*, 1880, xxv., xxvi. In foreign states: Demombynes' *Les Constitutions Européennes*, 1881; Block's *Dictionnaire de l'Administration Française*, Art. *Elections*, and at end, *Administration Comparée;* Martin's *Statesman's Year-Book*, 1883. In Great Britain: Walpole's *The Electorate and the Legislature*. In Germany: *Report of Foreign Relations of U. S.*, 1877–8, p. 196. In Prussia, *idem*, p. 176. JAMES FAIRBANKS COLBY.

SUMNER, Charles, was born at Boston, Mass., Jan. 6, 1811, and died at Washington, D. C., March 11, 1874. He was graduated at Harvard in 1830, studied law with Story, whose decisions he afterward reported, was admitted to the bar in 1834, and was for the next three years a lecturer in the Harvard law school. In 1837–40 he was absent in Europe, and on his return resumed practice. He had always been an anti-slavery whig, but in 1848 became a free soiler; and a coalition of democrats and free-soilers, in 1851, sent him to the United States senate, where he remained until his death. (See MASSACHUSETTS.) In the senate, Sumner, Seward, Hale and Chase were at first the anti-slavery leaders, and among them Sumner was as pre-eminent for polished oratory and radical independence of thought and speech as Seward was for keen appreciation of popular feeling, Hale for powers of sarcasm, or Chase for sound common sense. Southern leaders seem to have felt considerable contempt for the last three; but an active hatred was developed against Sumner, and resulted in a brutal assault upon him in May, 1856. (See BROOKS, P. S.) In 1860 he resumed his seat in the senate; and in July, 1861, he became chairman of the committee on foreign relations. He was now one of the national leaders of the dominant republican party, and took an active part in anti-slavery legislation, in reconstruction, in the impeachment of president Johnson, and in the prosecution of the Alabama claims upon Great Britain. His assertion of the validity of indirect claims, made with his usual force of argument, made him for some time extremely unpopular in England. In December, 1870, he opposed and defeated president Grant's project for the annexation of San Domingo (see that title); and in 1871, through the influence of the administration, he was removed from the chairmanship of his committee, which was given to Simon Cameron, of Pennsylvania. The ostensible reason for this action, offered by the state department, was an alleged neglect of Sumner to take action on treaties intrusted to him; but this was entirely disproved. His real offense seems to have been his continuing purpose to maintain the cause of the negro race, with little deference to party considerations or to the dignity of party leaders. — From this time he was an outspoken antagonist of the administration, his finest speeches being made in February, 1872, on the government's sale of arms during the Franco-German war, and in May, 1872, on the president's abuse of the appointing power. In December, 1874, he introduced a resolution to remove from the army register and flags the names of battles with fellow-citizens. For this his state legislature censured him by resolution, but the resolution was rescinded before his death. (See also AMNESTY, CIVIL RIGHTS BILL.) — See Lester's *Life of Sumner;* Harsha's *Life of Sumner;* Pierce's *Memorial and Letters of Sumner;* and Sumner's *Orations and Speeches* (1850), *Speeches and Addresses* (1856), and complete *Works* (1875), the first four volumes including the years 1845–60, and the last eight the years 1860–68. The most celebrated of his anti-slavery speeches are, "The Crime against Kansas" (4 : 127), and "The Barbarism of Slavery" (5 : 1). ALEXANDER JOHNSTON.

SUMPTUARY LAWS. (See LAWS, SUMPTUARY.)

SUPPLY. (See PARLIAMENTARY LAW.)

SUPREME COURT. (See JUDICIARY.)

SWEDEN. A kingdom situated in the north of Europe and in the east of the Scandinavian peninsula, about three-fifths of which it occupies. Its area is 444,814 square kilometres, of which more than 37,000 are covered by lakes. The area of Norway (see NORWAY) is not comprised in these figures. The country is mountainous, but its mountains, situated mostly in the north, do not reach the height of those in Norway; the highest mountain in Sweden, Sulitelma, is only 6,842 Swedish feet above the sea level. In Norway more than half the country is 2,000 feet high, while not more than one-twelfth part of Swedish soil reaches this elevation; nearly one-third, especially in the south, does not exceed 300 feet. — The population, which is of the Scandinavian race, except about 16,000 Finns, 6,000 Lapps and 1,100 Jews, was 4,204,177 in 1872; on Dec. 31, 1880, the population was 4,565,668. In 1867 the total population was 4,195,681; 3,673,828 inhabitants (87.51 per cent.) living in the country, and 521,853 (12.49 per cent.) in the city. — I. *Constitution.* Four fundamental laws account for the present political constitution of Sweden: the law concerning the form of government (*regerings-formen*) dated June 6, 1809; the law on representation (*riksdays-ordningen*), June 22, 1866; the order of succession (*successions-ordningen*), Sept. 26, 1810; and the law on the liberty of the press (*tryckfrihets-förordningen*), July 16, 1812. The union with Norway is regulated by the act of union (*riks-akten*), Aug. 6, 1815. — The government is a limited monarchy, hereditary in the agnatic line. The king governs alone, on condition of consulting on all affairs, before arriving at a decision, his responsible ministers, (*statsråd*, counselor of state) whom he chooses freely among Swedes by birth, members of the evangelical church, and whom he replaces whenever he sees fit; thus they are justly considered to have his confidence so long as they are retained in office. The council of ministers is composed of ten members, seven of whom are heads of departments (with the departments of justice and foreign affairs is connected the title of ministers of state; next in title come the ministers of war, of the navy, of the interior, of ecclesiastical affairs and of finance); three members of the council, without portfolios, have only a consultative vote. The king can not decide any affair on which the council must be heard, unless in presence of three ministers at least, besides the one who reports the affair or calls attention to the matter. The entire council must be present when important questions are discussed. A protocol or record of all the questions brought before the council is drawn up. The members present are obliged to express and give the reason for their opinions in the protocol; and they are responsible for their opinions. Should the decision of the king happen to be contrary to the fundamental law of the kingdom, the ministers are obliged to protest. Should a minister not give a contrary opinion in the protocol, he becomes responsible for the decision taken. On the other hand, no royal ordinance is binding unless countersigned by the minister whom it concerns. The minister who refuses to countersign, by this fact alone, lays down his portfolio, retaining his salary. He can not resume office until after the chambers have examined and approved his conduct. The ministers are responsible for their advice or their silence; in no case can they make a decision; this always belongs to the king. — The Swedish constitution does not, as we see, admit of a government by ministers in the modern sense. The royal authority is exercised, in foreign affairs, by his supreme direction of chief questions of diplomacy, and by his right of concluding treaties or alliances, and of declaring war or peace. The king can conclude treaties or alliances after having heard the advice, on the subject, of the minister of state and of foreign affairs, and of another member of the council summoned for this purpose. For war or peace he must assemble the whole council, explain the reasons and circumstances, and ask the opinions of all the ministers, which they give, each one separately, and which is embodied in the protocol, on their responsibility. The king alone can make a decision; but no tax can be laid or loan made without the consent of the diet. There is, it is true, a sum set aside for the requirements of war; but the king can dispose of it only after a special meeting of the diet. Besides, the army and navy of Norway can not be employed in aggressive warfare except with consent of the storthing. The king governs in the interior by officials who derive all their authority from him, but whose salaries depend upon the diet. He has legislative power; the general rule is, that the king and the diet together enact the laws, observing certain forms in enacting them. The king has judicial power. From time immemorial he has been the judge of all; but his right of judging is transferred to his supreme tribunal. The king has the right of pardon, but only after having heard his tribunal does he decide the case in a council of ministers. He can not dispense any one from the law, unless in cases fixed by the law itself. If the king leaves the kingdom to go to a war, or if he visits provinces distant from the centre, or visits Norway, he must appoint three of his ministers, presided over by a prince of the royal house or by another minister, to transact the business with which he intrusts them. Under such circumstances, the king reserves to himself certain affairs, and therefore takes one or more of his ministers with him. But if he travels outside the kingdom, he can not exercise his authority while abroad. In such case, and also in that of sickness, power is intrusted to the prince nearest the throne, if he has reached the legal age, or if there is no such person, to a government *ad interim*, composed of the ten ministers of Sweden and the ten ministers of Norway. If this state of affairs does not cease within a year, the diet is summoned, and takes such measures as

it finds necessary. — The representation of the nation, since the law of June 22, 1866, rests not as formerly on the division of the nation into four orders, but on election only. Two chambers, having equal authority, compose the diet. The members of the first chamber are elected for nine years by the *landstingen* (species of provincial assemblies) and by the *stadsfullmäktige* (municipal counselors) of cities which do not sit in the *landsting*. A member is elected by 30,000 inhabitants. Candidates are eligible, without reference to place of domicile, who have completed their thirty-fifth year, and who own or have owned for at least three years before the election, immovable property, estimated for taxation at 80,000 rixdalers, or such as have, during the same length of time, paid taxes on at least 4,000 rixdalers of an annual income, either from their capital or their labor. If, after the election, a member of the diet finds his fortune insufficient to render him eligible, he is obliged to resign. Members of the first chamber receive no salary. Members of the second chamber are elected for three years, a member for each jurisdiction (*domsaga*) of the country, if the population does not exceed 40,000 (if it does, it is divided into two districts); one member for every 10,000 inhabitants in the cities, those having less than 10,000 being grouped into electoral districts of at least 6,000 inhabitants, and at most 12,000. In cities populous enough to send one or more members to the diet, the election is direct; in the others and in the country, it is of two degrees, unless the electors themselves decide by a vote to make the election direct. No man is a voter for and eligible to the second chamber except in the commune where he is domiciled; whoever possesses, in his own right or in *usufruct*, immovable property in the country or the city, assessed for taxation purposes at 1,000 rixdalers at least, is eligible, or who rents for life, or for five years at least, an agricultural holding valued for taxation purposes at 6,000 rixdalers at least, or who pays taxes on a yearly income of at least 800 rixdalers. To be eligible to the second chamber a candidate must have completed his twenty-fifth year, and have possessed for at least one year the right of election in the commune or in one of the communes in which he is a candidate. The members of the second chamber receive a salary of 12,000 rixdalers per year. If a member resigns after having served some time, his successor is elected only to fill the unexpired part of the term; so that every three years there are general elections for the second chamber. — The ordinary session of the diet begins each year on Jan. 15, and can not be dissolved, without its consent, before the expiration of four months. The king, however, may exercise his right of calling new elections to one of the two chambers, or to both simultaneously. The king may call and adjourn an extra session of the diet at his pleasure; such a diet can examine only the questions which it was summoned to consider. The presidents of both chambers are appointed by the king. No deliberation is had, and no resolution taken in presence of the king. The ministers may be members of the diet; those who are not members have the right of being present in both chambers and taking part in deliberations, but without a vote. The initiative in the diet belongs in part to the king, who makes propositions to the two chambers, and in part to the deputies, whose motions must be made within ten days after the opening of the diet, unless as to questions concerning constitutional changes, or those caused by facts which have arisen during the session. — Business is prepared by committees, who give their views to the chambers. There are five permanent committees, which are formed at the opening of each ordinary diet: 1, the committee on the constitution, for all questions of change in the constitution—this committee examines the reports of the council of ministers, and gives its opinions on them; 2, the committee on finance (*stats-utskott*), which examines the public revenues and expenditures; 3, the committee on taxation, which proposes new taxes, and calculates the income therefrom; 4, the bank committee (*bank-utskott*), which inspects the royal bank and directs its administration; 5, the committee on legislation (*lag-utskott*), which gives its opinion on everything relating to civil, criminal and ecclesiastical law. Special committees, for the discussion of questions connected with the permanent committees, may also be formed, if the diet thinks necessary. Finally, if a question arises outside the jurisdiction of the permanent committees, a special committee (*tillfälligt-utskott*) is appointed. The permanent and special committees are appointed half by one and half by the other chamber. Special mention must be made of the so-called secret committee (*hemliga-utskott*), which is appointed by the two chambers at the request of the king, for the purpose of giving its advice to the king himself on such questions as it shall please him to propose. — If the two chambers agree in a decision, it becomes the decision of the diet. If they are opposed in opinion, it is for the competent committee to endeavor to bring them to an agreement; should it not succeed, the question is adjourned till another session. If, however, this question concerns the taxes, public expenditure, or the bank, the two chambers vote separately, and the opinion which has the majority of votes, without regard to the chambers, becomes the decision of the diet. In case of necessity, the diet elects the king, the successor to the throne, or the regent. Together with the king, it frames the laws, votes the taxes, fixes the budget, and exercises control over the government and its officials, through the agency of its procurator general (*justitie-ombudsman*) elected each year by forty-eight electors chosen for this purpose, twenty-four by each chamber. It is the duty of this procurator general of the diet to see that the laws are faithfully executed by all functionaries; he has access to all tribunals, and central administrative bureaus; he may have all records or reports brought to him; he publishes each year a general statement, which is printed. —

It has been stated that the committee on the constitution is obliged to report on the action of the ministers; if it accuses any one of them of negligence or incapacity, it informs the king of its desire to see such minister removed; or if it discovers an illegal act or a violation of the constitution committed by a minister, it orders the procurator general of the diet to summon that minister before the court of the kingdom (*riksrätt*), a tribunal appointed in advance for cases of this kind. — The administration of financial affairs is controlled by the diet through deputy directors and deputy controllers appointed in the two chambers on the occasion of each diet. The diet, its committees and its members, are inviolable. No deputy can be brought to justice or deprived of his liberty for any of his acts, or for any of his words during the session, unless the chamber of which he is a member gives its consent by five-sixths of its votes. — Two special establishments are entirely under the management of the diet: the national bank (*riksbank*), and the office of the public debt (*riksgäldkontor*). The bank is managed by seven delegates of the diet, elected at each session. The office of the public debt is an institution altogether peculiar to Sweden. It dates, with its present organization, from 1789. Gustavus III. had allowed the public debt to increase; the diet, after it had regained something of the power which it wielded under the preceding reign, claimed this branch of the financial management. The duties of the office of the public debt since 1809 are, to see to the payment of the debt, with the taxes set aside for this purpose, to the expenditures and necessary loans made on the credit of the debt. Its revenues are: the contribution called *allmänna bevillning*, the stamps on newspapers and playing cards, a part of the profit of the bank, etc. It is needless to say that this financial administration of the diet greatly hampers that of the minister of finance, and that continual efforts are made to reconcile them. — Every three years the diet appoints six members, distinguished for their knowledge and enlightenment, to watch over the liberty of the press, together with the procurator general, their president. These delegates, of whom two besides the procurator general must be jurists, are elected by ballot by twenty-four electors chosen by each of the chambers from its own body, twelve from each. If an author or a publisher sends them a manuscript, asking whether the publication of this writing would cause any prosecution, the procurator general of the diet, and at least three delegates, of whom one is a jurist, must give their opinion in writing. If they declare that the work may be printed, the author and the printer are free from all responsibility; it falls on the delegates entirely. — Communal liberties, formerly very considerable in Sweden, have become weakened during recent centuries, especially outside the cities, to the advantage of centralization; but they have never become extinct. They are regulated at present by the royal ordinance of 1862, the chief provisions of which are as follows: Parish affairs, in which every tax-paying Swedish subject (except those of the lowest grade) of good moral character has a voice, are of two kinds: those relating to the church and its property, schools, and the salaries of the clergy and schoolmaster, are managed by the church assembly (*kyrkostämma*), composed of all inhabitants having the right of suffrage and belonging to the Swedish church. The pastor is president. All other affairs are managed by the communal assembly (*kommunal-stämma*), which chooses its own president, or by municipal delegates. Both councils can levy taxes for objects which concern them. The church assembly has two delegates, the council of the church and the council of the school (*kyrkoråd skolråd*), elected for four years. The communal assembly appoints a communal jury (*kommunal-nämnd*) of from three to eleven members, which exercises executive power in its name, manages the communal property, the income and expenditures. The communal assembly may delegate its right to the *kommunalfullmäktige*, that is to say, to the members of the communal jury, and to a number three times as great of persons specially elected for four years, by the assembly alone, which can not, however, without consent of the king, convey property or issue loans redeemable in more than two years. Every city (*stad*) forms a commune of itself, its communal assembly takes the name of communal house (*allmän rådstuga*). In every city with more than 8,000 inhabitants the right of decision belongs to delegates of the city (*stadsfullmäktige*), who are elected by the assembly of the communal house for four years, to the number of from twenty to sixty, according to the population. The executive authority in each city, in the name of the commune and the state, is the magistrate (that is to say, a burgomaster, selected by the king from a list of three candidates chosen by the city, and councilors chosen by the city.) The communal property and finances are managed by a chamber of finance (*drätselkammare*) which appoints the delegates or the members of the city council. — The most remarkable of new communal institutions which revives under other forms an institution fallen into disuse for about two generations, is the *landsting*, a sort of general council. In the terms of the royal ordinance of March 21, 1862, every *län* is to have a *landsting* composed of twenty members at least, delegated by the cities (*städer*), by the *härads* and the *tingslags* (places inferior to cities) comprised in the *län*. However, the cities having more than 25,000 inhabitants, Stockholm and Göteborg, are not included. The *landsting* examines and decides the communal affairs of the *län* relative to general administration, agriculture, ways of communication, public health, education, public order, etc. It meets in regular sessions every year, in the month of September, for eight days, excluding holidays; but it may hold extraordinary sessions of its own motion or by order of the king. The presidents are appointed by the king; its deliber-

ations are public; the initiative belongs both to the royal power and to every member of the *landsting*. The *landshöfding*, or prefect of the *län*, assists and takes part in the deliberations. The *landsting* has the authority to fix, according to a budget agreed upon, the taxes or necessary loans. But it must have the royal approval for expenditures involving taxation for more than five years, or loans payable at a time longer than five years, or for the alienation of the domains. — The relation established between the various communal authorities and the royal power is such that, though a certain number of their resolutions, to be valid, must obtain the consent of the king or of his representatives, a consent which may be refused, communal liberties at least can suffer no prejudice, it being impossible to make any provisions to their prejudice. The royal authority in case complaints are preferred to the king, may annul, administratively, communal decisions if they violate any private right. This new institution of the *landsting* has perhaps not been in operation long enough yet to be judged accurately. It is probable, however, that it affords an efficient intermediary between the central power and the local authorities. — II. *Finances*. Each diet frames the budget of receipts and expenditures for the following year. The expenditures are ordinary or extraordinary, a division which is not expressed in the law regulating the form of government, but which was established by the force of things, and has been practiced since 1841. The ordinary expenditures are included under nine principal heads: the civil list, the seven ministerial departments, the pensions, and the retired list. — The following is a comparison between the budgets of 1869 and 1841: Civil list, in 1841, 1,079,550 rixdalers riksmynt (royal mint), (6.7 per cent. of all the expenditure); in 1869, 1,417,000 r. (3.7 per cent.); increase since 1841, 31 per cent. Justice, 1,034,355 r. (6.4 per cent.); 2,354,100 r. (6 per cent.); 12.7 per cent. Foreign affairs, 338,475 r. (2.1 per cent.); 457,950 r. (1.1 per cent); 32 per cent. War, 6,159,765 r. (38.2 per cent.); 9,528,000 r. (24.9 per cent.); 54 per cent. Navy, 1,997,145 r. (12.3 per cent.); 3,963,800 r. (10.3 per cent.); 98 per cent. Interior, 1,268,550 r. (7.8 per cent.); 9,086,500 r. (21 per cent.); 53.7 per cent. Finances, 2,071,155 r. (12.8 per cent.); 6,359,200 r. (16.6 per cent.); 20.7 per cent. Public worship, 1,483,320 r. (9.2 per cent.); 4,714,700 r. (12.3 per cent.); 20.7 per cent. Pensions and retired list, 682,005 r. (4.2 per cent.); 1,321,373 r. (3.4 per cent.); 93 per cent. To sum up: in 1841, 16,114,320 riksdalers riksmynt; in 1869, 38,202,629 r.; increase, 137 per cent. The riksdaler riksmynt is worth 1 franc 429 m., for there are 100 *öre* in the riksdaler, and a franc is worth 70 *öre*. (The riksdaler is valued at 1 fr. 41½.) The considerable increase of expenditures for justice is explained, not by the number of crimes and misdemeanors, but by the erection of prisons of a new system. It will be remarked also that one of the principal items of increase was for public instruction. The increase of expenditures touching finances and the postal service is explained by the increase of commercial activity, which also naturally figures among the sources of income. The diet of 1856 marked one of the stages of this transformation by increasing the salaries of officials; the budget of ordinary expenditures was increased that year from 19,815,380 to 25,508,500 riksdalers riksmynt, that is to say, 32 per cent. — Extraordinary expenditures are voted for one year, and must be paid partly by the office of the state, and partly by the office of the public debt (*riksgäldskontor*). In 1869 the first had to pay 5,496,871 riksdalers riksmynt for the artillery service and the railroads; the second, 1,187,999 r. for roads, canals, etc. All the expenditures for 1869 amounted, therefore, to 45,086,999 r. Two special credits in view of unforeseen expenditures should also be mentioned; the first of which can only be employed in case of war, the second may be used for other pressing needs. The public revenues, for the greater part, are paid to the office of the state. There is the ordinary income, which combines several varieties of ancient land tax, estimated, in 1869, at 4,693,800 r.; crown tithes, that is to say, that part of the tithes which, at the time of the reformation, was reserved to the crown, and which now amounts to 1,684,200 r.; the poll tax, a personal tax which has become insignificant, 600,000 r.; and the farming of royal domains, 410,000 r. Many of the ordinary taxes have been abolished in recent years, but the produce of those which remain (most of them are paid in kind) are increased by a more exact estimate of prices. The ordinary revenues increased notably in 1869, since that was the first year in which they included the product of the railroad traffic, 6,400,000 r., so that the sum total of receipts was 15,260,720 r. — Extraordinary resources consist in taxes voted by the diet each year: 1, the customs, which produced, in 1861, 14,857,508 r., and in 1871, 19,116,601 r. 2, the tax on the manufacture of spirits; in 1861, 8,002,669 r., and in 1871, 11,719,498 r.; this tax has become important only since the diet of 1854 provided that this manufacture should pay 50 *öre* on a measure called *kanna*, and the diet of 1857 raised this figure to 60 *öre*. 3, the postal service, the produce of which (serving simply to maintain and extend it) was, in 1861, 1,675,446 r.; in 1871, 2,271,306 r. 4, stamps; in 1861, 1,551,406 r.; and in 1870, 1,847,215 r. The whole amount of extraordinary receipts was, in 1841, 7,006,500 r.; in 1869, 26,350,000 r.; in 1872, about 49,400,000 r., including the communal tax (*allmänna-besvärning*); in 1871, 2,887,400 r. was paid to the office of the public debt. This office has to meet the public debt with this and its other resources, under the direction, control and administration of the diet. The budget of 1874 reached 60,000,000 riksdalers of ordinary and extraordinary expenditures. — Till 1854 Sweden had only an insignificant debt; but in that year the diet decided that railroads should be built by the state, and the necessary capital be obtained by loans. The years immediately

following gave receipts sufficiently good to redeem a number of these loans; but at the end of 1867 there were 91,148,235 r. of Swedish bonds; to which, in 1868, a foreign loan of 18,000,000 riksdalers was added. [The national income at present (1883) is derived, to the extent of one-third, from direct taxes and national property, including railways; and the rest, mainly from indirect taxation, customs and excise duties, and an impost on spirits. The sources of revenue and branches of expenditure of the kingdom for the year 1882–3 were established as follows, in the budget estimates passed in the session of 1882 by the diet:

Sources of Revenue for 1882–3.

	Kroner.
Domains, railway, land taxes, etc.	20,590,000
Customs	27,500,000
Post	5,100,000
Stamps	3,000,000
Impost on spirits, etc	17,070,000
Impost on income	4,100,000
Net profit of the state bank	1,600,000
Surplus from previous years	2,789,137
Total revenue	78,749,137

Branches of Expenditure for 1882–3.

Ordinary:		
Royal household	1,838,000	
Justice	3,753,000	
Foreign affairs	613,800	
Army	17,205,000	
Navy	5,375,000	
Interior	4,396,300	
Education and ecclesiastical affairs	10,132,551	
Finance	13,293,000	
Pensions	2,430,000	
		58,536,711
Extraordinary		7,827,589
Expenditure through the riksgäldskontor:		
Paying of loans	9,522,132	
Miscellaneous	665,800	
		10,187,932
Carried to floating capital		2,196,905
Total expenditure		78,749,137

—The expenditure for the army, church, and for certain civil offices, is in part defrayed out of the revenue of landed estates belonging to the crown, and the amounts do not appear in the budget estimates. To the expenditure for foreign affairs Norway contributes annually 304,700 kroner, a sum not entered in the estimates. The expenses for public instruction are in great part defrayed by the parishes and the provincial assemblies (*landsting*).—To the *riksgäldskontor*, the supervision of which is exclusively exercised by the diet, belongs the administration of the public debt—exclusively incurred for the construction of railways—and the right to contract any loans which the diet may vote.—On Jan. 1, 1881, the public liabilities of the kingdom were as follows, according to reports laid before the diet:

	Kroner.
Railway loan of 1858, at 4½ per cent	13,942,400
" " 1860, at 4½ "	14,270,133
" " 1861, at 4½ "	1,802,800
" " 1864, at 4½ "	8,853,000
" " 1866, at 5 "	25,263,467
" " 1868, at 5 "	20,052,272
" " 1870, at 5 "	14,150,700
" " 1872, at 4 "	18,356,300
" " 1875, at 4½ "	36,309,333
" " 1876, at 4½ "	35,539,120
" " 1878, at 4 "	26,232,000
Unfunded obligations repayable by Nov. 1, 1885	9,000,000
Total	226,399,102

In 1880–81 a further loan of $22,000,000 was issued at 4 per cent., mainly to redeem previous issues bearing higher rates of interest. All the loans are paid off gradually by means of sinking funds.—F. M.] A. Geoffroy.

—III. *Religion.* Religious liberty has been, till within recent years, entirely unknown in Sweden. Two laws of 1860 gave, in this regard, very incomplete satisfaction to public sentiment. The following is, according to the terms of this new legislation, the actual condition of dissenting Christians living in Sweden. Dissenters, who wish to meet and form a religious association in a given place, must present a request to the king, in order to obtain the necessary permission for the exercise of their religion. Every authorized association must choose a head, and have its choice approved by the civil authority of the place. The elected head must furnish all information demanded of him by the government relative to his coreligionists. No religious order is permitted. Associations or religious communities can not, unless by special authorization of the king, own real estate, except for churches and cemeteries. Celebration of mixed marriages belongs to the clergy of the Swedish church. Legitimate children born of dissenting parents may be freely educated in the doctrines professed by their parents. In case of a mixed marriage, if the father belongs to the national church, the children must be educated in the Evangelical doctrine. If the father is a dissident, the agreement written at the time of marriage must be followed, or, in default of agreement, the father is at complete liberty to educate his children in the dissenting community. But he must inform the pastor of the parish of his determination, and undergo the remonstrances of this pastor, together with those of the chapter. Sweden has an archbishop, at Upsala, and eleven bishops, who are appointed by the king from a list of candidates drawn up by the clergy. The pastors of cities are also appointed by the king. The ministers of rural parishes are elected by the people. The mass of the population adhere to the Lutheran-Protestant church, recognized as the state religion. At the census of 1870 the number of "Evangelical Lutherans" was returned at 4,162,087, the Protestant dissenters, Baptists, Methodists, and others, numbering 8,999. Of other creeds, there were 573 Roman Catholics, 80 Greek Catholics, and 1,836 Jews.—IV. *Public Instruction.* Sweden has long been one of the countries of Europe in which primary instruction is most disseminated. Education is not free except for the poor, but it is obligatory, in this sense, that children can not be admitted to their first communion until they are able to read and write. In each parish there is a school directed by a teacher and supervised by the pastor. The teacher is generally appointed by the bishop of the diocese. The programme of primary instruction includes reading, writing, Swedish grammar, the catechism, sacred history,

sacred music, swimming, gymnastics, an abridgement of national history, and a brief study of the physical and political constitution of the two united kingdoms. In certain districts there are traveling teachers, who go from farm to farm and place themselves for a certain time at the disposal of parents who are unable to send their children to the parish school. Establishments for intermediate instruction, called Latin schools, or learned schools, are under the almost exclusive control of the bishops. The study of the German, English and French languages is the object of particular care. Several large cities contain also gymnasia, or day colleges, and free institutions founded and managed by private persons. Higher instruction is given in the two universities of Upsala and Lund. The university of Upsala is one of the oldest and richest in Europe. Its foundation goes back to the year 1476. It is placed under the direction of a chancellor (who is generally one of the great personages of the state, sometimes even a prince of the blood), and is managed in fact by a rector aided by a consistory. The ordinary fellows, or *tutors*, are not clothed with any official title, but they are authorized to teach freely in the halls of the university. The university is divided into four faculties: theology, law, medicine, and philosophy. The university of Lund is organized on the same plan. Both universities are under the same chancellor. In the year 1878 nearly 98 per cent. of all the children between eight and fifteen years visited the public schools. There were 5,031 male and 5,188 female teachers in the primary schools in 1878. The university at Upsala is frequented by 1,500, and that at Lund by 650, students per annum. —V. *Army and Navy.* The Swedish army is composed of four distinct classes of troops. 1. The *vårfvade*, or enlisted troops, to which belong the royal life-guards, one regiment of hussars, the artillery, and the engineers. 2. The *indelta*, or national militia, the privates of which are paid and kept by the land owners. Every soldier of the *indelta* has, besides a small annual pay, his *torp*, or cottage, with a piece of ground attached, which remains his own during the whole period of service, often extending over thirty years, or even longer. In time of peace the infantry of the *indelta* are called up for a month's annual practice, and the cavalry for thirty-six days. In time of war, an extraordinary *indelta* has to be raised, partly by land owners, who, on this account, enjoy certain privileges, including non-contribution to the cost of the peace establishment. 3. The militia of Gothland, consisting of thirty companies of infantry, and three batteries of artillery. They are not compelled by law to serve beyond the confines of the isle of Gothland, and have a separate command. 4. The *bevåring*, or conscription troops, drawn by annual levy, from the male population, between the ages of twenty and twenty-five years. The law of conscription was introduced into Sweden in 1812, but the right of purchasing substitutes, which formerly existed, was abolished by the diet in 1872. — The total strength of the armed forces of Sweden in 1882 was as follows:

	Line.	Bevaring.	Militia.	Total.
Officers and staff...	1,905	337	127	2,369
Infantry	28,692	126,000	8,038	162,730
Cavalry	5,076	4,000	.....	9,076
Artillery (258 guns).	4,248	5,000	228	9,476
Engineers.....	915	---- ----	.....	915
Total	40,836	135,337	8,293	184,566

There are also volunteers, first organized in the year 1861, by the spontaneous desire of the population of the kingdom. In time of peace the volunteers are individually free, and bound by no other rules and regulations than their own, but in time of war they may be compelled to place themselves under the command of the military authorities. However, they can be required only to serve within the limits of their own districts. At the end of 1882 the volunteers numbered 11,065 men. In 1882 the total army of Sweden, officers and men, numbered 195,901, with 258 guns and 6,646 horses. — In the parliamentary session of 1862, and again in the sessions of 1865, 1869, 1871 and 1875, the government brought bills before the diet for a reorganization of the whole of the army, but none of them were adopted by the representatives of the people. — The navy of the kingdom is divided into three classes, namely, first, the royal navy; secondly, the royal naval reserve; and thirdly, the naval *bevåring*. The fleet in 1882 consisted of 15 ironclads, 29 unarmed steamers, 10 sailing vessels, and 105 galleys; with a total: horse power, 20,060; guns, 373; crew, 5,204. — VI. *Resources.* Agriculture, long developed in Sweden, has attained proportions truly remarkable. The southern provinces, whose soil is very fertile by nature, have at present the smiling and fruitful aspect of the richest plains of central Europe. In 1825 the production of cereals did not suffice for the consumption of the inhabitants, and the annual importation varied from 200,000 to 300,000 tons. Toward 1834 Sweden commenced to export wheat and flour. From 1840 to 1845 exportation rose to an average of 116,000 tons; in 1849 it rose to 377,000 tons (165 litres), and in 1855 it reached 1,739,000 tons. In 1869 the harvest consisted of 582,019 tons of wheat, 3,738,917 of rye, 2,798,634 of barley: 7,322,652 of oats, and 7,671,492 of potatoes. In the same year the live stock of Sweden numbered 420,859 horses, 1,874,360 head of horned cattle, 1,539,079 sheep, 121,911 goats, 339,248 hogs, and 140,000 domesticated reindeer. The exportation of timber has increased at a still greater rate, if possible. — The mineral wealth of Sweden is recognized, and it is universally known how much the iron of Dalecarlia is sought for in the different markets of Europe. Since 1830 the iron industry has acquired new vigor. In 1833 the manufacture of bar iron was 452,000 *skeppunds*

(the skeppund is 135 kilogrammes), in 1856 it rose to 840,000 skeppunds, in 1860 to 3,219,660 quintals, and in 1870 to 4,559,331. The production of copper is as follows: in 1833, 5,519 skeppunds; in 1856, 13,402 skeppunds; in 1860, 37,251 quintals; in 1870, 43,853 quintals. There is but little coal in Sweden, for only 1,754,063 cubic feet were taken out in 1870. — Swedish manufactures extend to almost every branch of industry: woolen cloth, silk, cotton, cotton woven and spun, refined sugar, tobacco, paper, leather and oil. The value of all the products of industry in the country, which in 1830 was a little more than 13,000,000 riksdalers, rose in 1850 to about 37,000,000, in 1870 to 92,281,084, and in 1871 to 105,600,000 of riksdalers (of 1 fr. 41½c.), or more than 148,000,000 francs. — The increase of commerce in Sweden was the natural consequence of the growth of population and the progress of industry. Importation has, since 1852, progressed at the following rate: In 1852, 43,573,000 riksdalers riksmynt; in 1861, 106,570,000; in 1871, 169,179,000. Exports have increased in the following proportion: in 1852, 41,487,000 riksdalers rm.; in 1861, 81,084,000; in 1871, 161,023,000 rd. In 1836 the merchant marine numbered 1,809 vessels, carrying 63,874 lasts. (The last is equal to two English tons.) In 1856 it rose to 3,020 vessels, carrying 138,798 lasts; in 1861 to 3,313 vessels carrying 153,426 lasts; in 1871, to 3,495 vessels, carrying 113,112 nylasts (of about 3½ tons). In 1861 Sweden possessed, besides, 219 merchant steamers, having 8,970 horse power; and in 1871, 406 steamers, of 12,450 horse power.— Notwithstanding the decrease in duties the product of the customs increased five-fold in twenty-five years. It reached 16,500,000 riksdalers in 1874. — The railway system of the state covers more than 1,250 kilometres, and that of private companies, 660 kilometres. The number of travelers was 1,593,141 in 1870; merchandise transported amounted to 16,764,820 quintals (10,829,419 in 1867); the gross receipts were 6,791,193 riksdalers, and the expenditures absorbed 53 per cent. of the receipts. The traveler now reaches Stockholm from Malmö in twenty hours, Göteborg from Stockholm in twelve hours, and Christiania from Stockholm in fifteen hours (since June 16, 1872).— The telegraphic lines were (1874) 7,057 kilometres long; there were 306 offices, which dispatched, in 1871, 418,161 telegrams in the interior, and which received from abroad or sent abroad 190,853 telegrams.— The circulation of letters for the same year was nearly twelve and a half millions.*

B. AND T.

* The commercial intercourse of Sweden is chiefly with Great Britain, as regards exports, and, next to it, with France and Denmark. As regards imports, the commercial intercourse is largest with Great Britain, Germany, Denmark, Russia, Norway and the United States, in the order here indicated. The imports consist mainly of textile manufactures, coal, and colonial merchandise, the last largely on the increase, while the staple exports are timber, bar iron and corn. Both the imports and exports more than doubled in the ten years from 1870 to 1880, the total imports rising from £27,500,000 to over £16,000,000, and the total exports from £5,000,000 to £12,500,000. — The commercial navy of Sweden, at the end of 1880, numbered 4,285 vessels, of a burden of 560,698 tons, of which total 3,612 vessels, of 474,095 tons burden, were sailing vessels, and 773 vessels, of 86,598 tons burden, were steamers. The port of Göteborg had the largest shipping in 1879, namely, 277 vessels, of 87,674 tons, and next to it came Stockholm, possessing 258 vessels, of a total burden of 31,668 tons. In 1864 Stockholm had 110 vessels, of 28,216 tons, registered for foreign trade, and Göteborg 194, of 35,636 tons: so that the shipping of the latter port showed the largest increase in the course of the fourteen years. — Mining is one of the most important departments of Swedish industry, and the working of the iron mines in particular is making constant progress by the introduction of new machinery. There were raised in the year 1878, throughout the kingdom, 15,681,380 cwt. of iron ore from mines, besides 115,565 cwt. from lake and bog. The pig iron produced amounted to 7,845,578 cwt., the cast goods to 489,454 cwt., the bar iron to 4,657,060 cwt., and the steel to 1,476,661 cwt. There were also raised in the same year, 2,988 lbs. of silver, 25,565 cwt. of copper, and 947,635 cwt. of zinc ore. There are not inconsiderable veins of coal in the southern parts of Sweden, giving 4,429,889 Swedish cubic feet of coal in 1878. — Within recent years a network of railways, very important for the trade and industry of Sweden, has been constructed in the country, partly at the cost of the state. The state railways include all the main or trunk lines, the chief of which are the North Western, connecting the capitals of Sweden and of Norway; the Western, between Stockholm and Göteborg; the Southern, terminating at Malmö, opposite Copenhagen; the Eastern, from Stockholm to Malmö; and the Northern, passing from Stockholm, and connecting the capital with the north of the kingdom. The following table gives particulars concerning the length and cost of construction of all the Swedish railways open for traffic on Jan. 1, 1880, distinguishing the railways belonging to the state, and the private railways:

RAILWAYS	Length in Eng. Miles.	Cost per Eng. Mile.
State railways	1,208	£ 8,446
Private railways:		
Gefle-Dala	57	9,023
Upsala-Gefle	81	5,169
Frövi-Ludvika	61	10,249
East Vermland	42	5,871
Kaping-Hult	44	6,988
Stockholm-Westeras-Bergslagen	151	4,787
Nora-Karlskoga and Nora-Ervalla	81	5,697
Vestervik-Atvidoberg-Berubo	57	.....
Uddevalla-Venersborg-Herrljunga	58	4,615
Nässjö-Oskarshamn	92	6,551
Vexjö-Karlskrona	70	4,084
Oxelösund-Flen-Vestmanland	97	6,816
Karlshamn-Vislanda	48	2,670
Hessleholm-Helsingborg	49	4,620
Bergslagernas	302	7,400
Ystad-Eslöf	47	4,595
Forty-seven other private lines	988	.....
Total	3,598	.....

In the end of 1881 the total length of the railways of Sweden opened for traffic had increased to 3,830 English miles, of which 1,365 miles belonged to the state. — All the telegraphs in Sweden, with the exception of those of private railway companies, belong to the state. The total length of all the telegraph lines at the end of 1881 was 11,598 kilometres, or 7,210 English miles, and the total length of telegraph wires 29,575 kilometres, or 18,380 English miles. The number of telegraphic dispatches sent in the year 1881 was 1,118,081, of which number 591,576 were from and for Sweden, 398,534 from and for other countries, and 128,271 in transit. — The Swedish postoffice carried 68,731,121 letters, post cards, journals, etc., in the year 1881. The number of postoffices at the end of the year was 1,835. The total receipts of the postoffice in 1880 amounted to 5,132,211 kroner, or £285,122, and the total expenditure to 4,463,283 kroner, or £247,960, leaving a surplus of 668,928 kroner, or £37,162.

SWITZERLAND. A federative republic, situated in the centre of Germany. — I. *Territory*

and Population. The territorial extent of Switzerland, according to the figures of the federal topographical bureau, is 41,148 square kilometres. According to the census of Dec. 11, 1870, the population was 2,669,147. The following table shows, by cantons, the territorial extent, the number of the population, and the religion of the inhabitants, at that date:

CANTONS.	Square Kilometres.	Total Population.	Catholics.	Protestants.
Zürich	1,733	284,766	17,948	263,730
Berne	6,889	506,465	66,015	436,304
Lucerne	1,501	132,338	128,358	3,828
Uri	1,076	16,107	16,018	80
Schwyz	908	47,705	47,047	647
Unterwald { Upper	475	14,415	14,055	358
Unterwald { Lower	290	11,701	11,632	66
Glarus	691	35,150	6,888	28,238
Zug	239	20,998	20,082	878
Fribourg	1,669	110,882	93,951	16,819
Solothurn	785	74,718	62,072	12,446
Basel { Town	37	47,760	12,301	34,457
Basel { Country	421	54,127	10,245	43,523
Schaffhausen	380	37,721	3,051	34,466
Appenzell { Exterior	261	46,726	2,358	44,175
Appenzell { Interior	159	11,909	11,720	188
St. Gallen	2,019	191,015	116,060	74,573
Grisons	7,185	91,782	39,843	51,887
Aargau	1,405	198,873	89,180	107,708
Thurgau	988	93,300	23,454	69,281
Tessin	2,886	119,619	119,349	194
Vaud	3,223	231,700	17,592	211,686
Valais	5,947	96,887	95,968	900
Neufchâtel	808	97,284	11,345	84,334
Geneva	288	93,239	47,868	43,639
Total	41,418	2,669,147	1,084,369	1,566,347

By adding to the Catholics and Protestants 11,435 adherents of different Christian sects and 6,996 Israelites, we find the total population at the date above mentioned. In 1860 the population was 2,846,102, of whom 1,394,626 were males, and 1,451,476 females. The number of Protestants amounted to 1,667,109; of Roman Catholics, to 1,160,782; and of Jews, to 7,378. — As regards language, there are in Switzerland, out of a hundred households, sixty-nine in which German is spoken, twenty-four speaking French, five Italian and two Roman. In five cantons, Berne, Fribourg, Grisons, Tessin and Valais, several languages are spoken. In the cantons of Vaud, Neufchâtel and Geneva, only French is spoken; in the other fourteen, the German language is the only one used. — The first general census of the Swiss population dates only from 1836. It must be remarked, however, that previous censuses were taken in many cantons; there are some which go back to the sixteenth century. In 1836 the population was estimated at 2,190,258 souls; in 1850, at 2,390,116; in 1860, at 2,510,494; in 1870, at 2,669,147. The percentage of increase is: 1836–50, 9.12; 1850–60, 5.04; 1860–70, 6.46. — II. *Federal Constitution.* The present constitution of the confederation, adopted Sept. 18, 1848, has undergone a total revision. The revision received the sanction of the federal chambers, Jan. 31, 1874. The vote of the people took place April 19 following, and the vote of the chambers was fully confirmed. — The confederation has for its object to assure the independence of the country against foreigners, to maintain order and tranquillity at home, to protect the liberty and the rights of the citizens, and to increase their common welfare. All Swiss are equal before the law. There are in Switzerland neither subjects nor privileges of any sort. The confederation guarantees to the cantons their territory, their sovereignty within the limits of the federal pact, the liberty and rights of the citizens, as well as the rights and the functions which the people have conferred on the authorities. The cantons are obliged to demand of the constitution the guarantee of their constitutions; this is granted to the constitutions which contain nothing contrary to the provisions of the federal public law, which assure the exercise of public rights according to republican forms that have been accepted by the people, with power of revision when the absolute majority of the citizens demand it. All special alliance and all treaties of a political nature between cantons are forbidden. On the other hand, the cantons have the right to conclude among themselves agreements concerning the objects of legislation, of administration and of justice; they must, however, bring them to the knowledge of the federal authority, which, if these agreements contain provisions contrary to the confederation or the rights of other cantons, may prevent their being carried into execution. The confederation alone has the right to declare war and to conclude peace or alliances and treaties with foreign countries. The cantons, however, preserve the right to conclude treaties with foreign states in regard to certain special objects. Military capitulations can not be concluded. The members of the federal authorities, the civil and military functionaries of the confederation, the representatives, or the federal commissioners, can not receive pensions or salaries, nor titles, presents or decorations, from a foreign government. The federal authority has not the right to maintain a standing army. No canton or demi-canton can have more than 300

men, without the permission of the federal power. When differences arise between cantons, the latter can not decide them themselves, but must submit to the decision taken conformably to the federal provisions. When there is danger from without, the government of the canton threatened must ask for the aid of the confederation, and immediately advise the central authority of it, all without prejudice to the action which it may take in case of urgency. The expense of federal intervention is supported by the confederation. In case of trouble at home, or when the danger comes from another canton, the government of the canton threatened must immediately advise the federal council, which takes the necessary measures within the limits of its authority, or convokes the federal assembly. When it is urgent, the government is authorized, immediately advising the federal council of it, to call for the aid of the other cantons; this aid can not be refused. When the government of the canton attacked is not in a state to ask assistance, the federal central authority intervenes by virtue of its office, especially when the troubles endanger Switzerland. — The confederation guarantees to the Swiss the right of settling freely throughout the whole extent of its territory. Every citizen of a canton is a Swiss citizen, and can, by virtue of that title, exercise political rights for federal affairs in whatever canton he is established. The canton in which a Swiss establishes his domicile can not exact from him a bail bond, nor impose upon him any particular charge by reason of establishment. In the same way the communes can not impose upon Swiss domiciled in their territory taxes other than those imposed upon citizens belonging to their own jurisdiction. As for the liberal professions, legislation provides what proofs of fitness shall be valid for all Switzerland. Foreigners can not be naturalized in a canton, unless they have ceased to belong to the state of which they are natives. Liberty of conscience and of belief is inviolable. No one can be forced to form part of a religious association, to submit to religious instruction; nor shall he incur penalties of any nature because of his religious opinions. Whoever exercises the authority of a parent or a guardian, has the right to dispose, conformably to the above principles, of the education of the children up to the age of fourteen. — The exercise of civil or political rights can not be restricted by prescriptions or conditions of an ecclesiastical or religious nature of any sort. No one can, because of his religious opinions, be freed from the performance of a civic duty. No one is bound to pay taxes, whose product is applied to the expenses of the worship of a creed or of a religious community to which he does not belong. The free exercise of worship is guaranteed within the limits compatible with public order and good morals. — The liberty of the press is guaranteed, with the reservation of the laws which must repress its abuse; these laws are subject to the approval of the federal council. The citizens have the right to form associations, whose purpose and the means employed by them have nothing illicit, or dangerous to the state. The cantonal laws provide for the repression of abuses. The right of petition is guaranteed. The *abzugsrecht* is abolished.* — The confederation has the right to banish from its territory foreigners who compromise its internal or external security. The order of the Jesuits and societies affiliated to it can not be received in any part of Switzerland. This interdiction may be extended by a federal decree to other religious orders, if they disturb the peace between the different creeds. — The right of marriage is placed under the protection of the confederation. No hindrance to marriage can be based upon religious motives, upon the poverty of either the man or the woman, upon their conduct, or upon any other police motive whatever. No charge for a marriage license, nor any similar tax, can be collected from either bride or groom. — The confederation has also, according to the new constitution, the right to establish uniform provisions in regard to the work of children in factories, and in regard to the hours of labor which shall be imposed upon adults in the factories, as well as, in general, in regard to the protection to be accorded to workmen against unhealthy and dangerous industries. — Legislation in regard to the construction and management of railroads comes within the sphere of the confederation. Formerly this matter belonged to the province of the cantons, which caused much confusion. — The confederation may order at its own expense, or encourage by subsidies, public works which interest Switzerland or a considerable part of the country. It has the right of surveillance of the police of dams and forests in the mountainous regions; it contributes to the correction in the courses of streams, to their damming up, as well as to the rewooding of the regions where they have their source; it decrees measures necessary to assure the maintenance of these works and the preservation of the existing forests. It establishes legislative provisions to protect the birds useful to agriculture and sylviculture, and to regulate fishing and hunting. — The supreme authority of the confederation is exercised by the federal assembly, which is composed of two sections, or councils, namely, the national council and the state council. — The national council is composed of deputies of the Swiss people, elected one out of every 20,000 inhabitants of the total population. Fractions over and above 10,000 inhabitants are counted as if they were 20,000. Each canton, and, in the cantons divided into two states, each half canton, elects one deputy at least. The elections for the national council are direct. They take place in the federal electoral colleges, which can not, however, be formed of parts of different cantons. Every Swiss has the right to vote, who is twenty years of age, and from whom the legislation of the canton in which he lives has not taken away the right of an active citizen. (This

* The *abzugsrecht* is the old right of the state to confiscate a certain part of the fortune of a citizen who proposes to leave the country.

right is taken away only from those who have been deprived of civic rights by virtue of the penal law and in consequence of a judicial sentence, sometimes also from insolvents and paupers.) Every Swiss citizen who is a layman having the right to vote, is eligible as a member of the national council. Swiss who have become citizens by naturalization, are not eligible until five years after they have become citizens. The national council is elected for three years, and is wholly renewed at the expiration of that term. The deputies to the state council, the members of the federal council, and the functionaries appointed by that council, can not be at the same time members of the national council. The latter chooses from its own body, for each ordinary or extraordinary session, a president and a vice-president, who can not be charged with this function during two consecutive ordinary sessions. In case of a tie, the president has the deciding vote. The members of the national council receive a compensation from the federal treasury of fourteen francs a day. — The state council is composed of forty-four deputies of the cantons. Each canton appoints two deputies; in the divided cantons, each half canton elects one. The members of the national council and those of the federal council can not be at the same time deputies to the state council. The state council chooses, from its own body, for each session, a president and a vice-president; neither can be elected from among the deputies of the canton which furnished the president or vice-president of the preceding ordinary session. The deputies of the state council receive a salary from their respective cantons. Every Swiss citizen having the right to vote is eligible to it, the same as to the national council. The members of the state council are appointed by various methods, which are as follows: The little cantons, in which the people assemble annually, in a general assembly (*landsgemeinde*, see below), have their deputies to the state council appointed by the assembly. The citizens vote by raising up the hand for such or such a candidate. In the cantons of Zürich, Thurgau, Basel-Country, etc., the whole canton forms but one district for the nomination of members of the state council. The votes are deposited in the ballot box of the commune. These votes are collected and counted by a cantonal board. Finally, in the cantons which have preserved the purely representative system, such as Geneva, Fribourg, Tessin, etc., the great council appoints the deputies to the state council. The simple majority of voters always decides the election. — *Federal Assembly.* The national council and the state council deliberate upon: 1, the laws relating to the organization and relation of the authorities of the confederation; 2, the laws and decrees upon all matters which, according to the federal constitution, come within the jurisdiction of the confederation; 3, the salaries and compensation of the members of the authorities of the confederation; 4, the election of the federal council, of the federal tribunal, of the chancellor and of the commander-in-chief of the army; 5, the alliances and treaties with foreign states; 6, the measures for the external safety, as well as for the maintenance of the independence and of the neutrality,* of Switzerland, the declarations of war and the conclusion of peace; 7, the guarantee of the constitutions and of the territory of the cantons, intervention in consequence of this guarantee, the measures for the internal safety of Switzerland, for the maintenance of tranquillity and of order, and amnesty and the exercise of the right of pardon; 8, the measures necessary to make the federal constitution respected; 9, the legislative provisions touching the federal army; 10, the fixing of the annual budget of the confederation, the ratification of the accounts, and the provisions concerning loans; 11, the surveillance of the administration and of federal justice; 12, the exceptions taken to the decisions of the federal council made in matters of contentious administration; 13, the conflicts of jurisdiction between the authorities of the confederation; 14, the revision of the federal constitution. — The two councils assemble each year in ordinary session. They are convoked in extraordinary session by the federal council, or upon the demand of a fourth of the members of the national council, or upon that of five cantons. Federal laws, federal decrees or regulations can not be promulgated except with the consent of the two councils. Besides this, the federal laws which are not urgent must be submitted to the vote of the entire nation, if 30,000 active citizens or eight cantons demand it. The imperative mandate is not allowed. Each council deliberates separately. When there is a question, however, of the elections of the federal council, of the exercise of the right of pardon or of pronouncing upon a conflict of jurisdiction, the two councils unite to deliberate in common, under the direction of the president of the national council, and the majority of the voting members of the two councils decides. The initiative belongs to each council and to each of its members. The sessions of each of the councils are ordinarily public. — The directorial and executive authority of the confederation is exercised by a federal council, composed of seven members, appointed for three years, and chosen from among all the Swiss citizens eligible to the national council. However, not more than one member of the federal council can be chosen in the same canton. The federal council is re-elected after each renewal of the national council, but its members are re-eligible indefinitely. During their term of office the members of the federal council can not accept any other office, either in the service of the confederation or in a canton, nor follow any other career or practice a profession. The president of the confederation, who presides over the federal council, and the vice-president, are appointed for a year from among the members of the council;

* The act which establishes the neutrality of Switzerland is dated Nov. 20, 1815.

UNIVERSITY OF CALIFORNIA

but neither can be re-elected the following year. The members of the federal council have a consulting voice in the two sections of the federal assembly, as well as the right to make propositions there in regard to the subject under deliberation. The principal functions of the federal council are the following: it directs federal affairs; watches over the observance of the constitution; presents bills; gives its advice upon propositions which are addressed to it by the councils or by the cantons, provides for the execution of laws, judgments and sentences; makes those appointments which it is not provided shall be made by the federal assembly or some other authority; examines the treaties of the cantons with one another or with foreign states; watches over the interests of the confederation abroad, etc. In case of urgency, the federal council is authorized to raise the necessary troops and to dispose of them; but it must immediately convoke the councils if the number of troops raised exceeds 20,000 men, or if they remain under arms for more than three weeks. It administers the finances of the confederation, proposes the budget, and renders the account of the receipts and expenditures; it watches over the management of all the functionaries of the federal administration, as well as the branches of the cantonal administration which the laws have placed under its control, such as the military, the customs, roads and bridges. The federal council must annually present to the federal assembly a report upon the situation of the confederation, both at home and abroad. — The three principal languages spoken in Switzerland, German, French and Italian, are national languages of the confederation. — All functionaries are responsible for their administration of affairs. — The federal constitution can be revised at any time. When a section of the federal assembly decrees the revision of the constitution, and the other section does not consent to it, or when 50,000 Swiss citizens having the right to vote demand the revision, the question is submitted to the vote of the Swiss people, and they vote *yes* or *no*. If the majority of Swiss citizens voting pronounce in the affirmative, the two councils are renewed to work at the revision. A new constitution, however, can not go into force except when it is sanctioned both by the majority of citizens taking part in the vote and by the majority of the cantons. In most of the cantons the affirmative or negative result of the vote of the citizens is considered as the voice of the canton. Some cantons have charged the great council to cast their vote for them. — III. *Cantonal Constitutions.* Revisions of the fundamental pact are made quite often in Switzerland; this is why most of the cantonal constitutions are of quite a recent date. Ordinarily these revisions are accompanied by a more or less profound agitation; but excess is very rare, because the people are accustomed to the use of liberty. From 1830 up to the end of June, 1873, there were in Switzerland, according to statistics prepared by Professor G. Vogt, eighty-three total or partial revisions of cantonal constitutions. If we subtract the partial revisions, numbering twenty-three, which are sometimes of little importance, we see that on an average a cantonal constitution only lasts about seventeen years, that is to say, half a generation. The oldest constitution now in force is that of Appenzell-Interior. — A distinction must be made between the cantons of the *purely democratic* system, in which all the citizens assemble personally in a general assembly called *landsgemeinde*, the cantons in which the *electors themselves vote or reject the proposed laws* elaborated by the great councils, and the cantons of the *representative* system. Of course, the first system is found only in the little cantons, namely: Uri, Unterwald (Higher and Lower), Glarus and Appenzell (Exterior and Interior). — Professor Cherbuliez, in his work, *La Démocratie en Suisse*, vol. ii., p. 122, has well described the institutions of pure democracy in Switzerland. We do not, however, accept all his conclusions. The salient traits which are common to the different constitutions of pure democracy, and which impress upon them a characteristic physiognomy, are three: the *landsgemeinde*, the *council*, and the *commission of state;* that is, 1, an assembly of the entire people; 2, a deliberative body, both legislative and administrative, composed of members elected by the local assemblies (of the communes or of the districts); and 3, executive functionaries appointed by the people. The *landsgemeinde* exercises two equally important functions. First, it elects the principal functionaries of the canton, especially the landammann and his substitute (*landesstatthalter*), the treasurer (*seckelmeister*), the chief of the cantonal militia (*landeshauptmann*), and some other functionaries, whose jurisdiction is cantonal. It also appoints the deputies for the Swiss national council and state council. Then, to it belongs the sanction of all cantonal laws and of all treaties which the state concludes with other cantons or with foreign states. The citizens vote by raising the hand. — It exercises, therefore, the legislative power in this sense, that it accepts or rejects, as a whole, the propositions which are made to it, without having the power to introduce changes in them. The state of Glarus, however, must be excepted from this rule. Article forty-four of the constitution says: "The *landsgemeinde* can adopt, *modify* or reject the propositions which are made to it, or refer them to the triple council finally, either to report on them, or to decide." Everywhere the propositions to be submitted to the *landsgemeinde* must be made public a certain time in advance. We shall also cite, concerning the *landsgemeinde*, an article of the constitution of the canton of Uri. After providing, "The people are responsible only to God and their consciences for the exercise of their sovereignty in the May assembly," it adds: "What must guide the May assembly is not, however, caprice, without limit and without condition; it is *justice and the good of the state*, which are alone compatible with it. The people are obliged to vote accord-

ing to these principles in taking annually the oath of the May assembly."—The administrative power (in part even the legislative power) is ordinarily confided to quite a numerous council, called *rath*, or *landrath*. The functions of this body are ordinarily the following: It watches over enforcement of the constitution, whether federal or cantonal; it regulates, in their general organization, public instruction, financial, military and sanitary administration, public works, charity, except the legal provisions regarding the province and obligations of inferior authorities; it receives the reports of the administration of all the functionaries of the canton; it deliberates upon the proposed laws to be presented to the *landsgemeinde*, through the intermediary of the triple council, of which we shall speak further on. Usually it watches over the execution of what the laws or decrees of the *landsgemeinde* prescribe to it. In the canton of Unterwald-Lower the council has, besides, judicial functions. In Glarus, Uri and Unterwald, there have been organized, side by side with the *landrath*, special authorities to which have been transferred all the judicial functions formerly granted to the *landrath*. — About the *landrath* are grouped in the pure democracies various bodies, evidently formed from it by addition or reduction. The *double* and the *triple*, or *great*, council are nothing but the council of the *landrath* itself, doubled or tripled by the addition of new members, whom the territorial divisions appoint in the same manner and in the same proportion as the first. In Glarus, for example, each local assembly (*tagwen*) adds two members to the one which it appoints, to form the simple council. Thus the triple council there is composed of 117 members, as follows: 1, of the nine members of the commission of state; 2, of thirty-five members appointed by the *tagwen* following fixed proportions; 3, of seventy members appointed by the same assemblies, following the same proportions; 4, finally, of three Catholic members appointed by the same council, and of which one forms a part. (This latter element was introduced by virtue of the principle of religious equality, in order to provide for the representation of the Catholic population in the communes in which they are in a minority.) The principal functions of the triple council are to watch over the council and the tribunals, to establish the project of the budget of receipts and expenditures, and to convoke the *landsgemeinde* in extraordinary assembly. The process of addition is applied in many ways in Appenzell-Interior; it is applied in particular to the little council, which is charged with the principal judicial functions. This body judges sometimes as a weekly council; it is then only a section of the little council; sometimes with a simple addition (*einfacher zuzug*); sometimes with a double addition (*doppelter zuzug*); sometimes with a re-enforced addition (*verstärkter zuzug*). Finally, with a last re-enforcement it forms what is called the council of blood (*blutrath*). — As there are councils formed by addition, so there are others formed by reduction, as, for example, the weekly council of Unterwald-Lower. It is appointed by the great council (*landrath*) and chosen from its body. It is the executive, administrative and police authority, subordinated to the great council. It is composed of the landammann, as president, and of twelve members appointed for two years. It assembles in ordinary session on the Monday of each week, and in extraordinary session when convoked by the president, and as often as there is need. — We have still to speak of the third authority of pure democracy, the commission of state. It is appointed by the *landsgemeinde*, and replaces the council for affairs of lesser importance. In Glarus this commission is divided into two sections, to expedite business. The first is composed of all the members of the commission, and the second of three members, the president included, alternating among themselves after a manner of rotation established by the commission. The first section (or the commission *in pleno*) is charged with the correspondence with foreign states, the federal authorities and the confederated states, with giving preliminary advice upon questions referred to it, or even with deciding them by the council. The second section is charged with the ratification of deeds of sale and of wills, with decisions upon the prolongation of the terms for the liquidation of bankrupt estates, etc. The commission of state of Appenzell-Exterior has also the surveillance of the administration of the communes. The landammann presides over the *landsgemeinde*, the double or triple council, the council (*landrath*) and the commission of state. He receives all the dispatches addressed to the authorities presided over by him, and he is bound to make them known in the next session. He keeps the seal of state, signs and seals concordats and conventions, etc. He watches over the execution of the decrees of the *landsgemeinde*, the councils, and the commission of state, in so far as the execution is not intrusted to a special authority. — Let us pass on to the cantons in which there is no *landsgemeinde*. Here we must notice a very remarkable fact. Since 1868 the cantons of Zürich, Berne, Solothurn, Basel-Country, Aargau and Thurgau have replaced the representative system, which they followed up to that time, by the direct vote of the entire people, that is to say, of all the active citizens, upon the proposed laws (*referendum*). Only the cantons of Zug, Fribourg, Basel-City, Tessin and Geneva have resisted this political movement, tending to extend the exercise of the rights of the people. In the canton of Vaud they contented themselves with introducing into the constitution the right of initiative, and Valais and Neufchâtel recognize only a partial *referendum*. For a long time the great councils have been only deliberating authorities in the cantons of Schwyz and Grisons. Basel-Country first followed them in this respect. In the cantons of Lucerne, Schaffhausen and St. Gallen, the people do not positively sanction the laws, as in the cantons of the

referendum, but, during a certain time after the vote of the great council, they have the right to interpose a veto. — Representation in the great council is not always based upon the number of the population; sometimes it is determined by the number of active citizens; at other times, as in Lucerne, the number of the representatives is fixed by the constitution, without any regard to the number of the population. The members of the great council are not always salaried. Every active citizen is ordinarily eligible for the great council. Sometimes conditions of age are imposed, sometimes also a residence in the canton is required. The last vestiges of a property qualification have disappeared. In some cantons functionaries salaried by the state are excluded. The constitution of Neufchâtel provides that every member of the great council who, during his term of office, accepts public salaried functions, shall be considered as having resigned, but he is re-eligible. — The members of the great council are appointed for only one year in the canton of Grisons; for two in Zug and Geneva; for three in Basel-Country, St. Gallen, Zürich and Thurgau; for four in Berne, Aargau, Tessin, Vaud, Valais and Neufchâtel; and for five in Fribourg. — The great council, besides drafting the laws and decrees, and interpreting, suspending and repealing them, is ordinarily invested with the following functions: the organization of administrations, the surveillance of the execution of the laws, the right of pardon, the ratification of state agreements, naturalization, the establishment of imposts and taxes, the fixing the mode of their collection and employment, the ratification of the loans contracted by the state, the acquisition and alienation of property of the state, public buildings, the fixing of salaries and emoluments, the surveillance of the executive and judicial powers, the settlement of conflicts of jurisdiction between these powers, the fixing of the annual budget, the appointment of the deputies to the state council, and the appointment of the members of the executive power and of the supreme tribunal. In Geneva, Basel-Country, Thurgau, and Zürich, the members of the executive power are appointed directly by the people. — The committee to which the great council confides the executive and administrative power has different names, according to the different cantons. It is called sometimes council of state, sometimes executive council, and sometimes little council. This last name is old; it recalls the time before 1830, when this designation was found in almost all the cantons, and when the executive power was confided to a very numerous body. In recent times there has everywhere been a reduction in the number of the members of the executive council (ordinarily five to seven members, who distribute among themselves the different departments, interior, justice, instruction, etc.), and a higher salary has been granted to them, in order that the increase of work and responsibility imposed upon each of the members by the diminution of their number may not turn away from these functions the most capable men. — The duties and powers of the council of state, or executive council, are almost the same as those of the commissions of state in the cantons of pure democracy. It proposes laws and decrees to the great council, and watches over the maintenance of public tranquillity and security, as well as over the execution of the laws, decrees and regulations of the great council; it administers the funds of the state, appoints those executive and administrative functionaries who are immediately subordinate to it, and watches over them; it has also the higher surveillance of the communal administrations, the poor, the schools and the churches. The members of the executive council are appointed for four years in most of the representative cantons; they are re-eligible; only the president or landammann (a title which is preserved in some cantons) can not ordinarily remain in office for more than one year. Some constitutions require that each district of the canton be represented by one member; others forbid the taking of two members from the same district. Cantonal elections take place for members of the great council, in the electoral circumscriptions prescribed by law; for the appointment of the members of the executive power, where it is not confided to the great councils, the whole canton forms only one electoral circumscription. Every elector receives a card of recognition, which he presents to the electoral board when placing his vote in the ballot box. For every commune of any extent there are several boards, in order to facilitate the business of counting the vote. — IV. *Administration.* All the cantons of a certain extent are divided into *districts.* Thus, Berne has thirty; Vaud, nineteen; St. Gallen, fifteen; Zürich and Aargau, eleven, etc. In these districts the government, that is to say, the administrative and executive authority, is represented by a prefect (*regierungsstatthalter*, or *statthalter*). Although agents of the executive council, they are not always appointed by it, but sometimes by the great council, often directly by the people. Besides the prefect, there is, above all in eastern Switzerland, the institution of district councils, which have sometimes quite extensive functions. If the government does not always appoint the district authorities, it has ordinarily still less influence over the communes. We say *ordinarily*, because there is a very remarkable difference in this respect between the cantons of Romanic Switzerland and of Germanic Switzerland. In the former, the communes are much less independent than in the latter. In the cantons of Appenzell and of Grisons they are, so to speak, sovereign; they may do whatever is not contrary to the federal and cantonal constitutions, to the laws and to the right of property of a third party; the state does not interfere. These communes administer their special interests in everything except in that with which the state has not expressly charged itself. These two cantons are evidently in some sort federations of

communes. — At the head of the commune is a *chief hauptmann* (Appenzell), *syndic* (Tessin and Vaud), *maire* (Geneva), *ammann* (Lucerne, Fribourg, Solothurn, St. Gallen, Aargau and Thurgau), or *president* (in all the other cantons). He is always appointed by the commune; and ordinarily supported by a communal or municipal council, of which he is the leading member. This council administers, within the limits fixed by law and under the control of the general assembly, all that enters into the province of the municipality, proposes the budget, collects the taxes and municipal revenues, controls guardians, and exercises the local police and other functions which the laws and ordinances place in the charge of the municipalities, and which have to do particularly with the public safety and health, with the fire police, with that of the taxes and of the fairs and markets. At the same time the municipal council is the agent of the government; its president represents in the municipality the prefect, whom he must second in the execution of the laws and ordinances. The state has often no particular receiver for its taxes, and the municipal receivers collect them for it. — V. *Justice.* For the administration of justice in federal matters, there is a special tribunal. There is besides a jury for criminal matters. The federal tribunal is composed of eleven members, with substitutes. The members of the federal tribunal and the substitutes are appointed for three years by the federal assembly. The federal tribunal is renewed after each renewal of the national council (but the members are re-eligible). Any Swiss eligible to the national council can be appointed to the federal tribunal; the members of the federal council, however, and the functionaries appointed by this authority can not at the same time form a part of the federal tribunal. The president and the vice-president are appointed each for a year, from among the members of the body. — As a court of civil justice, the federal tribunal takes cognizance: 1. In so far as they do not touch upon public law, of the differences between cantons, and between the confederation and the cantons; 2. Of differences between the confederation on the one side, and corporations or individuals on the other, when these corporations or these individuals are plaintiffs, and when it is a matter of important questions determined by the federal legislation; 3. Of differences concerning people without a country (*heimathlose*). The federal tribunal is obliged to assume jurisdiction in other cases, when the parties desire it, and when the object in litigation exceeds the value of 3,000 francs. According to the new constitution of the confederation, which went into force July 1, 1874, the federal tribunal takes cognizance also of: 1, differences in regard to their functions between the authorities of the confederation and the cantons; 2, differences touching public law between the cantons; and 3, cases concerning the violation of the constitutional rights of a citizen. This is a very notable extension of the province of the federal tribunal. — As a court of criminal justice, the federal tribunal takes cognizance of the violation of the rights guaranteed by the constitution, when the complaints are referred to it by the federal assembly. The court of assizes, with the assistance of a jury which pronounces upon questions of fact, takes cognizance of criminal cases concerning functionaries, of cases brought by the federal authority which appointed them; of cases of high treason against the confederation; of revolt or of violence against the federal authorities; of crimes or misdemeanors against international law; finally, of political misdemeanors which are the cause of troubles by which an armed federal intervention has been occasioned. The federal assembly can always accord amnesty or grant pardon to the perpetrator of these crimes or misdemeanors. — Military justice is administered by a judicial staff, which has at its head an auditor in chief, having the rank of colonel. A military tribunal must be established in each brigade in active service. — The judicial organization differs materially in the different cantons. In some cantons of pure democracy, the legislative, executive and judicial powers are not yet thoroughly separated, as we have seen above (*Cantonal Constitutions*). The following is true of the great cantons. Civil questions are ordinarily first brought before the justice of the peace. If it is not possible to reconcile the parties, the questions are carried before a district court, and in the second resort before the cantonal court, the supreme court or court of appeal. Final judgments in civil cases given in a canton hold good throughout all Switzerland, according to article forty-nine of the federal constitution. A great number of cantons possess excellent civil codes. The tribunals of commerce are still rather few. In criminal matters the institution of the jury exists in most of the cantons. The members of the supreme court are appointed by the great council, which has also a surveillance over the court. All administrative functions are incompatible with the office of member of the supreme court. To be appointed it is not necessary to have regularly studied law, but of course, in point of fact, men who are not versed in the law are not chosen. The judges of the inferior tribunals are ordinarily appointed directly by the people, sometimes also by the great council. — The changes introduced by the new constitution had for effect to replace the twenty-five cantonal laws, often very dissimilar, by a federal law to be applied to the whole confederation, so that a uniform system is established upon the following points: legislation in regard to civil capacity, in regard to all matters of commercial law, in regard to literary and artistic property, in regard to suits for debt, and in regard to bankruptcy. The administration of justice, however, rests with the cantons, except as to what comes within the province of the federal tribunal. — VI. *Public Instruction.* The state of public instruction is one of the greatest glories of Switzerland. There is scarcely a country in which primary instruction is

more developed and more wide-spread than in the Helvetian republic. Some little cantons, which were backward in this respect, were forced to put themselves on a level with the rest. It is evident that where a people must govern themselves, they can not remain without instruction. However, a person is not obliged to send his children to a public school; he is perfectly free to have them instructed wherever he wishes, provided they receive an education at least as good as that which is given in the public schools. The new federal constitution, voted by the people April 19, 1874, contains the following provisions relative to primary instruction: The cantons shall provide for primary instruction, which must be sufficient, and placed exclusively under the direction of the civil authority. It is obligatory, and, in the public schools, gratuitous. The public schools may be attended by adherents of all creeds, without their having to suffer in any way in their liberty of conscience or of belief. The confederation shall take the necessary measures in regard to the cantons which do not fulfill these obligations. — Above the elementary primary schools, there are superior primary schools, called secondary. Then come the schools of commerce, the agricultural and industrial schools, the normal schools in which teachers are prepared, the gymnasiums (lyceums), the federal polytechnic school, the cantonal universities of Basel, Zürich and Berne, and the academies of Geneva and Lausanne. The polytechnic school is established at Zürich. It is subdivided into six special schools: school of civil building, school of civil engineering, school of mechanics, school of chemistry, school of forestry, and finally, a higher school of the natural and mathematical sciences, of the literary sciences, and of moral and political sciences. The studies are taught in the German, French and Italian languages. The importance which is attributed in Switzerland to good public instruction may be judged of by some figures we shall give. In the canton of Zürich the state and the communes have expended annually since 1873, for public instruction, a sum of 1,400,000 francs, not including the extra expenditures for the federal polytechnic school. Not included in this sum are the lodging, two cords of firewood and 20,000 square feet of arable land furnished by the communes to each primary and higher elementary teacher; nor is the hiring of places for schools. Berne expends annually 2,100,000 francs for the same purpose. Of this sum the communes pay three-fifths, and the state furnishes the rest; St. Gallen expends 600,000 francs; Aargau, 750,000; Vaud, 700,000 (not including the expenses for rent, heating, etc.); Neufchâtel and Geneva each, 400,000. For all Switzerland the total is more than nine million francs. STOESSEL.

— VII. *Finances.* The public revenue of the confederation is derived chiefly from customs. By the constitution of May 29, 1874, customs dues are levied only on the frontiers of the republic, instead of, as before, on the limits of each canton. A considerable income is also derived from the postal system, as well as from the telegraph establishment, conducted by the federal government on the principle of uniformity of rates. The sums raised under these heads are not left entirely for government expenditure, but a great part of the postal revenue, as well as a portion of the customs dues, have to be paid over to the cantonal administrations, in compensation for the loss of such sources of former income. In extraordinary cases, the federal government is empowered to levy a rate upon the various cantons after a scale settled for twenty years. A branch of revenue proportionately important is derived from the profits of various federal manufactories, and from the military school and laboratory at Thun, near Berne. — The following table gives the total revenue and expenditure of the confederation in each of the years 1875–82, showing actual receipts and disbursements, except for 1882, for which the budget estimates are given:

YEARS.	Revenue.	Expenditure.
	Francs.	Francs.
1875	39,516,051	39,266,030
1876	41,487,402	42,422,017
1877	42,972,305	43,900,308
1878	41,536,225	41,469,641
1879	41,456,213	39,525,274
1880	42,511,848	41,088,228
1881	43,383,026	42,717,493
1882	41,929,000	42,294,000

The following table gives the budget estimates of revenue for the year 1883:

	Francs.
Produce of property of state	169,279
Produce of capital invested	733,060
General administration	31,000
Military department	3,463,622
Financial	7,616,000
Customs	18,250,000
Posts	15,442,000
Telegraphs	2,594,700
Railways	24,750
Commerce and agriculture	41,500
Miscellaneous	16,139
Total	48,382,050

The following table gives the budget estimates of expenditure for the year 1883:

	Francs.
Interest and sinking fund of national debt	1,869,940
General expenses of administration	717,600
Departments:	
Political	337,000
Interior	3,242,332
Justice and police	45,060
Military	16,598,984
Financial	8,202,300
Commerce and agriculture	725,570
Posts	14,213,000
Telegraphs	2,571,200
Railways	140,900
Unforeseen	10,294
Total	48,674,000

This shows a deficit of 292,000 francs; and at the end of the financial year 1882, there was found to be an actual surplus of 3,000,000 francs. — The public debt of the republic amounted, at the commence-

ment of 1882, to 36,947,044 francs. This arises mainly out of the conversion of three 4½ per cent. loans raised in 1867, 1871 and 1877. As a set-off against the debt there exists a so-called "federal fortune," or property belonging to the state, valued at 45,856,066 francs. — The various cantons of Switzerland have, as their own local administrations, so their own budgets of revenue and expenditure. Most of them have also public debts, but not of a large amount, and abundantly covered, in every instance, by cantonal property, chiefly in land. At the end of 1882 the aggregate debts of all the cantons amounted to about 300,000,000 francs. — The chief income of the cantonal administrations is derived from a single direct tax on income, amounting, in most cantons, to 1½ per cent. on every 1,000 francs property. In some cantons the local revenue is raised, in part, by the sale of excise licenses. In Berne they form one-fifth of the total receipts, in Lucerne one-seventh, in Uri one-tenth, in Unterwald one-eighth, in Solothurn one-sixth, and in the canton of Tessin one-fourteenth, of the total revenue. — VIII. *Army.* The fundamental laws of the republic forbid the maintenance of a standing army within the limits of the confederation. The eighteenth article of the constitution of 1874 enacts that "Every Swiss is liable to serve in the defense of his country." Article nineteen enacts: "The federal army consists of all men liable to military service, and both the army and the war material are at the disposal of the confederation. In cases of emergency the confederation has also the exclusive and undivided right of disposing of the men who do not belong to the federal army, and of all the other military forces of the cantons. The cantons dispose of the defensive force of their respective territories in so far as their power to do so is not limited by the constitutional or legal regulations of the confederation." According to article twenty, "The confederation enacts all laws relative to the army, and watches over their due execution; it also provides for the education of the troops, and bears the cost of all military expenditure which is not provided for by the legislatures of the cantons." To provide for the defense of the country, every citizen has to bear arms, in the management of which the children are instructed at school, from the age of eight, passing through annual exercises and reviews. Such military instruction is voluntary on the part of the children, but it is participated in by the greater number of pupils at the upper and middle-class schools. — The troops of the republic are divided into two classes, viz.: 1. The *bundes-auszug*, or federal army, consisting of all men able to bear arms, from the age of twenty to thirty-two. All cantons are obliged, by the terms of the constitution, to furnish at least 3 per cent. of their population to the *bundes-auszug*. 2. The *landwehr*, or militia, comprising all men from the thirty-third to the completed forty-fourth year. — The strength and organization of the armed forces of Switzerland was as follows, in 1882:

BRANCHES OF SERVICE.	Bundes-auszug.	Landwehr.	Total.
Staff	67	----------	67
Infantry	89,466	78,219	168,685
Cavalry	2,991	2,453	5,444
Artillery	16,520	8,317	24,837
Engineers	3,771	1,531	5,302
Administrative troops	728	120	848
Sanitary troops	1,659	382	2,041
Various	----------	----------	992
Total	115,185	92,022	208,216

Every citizen of the republic not disabled by bodily defects or ill health, is liable to military service at the age of twenty. Before being placed on the rolls of the *bundes-auszug*, he has to undergo a training of from twenty-eight to thirty-five days, according to his entering the ranks of either the infantry, the *scharfschützen*, or picked riflemen, the cavalry, or the artillery. Both the men of the *bundes-auszug* and the reserve are called together in their respective cantons for annual exercises, extending over a week for the infantry, and over two weeks for the cavalry and artillery, while periodically, once or twice a year, the troops of a number of cantons assemble for a general muster. — The military instruction of the federal army is given to officers not permanently appointed or paid, but who must have undergone a course of education, and passed an examination at one of the training establishments erected for the purpose. The centre of these is the military academy at Thun, near Berne, maintained by the federal government, and which supplies the army both with the highest class of officers, and with teachers to instruct the lower grades. Besides this academy, or *centralmilitärschule*, there are special training schools for the various branches of the service, especially the artillery and the *scharfschützen*. The nomination of the officers, up to the rank of captain, is made by the cantonal governments, and above that rank by the federal council. At the head of the whole military organization is a general commander-in-chief, appointed, together with the chief of the staff of the army, by the federal assembly. — The total expenditure on account of the army was, for 1881, 15,685,879 francs, and that of 1883, 16,598,934 francs; in the budget for 1882, 16,514,949 francs. Not included in the army expenditure is the maintenance of the military school at Thun, which has a fund of its own, the annual income from which is larger than the expenditure. — IX. *Trade and Industry.* The federal custom-house returns classify all imports and exports under three chief headings, namely, "live stock," "advalorem goods," and "goods taxed per quintal." No returns are published of the value of either the imports or exports, but only the quantities are given; and these, too, are not made regularly known by the customs authorities. The imports consist chiefly of food, and the exports of cotton and silk manufactures, watches, straw hats and machinery. In the year 1881 there were imported 5,722,409 quintals of provisions of various kinds (including

grain, flour and beverages), and 254,997 head of cattle. The principal exports of 1881 consisted of silk fabrics, cotton fabrics, watches and machinery. There were also some exports of cheese and other food substances. But the excess of food imports over exports amounted annually, in recent years, on an average to 8,000,000 cwt., purchased at a cost of 240,000,000 francs. — Being an inland country, Switzerland has only direct commercial intercourse with the four surrounding states—Austria, Italy, France and Germany. The trade with Austria is very inconsiderable, not amounting, imports and exports combined, to more than 25,000 francs per annum, on the average. From Italy the annual imports average 30,000 francs in value, while the exports to it amount to 1,500,000 francs. The imports from France average 500,000 francs, and the exports to it 5,500,000 francs. In the intercourse with Germany, imports and exports are nearly equal, averaging each 500,000 francs. — Switzerland is in the main an agricultural country, though with a strong tendency to manufacturing industry, According to the census of 1870, there are 1,095,447 individuals supported by agriculture, either wholly or in part. The manufactories employed, at the same date, 216,468 persons, the handicrafts 241,425. In the canton of Basel the manufacture of silk ribbons occupies 6,000 persons; and in the canton of Zürich silk stuffs are made by 12,000 operatives. The manufacture of watches and jewelry in the cantons of Neufchâtel, Geneva, Vaud, Berne and Solothurn, occupies 36,000 workmen, who produce annually 500,000 watches—three-sevenths of the quantity of gold, and four-sevenths of silver—valued at 45,000,000 francs. In the cantons of St. Gallen and Appenzell, 6,000 workers make 10,000,000 francs of embroidery annually. The printing and dyeing factories of Glarus turn out goods to the value of 150,000 francs per annum. The manufacture of cotton goods occupies upwards of 1,000,000 spindles, 4,000 looms and 20,000 operatives, besides 38,000 hand-loom weavers. — From official returns, it appears that the railways open for public traffic in Switzerland at the end of 1882, had a total length of 2,571 kilometres, or 1,594 English miles, besides 50 miles of funicular and mountain railways, and the St. Gothard system, which does not yet figure in the mileage returns. These are distributed among thirteen companies, the largest of which are, the Amalgamated Swiss railway, the Swiss North Eastern, the Swiss Central, the Canton of Berne State railway, the Swiss Western, the Fribourg railway, and the Franco-Swiss railway. — The postoffice in Switzerland forwarded 80,781,538 letters in the year 1881, of which number 56,221,228 were internal, and 24,530,310 international. The receipts of the postoffice in the year 1881 amounted to 15,998,837 francs, and the expenditure to 13,964,554 francs. — Switzerland has a very complete system of telegraphs, which, excepting wires for railway service, is wholly under the control of the state. At the end of December, 1881, there were 6,626 kilometres, or 4,140 miles, of lines, and 16,174 kilometres, or 10,110 miles, of wire belonging to the state. The number of telegraph messages sent in the year 1881 was 3,129,989; comprising 1,837,385 inland messages, 879,727 international messages, and 329,798 messages in transit. There were 1,210 telegraph offices, of which 1,084 belonged to the state. The receipts amounted to 2,453,972 francs, and the expenditure to 1,963,666 francs, in the year 1880. — BIBLIOGRAPHY. Meyer, *Geschichte des schweizerischen Bundesrechts*, 1875 and 1878; *Eidgenössische Bundesverfassung, Bundesgesetze und Bundesbeschlüsse*, 1876; *Staatskalender der Schweizerischen Eigenossenschaft*, 1880; Dubs, *Das öffentliche Recht der Schweizerischen Eidgenossenschaft*, 1877; Zorn, *Staat und Kirche in der S.*, 1877.

F. M.

T

TABLE. (See PARLIAMENTARY LAW.)

TAMMANY HALL (IN U. S. HISTORY). A term applied in American politics, first, to the Columbian order, a secret society organized for social and political purposes in New York city in 1789, and which, upon incorporation in 1805, added the name of Tammany society; second, to the place of meeting owned or leased by this society, in which the "regular" democratic organization of the "city and county of New York" assembled up to 1879; and, third, to the political organization itself, meeting in Tammany Hall, whether "regular" or not. The entire subject will be clearer, if it is remembered that many things true of one of these three objects is not true of the other two, and that the same term has been indiscriminately applied to all three, for eighty years. It was first freely used of the secret society, next of the regular political organization assembling in its hall, and in the third and last stage of its history has come to be applied to the democratic faction assembling in Tammany Hall, sometimes regular, sometimes dissident, but never since 1852, commanding the unquestioned allegiance of all the voters of its party in the city. Before that period rival democratic factions existed; since then there have been rival "Halls." The first of these periods covers the years 1800–1834, in which the extension of the right of suffrage and the grant of local self-government formed the chief political issues of the state; the second extends from 1834 to 1853–9, when federal patronage and the democracy of the interior of

the state retained the voters of the party in New York city in a tolerably continuous organization in spite of the changes worked in this vote, by foreign immigration and the appearance of the problems of the modern city—its ignorance, its supine wealth, and its costly public works. During the third and last period, while the political organization meeting in Tammany Hall has reached its final development as a well-disciplined body of predatory politicians, the democratic vote of the city, 1879–83, has become divided into two nearly equal divisions. One of these votes with the "county" organization, independent of Tammany Hall, and recognized by the party in the state as "regular." The other body of voters follows the "Tammany" organization, which is not so recognized, but which has a regular local succession to "Tammany," and, during the second and a large part of the third of these periods, was the representative of a majority of the democratic voters of the city. — As it was only during the first twenty or thirty years of its existence that the Tammany society, or the organization sharing its name, represented a genuine political movement, the history of Tammany for the last fifty or sixty years has been the record of an organization sharing the principles of a wider national party, but bent, first and foremost, on controlling the government of the city in which its lot was cast. Tammany has chiefly attracted attention in this phase as a highly successful effort to govern a great city by organizing its venal vote; a vote extending from the day laborer anxious for steady employment on the public roads, to the distinguished lawyer solicitous to secure a judgeship at $15,000 a year, with its lucrative refereeships and wide influence. — The connection is of the slightest between Tamanend, the obscure Indian chief who put his mark to one of Penn's treaties, dealing with the lands of the Delaware Indians, and "St. Tammany," whose festival, on the 12th of May, came, in the closing days of the revolution, to replace St. George's day, three weeks earlier, much as Christmas replaced the Saturnalia. The significant fact is, that after William Mooney had organized the Columbian order, with its thirteen tribes, its twelve sachems, or directors, its sagamore, or master of ceremonies, and its wiskinski, or door-keeper, the secondary name of Tammany society was adopted, because it defined more clearly the popular and local character of the organization in its political action. The child-like interest of the revolutionary period in parades, trappings, terms and mysteries, was apparent in all the organization of the society. For it the year was divided into the seasons of flowers, of fruits, of hunting and of snow; the pipe of peace was smoked at its meetings; its members wore the Indian garb in the great processions of the day, and in 1790 entertained a Creek embassy for days together in costume, and the bucktail which Tammany societies wore throughout Pennsylvania, came, twenty years later, to be, in New York state, the name of one of the earliest of the democratic factions whose intricate relations vex the political student. Tradition has preserved what the preference and fancy of an earlier day selected. The annual celebration of Independence Day in Tammany Hall is still made up of "long talks" and "short talks;" New York newspapers still contain the quaint notices of the annual meetings of the society in the "season of flowers," and its other "council fires," in the "great wigwam," which first appeared while Washington was president; but in the changes of time its great sachem has become a boss, and the chief duties of its wiskinskie, who once gathered the Spanish dollars of the faithful at the door of Martling's long room, have come to be the prompt and persistent collection of political assessments from Tammany office-holders. — These things are the outer shell of the facts surrounding its early organization and its later development. They unite it, on the one hand, with the familiar channel of political action at the foundation of the republic, and recall its existence now, as the solitary link between the politics of New York city, with 5,189 votes, and the metropolis, with 336,137 males of the voting age. Organized by William Mooney, an Irish-American liberty boy and a violent whig, in the second week of Washington's first administration, the Columbian order represented, in federal politics, state rights; in state affairs, the demand for a wider suffrage; and in local affairs, the claim of the foreign-born citizen for a conspicuous part in politics. All this was not at first apparent. Of the first twelve sachems, ten were federalists. In the hot discussion which succeeded the outbreak of the French revolution, the Columbian order opposed a war with Great Britain. For several years the society was more conspicuous for its riotous celebration of May 12 than for its direct action in politics; but, in the eleven years which preceded its first recorded appearance as a political power, the democratic membership of the body put it in sympathy with the political organization which Aaron Burr was slowly maturing. The Poughkeepsie constitution had imposed a heavy property qualification, a freehold of $50 to $250, or a rental of 40 shillings annually, and the restoration of order had curbed the influence of the "Sons of Liberty"; a mob on the right side, but still a mob. A local moneyed aristocracy, supported by place and birth, resumed the control it enjoyed in colonial days. Its opponents, in 1788, polled one vote in seven in New York city, on a legislative ticket carrying Aaron Burr's name. For ten years the tide continued to run against the popular party, until, in 1800, the Columbian order began at the polls the careful, systematic organization of the voters of the city, to which the success of Tammany has ever since been due. The vote of the city had increased one-half in a decade—in 1801 the qualified voters numbered 7,988—but the city was canvassed, poor citizens were deeded freeholds, "faggot" voters were created by uniting a number of men in the ownership of a single piece of property, the society

kept open house during the election, voters were carried to and from the polls, and the entire machinery, long since become familiar, was set in motion to bring out the vote. The result was overwhelming success, and Aaron Burr, the next winter, was nominated as vice-president in the congressional caucus at Washington, on the strength of the victory. The control of the largest city in the Union carried Tammany, at a bound, to a position of influence in national politics which it has never lost. In despair, Alexander Hamilton wrote to Senator Bayard proposing the organization of a similar secret society in the federal party. — The annual convention in state, and a permanent organization in local politics, was still a quarter of a century distant in American affairs. A property qualification was required of voters; municipal officers were appointed by the governor and a council; a council of revision, made up of appointed officers, passed upon all legislation before it became law; while the representation accorded New York city, and its proportion of voters, left it less powerful in state affairs than at any time until the rapid growth of an urban population in the state at large, stripped it of its preponderating influence seventy-five years later. A permanent secret society was, under these circumstances, invaluable in securing continuous and coherent political action. The constitutional accident, which made the voting power of Tammany relatively greater in electing a president than in choosing a governor, early attracted to it federal patronage; first used with effect in New York state politics, under Madison. New York city was still small enough for the management of its politics by general meetings. The election of assemblymen and congressmen on a general ticket, contributed to concentrate political power. The germ of a general, popular and permanent organization began to show itself in the "general committees," for whose appointment general meetings provided, but such an organization was still far distant. The hard drinking of the day and the social contact of a small city each contributed its share to make acquaintance and frequent reunions a strong and powerful factor in political action. During the last sixty years the meetings of Tammany Hall, however turbulent and disorderly, have never been anything but meetings, differing wholly from the social gatherings of the first third of a century, when it was still true that—

> There's a barrel of porter in Tammany Hall,
> And the bucktails are swigging it all the night long.
> In the time of my childhood 'twas pleasant to call
> For a seat and cigar 'mid the jovial throng.

— In the first faction fight of this period, between the Burrites and the Lewisites over the election of Morgan Lewis as governor in 1804, Tammany acted with the former, and began its political career with a bolt; for, while no organization has ever shown a higher respect for local regularity, none has ever been quicker to bolt the action of an Albany legislative caucus or a state convention, in which it has never been popular, and was and is generally in the minority. Before another election came, Tammany had developed, from its own ranks and among its ward workers, Daniel D. Tompkins, one of those young and brilliant leaders whose careers, from the day of Tompkins to the day of Hoffman, have opened so well and fared so ill. A "regular" caucus with which Tammany acted nominated Tompkins, and a year later George Clinton was shelved by his choice as vice-president. For a brief period his son, De Witt Clinton, had acted with Tammany Hall. Like all succeeding mayors, he found how difficult it is for the chief executive officer of the city to distribute his patronage without quarreling with the local organization, and being compelled to fight the organization by a personal machine; to submit; or to resign political power—the three alternatives for seventy years presented to every mayor by Tammany Hall. Clinton, like Fernando Wood, chose the first. The general meetings of Tammany Hall were supporting every step taken by Madison, and its members received, in return, federal patronage, whose importance was enormously increased by the heavy imposts of the day, which, for the first time, were centring at New York. Clinton bitterly complained of this use of patronage, but he was powerless, and the candidate who at last defeated him in a contest for his seat in the senate, was the federal district attorney, Nathan Sanford. The death of John Broome, in the same year, gave Clinton the opportunity of running for lieutenant governor, an office which he reached, and a year later a general meeting in New York nominated him for the presidency. Tammany Hall arrayed itself on the side of regularity, and enjoying federal, state and city patronage, crushed Clinton. The struggle lasted for years with varying success, and ended only with Clinton's death, in 1828, while governor. His previous removal from the office of canal commissioner by Tammany Hall, had aroused an overwhelming popular sentiment in his favor. The frauds charged against Gov. Tompkins—the first of the great public scandals of Tammany Hall—had earlier enabled Clinton (1817) to win in a contest in which the vote of the state at large steadily opposed the dominant city organization, whose wealth and ability enabled it each winter, at Albany, to retrieve in the legislative caucus what it had lost at the polls in November. — Federal patronage, army contracts and local public works—now first begun—had by this time given the Tammany society wealth. It built, in 1812, its first hall, on the site now occupied by the "Sun" building. Its membership showed that alliance between local politicians and local busines men which it retained up to a very recent date. This alliance would be inexplicable in an organization which has uniformly opposed national and state measures, favorable to the city, and increased local taxation; but for the great profits which attend the use of active capital in contracts and in investments guided by an early knowledge

of public works. The organization itself has never been true at any period to the real interests of the city. It supported the embargo, it favored the war with Great Britain, and it denounced the Erie canal until the work had reached dimensions which made a share in its contracts profitable, when the votes of its representatives at Albany and the skill of its pamphleteers were enlisted in behalf of enormous appropriations. It opposed a permanent police, was disloyal, and aided Tweed's sack. Yet, neither in its early nor in its later days was the mob, the final residuum of the city, enlisted in Tammany Hall. Clinton, Wood and Morrissey, each commanded a lower stratum of voters than Van Buren, Schell and Kelly. Up to 1879, in spite of occasional eclipses, the lower middle class, which in the long run rules every great city, was the real strength of Tammany Hall. It is a curious illustration of this, that, in 1817 when the Tammany society issued one of its addresses on the state of public affairs, it deplored the spread of the "foreign" game of billiards among young men of the upper classes, and the presence of vice among the lower in the true spirit of a middle class precisian. The character and organization of Tammany Hall only changed for the worse estate, which has made its name a hissing and a by-word, when the small shopkeepers and the rising mechanics of the lower wards of New York were replaced, from 1850 to 1860, by a foreign-born population, with its tenement houses, its rum shops and its beer saloons. — A general meeting of Tammany Hall in 1820, attended by bucktails from all parts of the state, began the movement which resulted in the constitutional convention of 1821. Its constitution greatly lowered the franchise. This in its turn was followed in 1833 by charter amendments, making the mayor of New York elective. Both radically changed the character of local politics. The centre of political action on all local affairs was shifted from Albany to New York. State patronage ceased to be a conspicuous factor in local politics where the distribution of federal and municipal offices was the first object of political life. Up to 1831, every gubernatorial term but one had been filled by a man who began his active political life in New York ward politics. Since then only three terms have been filled by men (Morgan, Hoffman and Tilden) who were graduated from the same school. With this change in the electorate and the city government, there came an increase in the number of voters, which made it no longer possible for a general meeting to serve the purposes of local politics, or the social gatherings of a secret society to unite the politicians of a city whose population was (1830) 197,112, and whose voters numbered (1835) 43,091. The "general committee" succeeded the general meeting. This body, which survives to-day, grew from two separate sources. The general meeting, after making nominations, had habitually delegated the management of the canvass to a general committee. The ward and district primaries in a similar manner turned over the practical work of the election to their own general committees. A list of the latter in one of the early mayoralty elections fills thirteen and one-half columns of a daily paper, and constituted a roster of the fighting force of Tammany Hall, and an almost equally complete list of local and federal officers. These two bodies gradually came to take shape in a representative general committee, based first on wards and their election districts, until the assembly district came, in 1871, long after the election of assemblymen by districts, to be the working unit in local politics. The wards elected aldermen long after the drift of population had greatly changed their relative vote, and this circumstance continued the ward in city politics, and perpetuated a rotten borough system, which, in the divisions opening the third period of Tammany Hall, placed the regular organization in the hands of men representing a minority of the voters. — The central and ward organizations grew and prospered together. The "general committee," under its early name as a "general council," first appeared in Tammany Hall in 1822, three delegates representing each of the eleven wards into which the city was divided. The creation of new wards raised the number to forty-five, in 1836 to seventy-five; and in 1843 the division of the city into election districts led to an increase in membership. The wards and their districts were abandoned later for the assembly districts and their election precincts. The steady growth of population has at last given an election precinct an average population from one-half to one-third of the early ward, and in the present (1883) Tammany general committee each precinct has two representatives. From thirty or forty members, the committee has therefore grown to over 1,400, but, instead of representing a majority of the voters of the city, it now controls the votes of a bare third. In the ward, and, later, in the assembly district, the precinct has been, since 1843, the unit of a like organization for ward purposes. — Theoretically it will be seen that this organization gives representative bodies chosen directly by the voters. Three circumstances, two of them common to all large cities, and the other peculiar to New York, have combined to remove this body from the control of the people. *First*, voters early abstained from the primaries. This was as much the case in 1830 as in 1880. The delegates to the first national democratic convention were chosen by a larger proportion of office-holders and a smaller number of voters, relative to the voting vote, than attended the primaries whose successive representatives elected the delegates to Cincinnati in 1880. *Second*, the law never protected these primary meetings from corruption. They began in riot and fraud. Clinton's meetings were regularly mobbed in 1812, and the primaries and meetings of the last decade have been incomparably more orderly, but no less corrupt, than those of previous years. *Third*, the circumstance that the mayors of New York were at first elected

in the spring led to the organization of a general committee at the close of each calendar year in primaries held for this purpose. These primaries, meeting in the ebb between the fall and spring election, never attracted general interest. Tradition and the convenience of politicians have continued them at a season when the average citizen has dismissed politics from his attention, and a brief notice yearly reminds the casual reader that a new Tammany Hall general committee is to be chosen on the last Thursday of the year. — The general committee, directly representing the ward workers, rapidly relegated the Tammany society to a relatively unimportant position. No careful student of New York politics for the last fifty years, and no one familiar with their actual working for the last fifteen years, can fail to see that the influence of the society has been exaggerated. It has always owned, and, of late years, has controlled by a lease, the hall in which the Tammany organization meets. Tradition and this circumstance render it necessary that the head of the political organization should control a majority of the society. In 1867 the society, and the organization with it, removed from its early quarters (rebuilt in 1860) to its present wigwam on Fourteenth street. Once since then (in 1872) the society closed its doors to the organization. But the organization has existed and acted apart from the society, to which a small share of its members belong. Perhaps no better proof of the local political vitality which accounts for this permanent separate existence without calling in the Tammany society to explain it, could be given than the circumstance that the local republican organization, aided by no society and having no such tie, has maintained its individuality, its existence and its succession for twenty-five years, and, for all practical political purposes, survived its summary reorganization in 1883–4. — From twenty to thirty years after its organization, the general committee had become an unwieldy body, open to the attacks of mobs, whose riotous proceedings perpetually threw doubt on the validity of the succession, and, what was more important in the eyes of politicians, hopelessly divided the democratic vote. After fifteen years of this condition of affairs, it became plain that the "general committee" was a body as little able to decide the regularity of conflicting ward partisans as the whole body of the faithful in Rome to elect a pope. Shortly after the close of the war, therefore, a new body appeared, reaching its power by slow degrees, in the "committee on organization." This body, at first one, and later two, from each ward or assembly district, secured powers, to carry the analogy a step farther, similar to those of the college of cardinals. Originally a subordinate committee of the general committee, to whom questions of regularity, party discipline and party organization were referred, the committee on organization has come to be the final authority in Tammany Hall. The chairman of this committee is the "boss" of the Hall, and while the committee begins by naming its chairman, the chairman always ends by naming the committee. Its report admits or excludes contesting delegations from the general committee, and the general committee primaries are under the care of its members. The circuit of power is therefore complete, and the downfall of Tweed is the only instance on record of a successful attempt to carry the primaries against a majority of the committee on organization. — It is possible, if the general committee and the district committees of like character directly made nominations, that the general interest in local politics which renders the voting voter more numerous in New York city than in any city as large, would lead to the genuine popular choice of the general committee. The Tammany Hall organization, however, imposes a third screen between the voter and his vote. All nominations are made by conventions called for this purpose. The mayor, county officers, judges of all varieties, congressmen, senators, assemblymen and aldermen, are each nominated in conventions chosen to suit the occasion. The primaries for these conventions, in theory open to all democrats, are held by the members of the organization which radiates from the chairman of the committee on organization through the general committees to the district committees. These successive transmissions commit the entire organization into the hands of politicians; and Tammany Hall, in theory popular, becomes in practice a well organized and highly disciplined hierarchy of politicians and place-holders, who, in spite of all bolts, control and yearly poll over 50,000 votes, the greater part of whom are directly or indirectly interested in the enormous municipal expenditure of New York city. — Tammany Hall, during the two periods, in the first of which the general committee was developed, to pass later in the second period under the committee on organization, has shared in every election. Its political history is the political history of New York city, and it is not intended, in briefly sketching the course of the organization, to give more than is needed to make its development plain. The second period of "Tammany" may be considered as extending from the election of C. W. Lawrence as mayor, in 1834, to the crushing defeat of Tammany Hall by Mozart Hall in the election of Fernando Wood, in 1859. This election, the changes of the war and the Tweed ring ended in the Tammany Hall of to-day, and comprise the third period in its history. During the second period, Tammany Hall held the mayoralty for fifteen years out of twenty-five; during the third period, it has held the same office thirteen years out of twenty-four. Measured in this way, the supremacy of Tammany Hall appears to be evenly distributed, but of the last thirteen years seven were under Tweed's mayors, and paved the way for the present position of Tammany Hall as a democratic rump, whose vote has been cast more than once against the party. In the second period, when the Tammany society had been defi-

nitely succeeded by the more popular general committee, Tammany Hall was dominant in New York city because it contained the ablest politicians in a city narrowly divided between the whig and democratic voters. Tammany Hall entered its first canvass for mayor, in 1834, liberally supported by the federal patronage of the Jackson administration. The Sixth ward, known later as the "bloody sixth," was then the "office-holders' ward," and included hundreds of the federal employés, who continued to support Tammany Hall until the republican party secured control of the federal government. The whig party had behind it the growing power of the rural vote of the state, organized by Weed and Seward, which elected Seward governor, and changed the face of politics in New York state by transferring the counties of the interior from the democratic to the republican party. Lawrence became mayor by a narrow majority. One year later, in October, 1835, the division between the "loco-foco" or equal rights party and Tammany culminated in the riot which gave the former its name and offered the first proof of the ease with which a large convention could become a mob in a city of a quarter of a million, whose police force was still ten years distant. The alliance between the whig and loco-foco candidates, in 1836, ran through 1837 and 1838, defeating Tammany Hall in these years. The election of J. L. Varian, Tammany, in 1839, began a period of success which lasted until 1844, when James Harper, an American candidate, defeated Tammany Hall. With the election of W. T. Havemeyer, in 1845, the modern period of the city began. Its waterworks were completed, its police organized, and the influence of patronage and public works increased. With them, the prizes of local municipal life multiplied, and in the period from 1845 to 1853 the second of the great feuds in Tammany Hall opened between the "hards" and "softs." The two factions stood in a way for the "hunker" and "barn-burner" factions of the state democracy; but without entering into their state and national relations, the two factions grew out of the struggles in the local organization over nominations and the "regular" succession. The "hards" represented the office-holding faction, and when, in August, 1853, they were mobbed in Tammany Hall by the "softs," the chairman of the former was the collector of the port, Augustus Schell. A year later, Fernando Wood, who had successfully organized a "soft" machine, captured the primaries of the "hards," and secured a united nomination for mayor. The "adamantine" "hards" at once seceded from Tammany Hall, and organized at the Stuyvesant Institute, defeating the regular democratic candidate for governor, Horatio Seymour, by a bolt, precisely as Lucius Robinson was defeated by a like bolt in 1879. — For nearly ten years, from 1853 to 1863, the struggle between the opposing factions continued. The quarrel had practically begun in 1852, and the national conventions of 1852 and 1856 were asked to pass upon its merits. Every democratic state convention had contesting delegations before it, and every city election saw the democratic vote divided by the presence of two tickets, both claiming regularity. It would be idle to go into the details of these contests. Fernando Wood retained his control over the regular organization until 1857, when the contest was transferred to the Tammany society in its first and last attempt to decide the regularity of two opposing factions. The result proved the attempt futile. Wood was defeated in the society, retained the organization, secured the regular nomination and was beaten, 1858, by Daniel F. Tiemann. The Tammany society, under its new sachems, excluded his general committee, and Wood seceded to Mozart Hall and was elected mayor in 1859 over the Tammany candidate, W. T. Havemeyer. Two years later, the split still continued, and a republican, George Opdyke, was chosen mayor. In 1863 Tammany was again defeated by the election of C. Godfrey Gunther, an independent democrat, over Frank Boole, who had received the Tammany and Mozart Hall nomination. — These successive defeats made necessary the change in policy and organization already described. The lavish expenditure which Fernando Wood had begun was resumed at the close of the war by W. M. Tweed. The ring, of which he was the conspicuous figure, combined with the corruption whose story has been so often told, a reorganization of Tammany Hall and the introduction of a sharp and summary discipline carried on by the committee on organization which promptly excluded objectors. The change altered the character of Tammany Hall. The loose and floating body of voters became a standing army of mercenary voters, which might suffer defeat, but never altogether lost its organization or left any question as to the regularity of its succession. John T. Hoffman was elected mayor by Tammany Hall in 1865, re-elected in 1867, and succeeded, on his own election as governor, by A. Oakey Hall, who held office past the defeat of the Tweed ring in 1871, until, in 1872, W. T. Havemeyer was chosen mayor on a citizens' ticket. The sack of the city treasury went on during this period without pause or check. The operations of the ring added over $100,000,000 to the bonded debt of the city, doubled its annual expenditure, and cost tax payers, to take the best approximate estimates, first and last, at least $160,000,000, or four times the fine levied on Paris by the German army. Many causes combined to render this gigantic devastation possible; but all combined could scarcely have compassed this plunder, if Tammany Hall itself had not been reorganized and converted into a standing army of voters encamped in New York city, obeying a single head and able to exclude all dissension from its ranks. — This organization, without its old opportunities and without its old flagrant corruption, but still a body living on politics, survived Tweed, and after various changes passed, in 1873, under the control of John Kelly, who has remained its head for ten years. Tweed's purposes rendered an alliance with the democracy

of the state indispensable. When that was lost, he went to the penitentiary. To John Kelly, this connection was not necessary. Tammany Hall, in 1874, elected W. H. Wickham, and, in 1876, chose Smith Ely. The personal honesty of its leader, the recent fall and punishment of Tweed, and the growth of an independent vote, led to nominations far above the average of past years. In 1878 successive secessions from Tammany Hall left it in a minority, and Edward Cooper was elected mayor by a combination between republicans and democrats in sympathy and full party communion with the state democracy. In 1879, when the state democracy nominated Lucius Robinson as governor, John Kelly was run as a bolting democratic candidate. This completed the isolation of Tammany Hall. The long series of steps by which a social organization with political purposes had become developed into an organized body of voters, acting for its own purposes, independent of all principle but plunder and all aim but office, was at last completed.

TALCOTT WILLIAMS.

TANEY, Roger Brooke, was born in Calvert county, Md., March 17, 1777, and died at Washington city, Oct. 12, 1864. He was graduated at Dickinson college in 1795, was admitted to the bar in 1799, and became attorney general of Maryland in 1827, and attorney general of the United States in 1831. In the following year he was appointed secretary of the treasury (see DEPOSITS, REMOVAL OF); but his nomination was not sent to the senate until the service for which he had been selected was performed, and then the senate refused to confirm it. Jackson then appointed him to the supreme court bench, and the senate again refused to confirm him. In 1836, the whigs having lost control of the senate, Jackson appointed him to fill the vacancy caused by the death of Chief Justice Marshall, and the senate confirmed the appointment. He filled the office until his death. His most interesting opinions, in a political point of view, were those given in the Dred Scott case (see that title) and the Merriman case. (See HABEAS CORPUS.) — Tyler's *Life of Taney*, 195 foll., makes it evident that Taney, in removing the deposits, acted from a sense of duty, and not from political motives. In the same work, p. 578 foll., is a supplementary opinion in the Dred Scott case, which will at least show Taney's honesty of belief. His opinion in the Merriman case was upheld by the supreme court, after the rebellion was ended, in the Milligan case. See, contra, 1 Greeley's *American Conflict*, 253; 2 Wilson's *Rise and Fall of the Slave Power*, p. 524; Giddings' *History of the Rebellion*, 403; *The Unjust Judge*.

A. J.

TARIFFS OF THE UNITED STATES. The theory of tariff taxation has been discussed in this work in the article CUSTOMS DUTIES. The subject of the present article is merely what has been done in the way of tariff legislation in the United States; and mention can be made only of the more important acts, without any attempt to explain all the motives which led to their enactments, or the manifold results that have followed their adoption and administration. And, first, as to the power of congress to impose tariffs. Under the confederation the states retained the taxing power, and left the central body, the congress of the confederation, without any direct means of defraying whatever expenses the necessities of war compelled it to contract. Some attempts were made to secure for it an independent revenue, but they came to naught. On the return of peace, while still maintaining the form of a confederacy, the states, no longer united by a common danger, became, to a great extent, independent, and each managed its concerns with little regard to the interests of the others. Massachusetts had a navigation act, and levied import duties, and other states followed her example. The restrictions and prohibitions imposed on American commerce were vexatious and destructive, and while the congress had power to enter into treaties of reciprocity, it could not retaliate in any way were its offers of trade refused. The power to do this rested in the states individually, but in spite of many propositions to this effect, no uniform or decisive action on their part could be brought about. From 1783 until the adoption of the federal constitution it was generally recognized that congress should have the power to regulate commercial relations between the states and foreign powers, but the supposed interests of the different states presented an effectual bar against action. "The agitators for the regulation of trade in Virginia belonged to that class of the community which in the eastern and middle states was most bitterly set against the measure. In Massachusetts and New York the merchants were the supporters, and the farmers the opponents. In Virginia the planters were to a man united in the opinion that some steps must be taken to mend commercial affairs, and the merchants quite disposed to let trade alone. The reason is obvious. The condition of things to the south of the Potomac was precisely the reverse of the condition of things to the north of the Potomac. Beyond the north bank of the river the farmers throve, and the merchants did a losing business. Beyond the south bank the merchants were daily growing more prosperous, and the planters more impoverished." (1 McMaster, 272.) The agitation over this question first assumed a definite form in Virginia, and led up to the national trade convention held at Annapolis in 1786, out of which movement arose the federal convention of 1787, which resulted in the framing of the constitution, and the foundation of a central government possessing definite and important functions, and clothed with the power necessary to perform them. — It would, however, be an error to attribute this action wholly to the commercial needs of the country. The states had just passed through an era of paper money madness, in which each state had vied with the others in excessive issues, with the

intention of allowing their inhabitants deeply immersed in debt to free themselves from such burdens. This alone was sufficient to create general poverty, and armed rebellions did occur in many quarters. Manufactures were beginning to arise in New England, and served to turn attention to the development of the internal resources of the country. The jealousies existing among the states had only aggravated the evils arising from mismanaged finances, and in the general scramble for vantage the many restrictions and limitations imposed hindered that industrial growth which, it was confidently believed, would restore prosperity. The folly of thus contending among themselves was seen by the clear headed, and the remedy they believed adequate was an extension of the power of the confederation. The debts contracted by the congress were about to fall due, but the confederation was without resources, and without credit. New York had expressed a willingness to grant to it power to levy duties on imports. Rufus King made a very able report to congress, in which he concluded that the impost was an absolute necessity to the maintenance of the faith of the federal government. While thus agitating for an independent revenue, the government did not cease to urge upon the states the disordered condition of trade and finances, and the advisableness of granting to congress the power to regulate trade. But while commercial reasons were thus at the bottom of the movement, political reasons, quite as cogent, existed in favor of a new distribution of powers, and the action of these two forces, combined, produced the constitution.—By this important instrument the new government was empowered to levy taxes of every description, and to regulate commerce with foreign nations. In connection with our subject it will be important to bear these two powers in mind, as the one has been made an instrument of the other. The right to levy duties upon imported commodities was conceded, and the only limitation imposed upon its exercise was that the duties should be uniform throughout the land. The question then arises whether the government ought to lay taxes for any other purpose than to raise revenue, which involves the question whether congress may lay taxes to protect and encourage manufactures. The arguments for and against this use of the taxing power will be found in Story's "Commentaries on the Constitution," §§ 959–978, and are summed up as follows: "So that, whichever construction of the power to lay taxes is adopted, the same conclusion is sustained, that the power to lay taxes is not by the constitution confined to purposes of revenue. In point of fact, it has never been limited to such purposes by congress; and all the great functionaries of the government have constantly maintained the doctrine that it was not constitutionally so limited." It was customary to regulate trade by taxing imports, and this practice was acted upon by all nations at that time. Retaliatory duties were recognized as a proper exercise of power, even when they produced no revenue, and duties primarily intended for revenue purposes might incidentally afford protection to manufactures. The colonies always recognized the right of England to regulate their commerce; but when parliament undertook to levy taxes for another end, they revolted. It might further be said that every civilized nation at that time considered that the power to regulate commerce included the encouragement of manufactures, and acted upon this belief. Some of the states had already adopted regulations which were intended to give such encouragement to their industries, although this encouragement was secured at the expense of the other states; and in ceding this power to make such laws to the general government, it was claimed that the states had expected a continuance of this recognized policy. So that the weight of opinion was in favor of the right to regulate commerce by import duties or other taxes, and chiefly on the ground that the power was generally exercised among nations. From the very first, then, a tariff has been recognized as a measure for raising revenue, for protecting and encouraging domestic manufactures, and as an instrument for regulating commerce. (Story, Comm., §§ 1077–1095.)—But the conditions which favored these views at the time the constitution was adopted no longer exist, and a very different set of circumstances has arisen to alter in a great measure the opinions on the tax power of the government. At the end of the eighteenth century it was not strange to find the power to regulate trade and commerce with foreign nations granted to congress. Nothing was more natural; for at that time the fiscal and commercial policies of nations were governed by the maxim that no trading or commercial people could ever prosper without regulation of trade, and the more their transactions were regulated by law the higher would be the resulting economic well-being of the country. Regulation, however, meant interference and restrictions. Innumerable laws are found on the statute books of nearly every nation that had any trade whatever, which were intended to foster and develop domestic manufactures and domestic commerce. Loans and important immunities were granted by the state to encourage the investment of capital in industrial enterprises; premiums, bounties and drawbacks were offered to producers and exporters; the importation of the raw materials of industry, and the export of manufactured products were unnaturally encouraged; while the importation of such commodities as would come into competition with domestic articles was discouraged by high customs duties, or was even expressly prohibited; the exportation of machinery and the emigration of skilled labor were forbidden under severe penalties; and through discriminating and retaliatory duties a species of commercial war was waged among nations. In fact, the whole system of trade was founded upon regulation, and was to that extent artificial and strained. And in no instance was this result more evident than in the commercial

relations which subsisted between a parent country and her colonies, in which all the advantage lay on one side. The American colonies had known no other trading system, and, therefore, believed that the adoption of the same illiberal laws was essential to their existence as an independent power. Their weakness invited insult and harsh laws from other nations; and while one of their first acts after the return of peace was to seek for commercial treaties with European powers, they also sought to protect their commerce with the instruments that were then everywhere employed. — All of this has changed. As the laws of trade were examined it was seen that they were natural laws, and that any interference with their free play was mischievous, and, instead of creating, destroyed commerce. The suicidal policy of taxing one's self in order to ward off an imaginary danger, became clearer to practical statesmen; and the old theory, that what one nation gains must be at the expense of another, has given way to a more just and accurate view that believes in leaving trade alone, to be governed by an enlightened self-interest. In spite, however, of this change of feeling, the United States has persisted in continuing along the old ruts, and has only two or three times shown any disposition to accept the truths that modern political economy has enunciated and is enforcing in spite of human laws to the contrary. But the inevitable is being enforced at a fearful cost to the people who have not recognized the true principles of trade and adapted their transactions to them. And the high industrial position which the United States holds at this time (1883) is in spite of restrictions, and not in consequence of them. — No sooner had the first congress met than a measure for taxing imports was introduced by Mr. Madison (April 8, 1789) for the purpose of giving some resources to the almost empty treasury. The measure proposed was extremely simple in its character, being intended as a temporary expedient, and enumerated rum and other spirituous liquors, wines, teas, coffee, sugar, molasses and pepper, as subjects for specific duties, while ad valorem duties were to be levied upon all other articles. The first debate at once disclosed a difference of opinion as to whether or not the tariff should be made protective in its character, but it was not for some years after this that the constitutional power of the government to lay duties for protection was called in question. The difference of opinion we have just noted has continued until to-day, and must always continue so long as a tariff is imposed. Those who favored a protective tariff could however point to existing industries, and claim that they were "infant" industries, requiring a protection against foreign competition. But at once the conflict of interests appeared. Massachusetts wished a duty on rum in order to protect her producers, but objected to one on molasses. Pennsylvania asked for protection to her iron and steel industries, but the southern states, which were chiefly agricultural, were opposed to granting it. The duty on hemp was favored by the south but urged by the north, and so on through the list, hardly one item of which was not opposed on sectional grounds, that the benefits would accrue to certain states and at the cost of the other states. The bill was finally completed, and adopted as a protective measure, but it was so only in name. The preamble read: "Whereas it is necessary for the support of the government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures, that duties be laid," etc.; and in the whole history of tariff legislation in this country it is the only law which was thus openly passed for protection to American industry. For prudential reasons this form of preamble was changed, and tariff enactments have on their face since been for the purposes of revenue only. This tariff became a law on July 4, 1789, and was to remain in force until June, 1796. The average duty levied under it was equivalent to an ad valorem rate of 8½ per cent.; and it was thought that this was too high a general scale of taxation, and would result in encouraging smuggling. As this act formed the foundation of our tariff system, we will give the duties imposed: distilled spirits, of Jamaica proof, 10 cents per gallon; other distilled spirits, 8 cents; molasses, 2½ cents; Madeira wine, 18 cents; other wines, 10 cents; beer, ale, and porter, in casks, 5 cents per gallon; in bottles, 20 cents per dozen; bottled cider, the same; malt, 10 cents per bushel; brown sugar, 1 cent per lb.; loaf sugar, 3 cents; other sugars, 2½ cents; coffee, 2½ cents; cocoa, 1 cent; teas from China and India, in American vessels, ranged from 6 to 20 cents per lb, and in foreign vessels somewhat higher; candles, from 2 to 6 cents per lb; cheese, 4 cents; soap, 2 cents; boots, per pair, 50 cents; shoes, from 7 to 10 cents, according to material; cables and tarred cordage, 75 cents per cwt.; untarred cordage, 90 cents; twine and pack thread, $2; unwrought steel, 50 cents per cwt.; nails and spikes, 1 cent per lb.; salt, 6 cents per bushel; manufactured tobacco, 6 cents per lb.; indigo, 16 cents per lb.; wool and cotton cards, 50 cents per dozen; coal, 2 cents per bushel; pickled fish, 75 cents per barrel; dried fish, 50 cents per quintal; playing cards, 10 cents per pack; hemp, 60 cents per cwt.; cotton, 3 cents per lb. In addition to these specific duties, an ad valorem duty of 10 per cent. was imposed on glass of all kinds (black quart bottles excepted), china, stone, and earthenware, gunpowder, paints, shoe and knee buckles, and gold and silver lace and leaf; 7½ per cent. ad valorem was charged upon blank books, paper, cabinet wares, leather, ready-made clothing, hats, gloves, millinery, canes, brushes, gold and silver and plated ware and jewelry, buttons, saddles, slit and rolled iron, and castings of iron, anchors, tin and pewter ware. Upon all other articles, including manufactures of wool, cotton and linen, 5 per cent. ad valorem was to be charged, except on saltpetre, tin, lead, old pewter, brass, iron and brass wire, copper in plates, wool, dyestuffs, hides and furs, to be free of duty. Such was the first tariff, and such was

the entering wedge of the protective system. — Between the tariff of 1789 and that of 1816, which marks the second important step in the tariff legislation of the country, there were passed upward of seventeen acts affecting the rate of duties, and the tendency was ever toward higher rates. The most important event of this period was the preparation of Hamilton's famous report upon manufactures, which contained the earliest formulation of protective principles that is to be met with in our legislative history, and still remains the source of protectionist argument. It would be impossible even to briefly summarize in this place this important contribution to tariff history, but the conditions under which it was written were, as I have already stated, peculiar, and many of his doctrines, if not indeed the whole basis of his reasoning, have been swept away by subsequent events. For the protection he advocated was justified chiefly by the fiscal restrictions of other nations. "The restrictive regulations," he says, "which, in foreign markets, abridge the vent of the increasing surplus of our agricultural produce, serve to beget an earnest desire that a more extensive demand for the surplus may be created at home. * * If the system of perfect liberty to industry and commerce were the prevailing system of nations, the arguments which dissuade a country in the predicament of the United States from the zealous pursuit of manufactures, would doubtless have great force. * * But the system which has been mentioned is far from characterizing the general policy of nations. The prevalent one has been regulated by an opposite spirit. The consequence of it is, that the United States are, to a certain extent, in the situation of a country precluded from foreign commerce. They can indeed, without difficulty, obtain from abroad the manufactured supplies of which they are in want; but they experience numerous and very injurious impediments to emission and vent of their own commodities. Nor is this the case in reference to a single foreign nation only. The regulations of several countries with which we have the most extensive intercourse, throw serious obstacles in the way of the principal staples of the United States. In such a position of things the United States can not exchange with Europe on equal terms; and the want of reciprocity would render them the victim of a system which should induce them to confine their views to agriculture, and refrain from manufactures. A constant and increasing necessity, on their part, for the commodities of Europe, and only a partial and occasional demand for their own, in return, could not but expose them to a state of impoverishment, compared with the opulence to which their political and natural advantages authorize them to aspire." A tariff was thus, in Hamilton's view, an instrument of compensation and retaliation rather than a purely protective measure in the sense in which protection is viewed at the present day; and it is needless to add, that Hamilton's view has little force now when the greater number of restrictions upon commerce that existed when he wrote have been removed. A like stand was taken by Jefferson in 1798, when he advocated countervailing foreign restrictions in case they could not be removed by negotiation. — The wars in Europe tended at first toward a more liberal system of commerce, and the merchants of this country benefited largely by it. Some moderate increase in the rates of duties were from time to time granted, but no real demand for protection until the return of peace in 1801, when the old restrictive system was re-enacted by Europe. This peace was, however, of short duration, and on the resumption of hostilities the commerce of this country was so seriously involved as to create a demand for retaliation. In 1805 the importation of British manufactures was prohibited; a few years later the Berlin decrees of Napoleon and the orders in council of England practically closed the ports of Europe to neutral vessels, and American ship owners suffered greatly. As a measure of retaliation an embargo law was passed in 1807, which was followed by non-intercourse laws. The heroic remedy involved in these measures was equivalent to cutting off a leg to cure a corn, and, together with the commercial war which ensued, worked a revolution in American economy. Prevented from obtaining their usual supplies from Europe, our people began to manufacture on their own account, rendered sure of a market by the war, and also by a doubling in all tariff duties, which was done in 1812 as a war measure. But a return of peace threatened to do away with this artificial situation, in which many factors were combining to stimulate the beginnings of industry, and this the manufacturers clearly recognized. In February, 1816, Mr. Dallas, the secretary of the treasury, made a report to congress on the tariff, and the committee on commerce and manufactures laid before the house a report in which a protective policy was strongly urged. One month later Mr. Lowndes reported a bill from the committee of ways and means. Mr. Calhoun said in the course of debate that the capital formerly employed in commerce had by the war been turned into manufactures. "This, if things continue as they are, will be its direction. It will introduce a new era in our affairs, in many respects highly advantageous, and ought to be countenanced by the government. * * He then said, that war alone furnished sufficient stimulus, and perhaps too much, as it would make their growth unnaturally rapid; but that, on the return of peace, it would then be time for us to show our affection for them. But it will no doubt be said, if they are so far established, and if the situation of the country is so favorable to their growth, Where is the necessity of affording them protection? It is to put them beyond the reach of contingency. Besides, capital is not yet, and can not for some time be, adjusted to the new state of things. There is, in fact, from the operation of temporary causes, a great pressure on these establishments. They had extended so rap-

idly during the late war, that many, he feared, were without the requisite surplus of capital or skill to meet the present crisis. Should such prove to be the fact, it would give a backset, and might, to a great extent, endanger their ultimate success. Should the present owners be ruined, and the workmen dispersed and turned to other pursuits, the country would sustain a great loss. Such would, no doubt, be the fact to a considerable extent, if not protected." (Works, vol. ii., p. 169.) This utterance is very significant as coming from a southern man. In fact, in this instance it was the south that favored, and the north that opposed, protection; and Webster always referred to the tariff of 1816 as a South Carolina measure. (Works, vol. iii., pp. 297, 502.) Very little of the long debate that followed on the bill has been preserved; the measure passed the house by a vote of 88 to 54, and the senate by one of 25 to 7. It became a law April 27, 1816. — This tariff not only marked the introduction of an entirely new principle, being intended as a protective tariff in fact as well as in name, but there was also a tendency to adopt, as far as possible, specific duties. There was also introduced what was called the minimum principle, which was in effect a specific duty. Thus, the duty upon cotton goods was 25 per cent., but all goods that cost less than twenty-five cents per yard were to be deemed to have cost twenty-five cents, on which the duty at 25 per cent. would amount to six and one-fourth cents, so that the minimum duty which could be paid on cottons was six and one-fourth cents per yard. Still, little was accomplished by the measure. It was intended to break the fall of the manufacturers, taking them gradually down stairs instead of throwing them out of the window. But the enormous importations even under the new rates of duties, while it filled the public treasury, produced a revulsion in the markets of a country already disturbed and impoverished by the effects of the war. A period of speculation was entered upon, and it was greatly aided and its results aggravated by the excessive issues of paper money. "The new tariff did not have the anticipated effect in aiding manufactures; on the other hand, by tempting larger investments in the hope of anticipated profits, it increased the competition, while it dilated the circle of manufacturing interests. The capital of New England went more decidedly into that branch of industry, so much so that the voice of New England began now to be decidedly on the side of protection. There is no doubt but that competition had much to do with the continued alleged distress of the manufacturers," a distress that was augmented by depressed markets and the debilitating effects of the war. The cry arose that more protection was needed, that British manufacturers were in league against American industry, and naturally ended in an organized movement for higher duties, in spite of the mass of evidence offered that they would, if granted, only produce more competition and a more complex but artificial condition of industry. The crisis of 1819 materially aided the protectionists, who may now be recognized as a party, and having an organ in Niles' "Weekly Register." "National interests and domestic manufactures" were taken up as a war cry, and societies for the promotion of domestic industry were formed in many states. These from time to time held conventions, and formulated long addresses to the people, in which the hard times, the fiendishness of the British government and of British manufacturers, and the necessity of higher duties and more protection, were set forth in terms calculated to make the blood of every American boil. — This led up to an attempt in 1820 to pass a high tariff measure, and to do away with the credit system, which then applied to imports, and was the forerunner of the modern warehouse system. Auctions, by which it was claimed that the country was flooded with foreign goods to the detriment of domestic manufactures, were to be taxed, in order that the number and transactions might be diminished. Had the national finances permitted such a reduction in revenue from customs, the tariff measure would have prohibited the importation of iron, cottons and woolens, to such an extent had the protective sentiment grown among a very small but influential party. The main support, however, for any further modification in rates lay in the maintenance by foreign nations of their restrictions upon trade. The most important increase applied to cottons and woolens. That on woolens was in retaliation of the higher duties which England imposed upon wools, and which threatened to entirely exclude American wools from the English markets. France heavily taxed our cotton. A further grievance lay in the high duties imposed by European nations upon wheat, which was an important article of export. Discriminating duties on cotton brought from beyond the Cape of Good Hope were favored, because it was claimed those countries consumed none of our raw materials, afforded no market for our produce, employed none of our labor, and exhausted our specie. No act, however, was passed, and no change was made until 1824, when a general tariff measure became a law. — The commercial and industrial condition had remained much depressed since the crisis of 1819, which had resulted from overtrading and reckless banking. According to Mr. Clay (speech, March, 1824), the general distress of the country was indicated "by the diminished exports of native produce; by the depressed and reduced state of our foreign navigation; by our diminished commerce; by successive unthreshed crops of grain, perishing in our barns and barn yards for the want of a market; by the alarming diminution of the circulating medium; by the numerous bankruptcies, not limited to the trading classes, but extending to all orders of society; by a universal complaint of the want of employment, and a consequent reduction of the wages of labor; by the ravenous pursuit after public situations, not for the sake of their honors and the

performance of their public duties, but as a means of private subsistence; by the reluctant resort to the perilous use of paper money; by the intervention of legislation in the delicate relation between debtor and creditor; and, above all, by the low and depressed state of the value of almost every description of the whole mass of the property of the nation." He therefore thought it a fitting time to introduce a "genuine American policy," the object of which was to create a home market for the produce of American labor, and, it may be added, a policy that would directly afford relief to manufactures only. Mr. Webster made a most masterly speech in reply, in the course of which he questioned the universal distress of the country as depicted by Mr. Clay, while admitting the depression, and said, "when we talk, therefore, of protecting industry, let us remember that the first measure for that end is to secure it in its earnings; to assure it that it shall receive its own. Before we invent new modes of raising prices, let us take care that existing prices are not rendered wholly unavailable by making them capable of being paid in depreciated paper." As the presidential election was then depending, political matters were dragged into the debates, and now for the first time it was seriously questioned whether congress had the constitutional power to pass a measure purely for protection, and not as a revenue act. The debates in the house lasted more than ten weeks, and then the bill passed by only a majority of five votes, several of the members being brought into the hall on their sick couches in order that their votes might not be lost. In the senate it commanded a majority of four votes. It could not be regarded as a political measure, nor yet as a party question. Adams, Clay and Jackson, all voted for it; the southern states were dissatisfied with the result, as was also New England. But as iron, wool, hemp and sugar received protection, a combination of the western and middle states received sufficient support to pass the bill. The average rate of duties under the law of May 22, 1824, was 37 per cent. — Those who supposed that the protectionists would be contented with their victory were much mistaken. No sooner was the tariff of 1824 gained, when an agitation for higher duties was begun, the general depression and the illiberal commercial policies of other nations being the main pretexts. A change, however, was taking place in England, which in a measure compelled the protectionists to seek new reasons for their movement. The trade between the United States and the West Indies had been the cause of much retaliatory legislation on the part of Great Britain and this country since 1815; but in spite of restrictions and prohibitions a profitable though illegal commerce was maintained by American merchants. The measures adopted by the English parliament had not only aroused our congress, but had given rise to threats of retaliation on the part of other European nations. Mr. Huskisson, then president of the English board of trade, was wise enough to recognize the necessity of a change in commercial policy, and inaugurated his system of reciprocity in 1826, which was carried into effect in the following year. This marks the first breach made in England's protective system, and logically led up to the repeal of the corn laws and the abolition of all protective duties, so that at the very time that England was throwing open her ports and removing the restrictions that were imposed on her commerce, the United States was preparing to increase the tariff and raise higher the barriers which were intended to limit her foreign trade. — In 1825 a financial crisis occurred, which was caused by a great expansion in the paper circulation, and was precipitated by extensive failures in London. This gave the protectionists an opportunity to attribute the distress to the operation of the tariff of 1824. The importations were large; and, owing to changes in the English customs by which important advantages were gained by the English manufacturers, it was argued that the woolen industry, which had grown enormously since the peace, encouraged by the federal legislation, would be ruined unless further protection was afforded. This indicated a marked change in policy, as Prof. Sumner points out. Formerly the "American system" meant retaliation to force a foreign nation to break down its protective system; it was now an instrument to countervail and offset any foreign legislation, even in the direction of freedom and reform or advance in civilization, if that legislation favored the American consumer. (Life of Jackson, pp. 196, 198.) — Another marked change of opinion was now seen. New England had heretofore opposed protection as hostile to her commercial interests. Manufactures were now springing up in those states, and had made such progress as to create a revulsion in public sentiment; and in 1826 a petition went up from Boston, praying for higher duties on woolens in order to protect this important industry in New England. In 1827 a bill to increase the duties on woolens passed the house, but failed to become a law. Even Buchanan, of Pennsylvania, a good protectionist, was opposed to it, "as prohibitive in its nature, and in no shape one for revenue. He had voted for the protection upon woolens in 1824, but that was no reason why he should favor the prohibition now proposed." "Politics ran very high on this bill. In fact, they quite superseded all the economic interests. * * Passion began now to enter into tariff discussion, not only on the part of the southerners, but also between the wool men and the woolen men, each of whom thought the other grasping, and that each was to be defeated in his purpose by the other." (Sumner.) The rejection of the measure, however, only served to increase the efforts of its friends. A convention of wool growers and manufacturers was held in July, 1827, at Harrisburg, and the iron, glass, wool, woolen, hemp and flax interests were represented, and asked to be recognized in any scheme of protection. The presidential election was to occur

in the next year, and the tariff was made a leading issue. The sectional feeling was being strongly developed. The planting states of the south became more determined to resist a policy which they regarded as benefiting the north at their expense, and the north and east became more urgent in demanding a continuance of a system which, they alleged, had tempted their capital into investments that must inevitably be ruined, unless the protective policy was not only maintained, but extended. The secretary of the treasury, Mr. Rush, took up the question in his report, and claimed, that, as the land laws of the country protected agriculture, at least a like amount of protection should be given to industry. (See article on PUBLIC LANDS in this volume, p. 472.) — A tariff bill was drawn up by Silas Wright, of New York, and he defended its protective features on the ground that "it was intended to turn the manufacturing capital of the country to the working up of domestic raw material, and not foreign raw materials." What followed can best be described in the words of Prof. Sumner: "Mallary tried to introduce those propositions [of the Harrisburg convention] as amendments on the floor of the house. All the interests, industrial and political, pounced upon the bill to try to amend it to their notions. New England and the Adams men wanted high duties on woolens and cottons, and low duties on wool, iron, hemp, salt and molasses (the raw material of rum). Pennsylvania, Ohio and Kentucky wanted high taxes on iron, wool, hemp, molasses (protection to whisky), and low taxes on woolens and cottons. The southerners wanted low taxes on everything, but especially on finished goods, and if there were to be heavy taxes on these latter they did not care how heavy the taxes on the raw materials were made. * * The act which resulted from the scramble of selfish special interests was an economic monstrosity." The legislature of South Carolina protested against the bill, but it passed by a vote of 105 to 74. Mr. Wilde moved to amend the title by adding the words "and for the encouragement of domestic manufactures," a motion that was opposed by Mr. Randolph, because he said domestic manufactures were those carried on in the families of farmers, and "this bill was to rob and plunder one-half of the Union for the benefit of the residue." Mr. Drayton also moved to change the title so that it might read "in order to increase the profits of certain manufactures." The tariff of 1828 become known as the "tariff of abominations." It was the immediate cause of the nullification movement. (See NULLIFICATION.) — In her protest against the tariff law of 1828 South Carolina spoke of it as "in violation of state rights, and a usurpation by congress of powers not granted to it by the constitution; that the power to encourage domestic industry is inconsistent with the idea of any other than a consolidated government; that the power to protect manufactures is nowhere granted to congress, but, on the other hand, is reserved to the states; that, if it had the power, yet a tariff grossly unequal and oppressive is such an abuse of that power as is incompatible with a free government; that the interests of South Carolina are agricultural, and to cut off her foreign market, and confine her products to an inadequate home market, is to reduce her to poverty. For these and other reasons the state protests against the tariff as unconstitutional, oppressive and unjust." North Carolina also protested against the law, and Alabama and Georgia denied the power of congress to lay duties for protection. In 1829 the feeling in the southern states was very strong against the tariff, and threats of nullification and secession were freely made. In 1830 the tariff was more strictly enforced in spite of a movement looking to reductions in the rates of duties, and in the following year a free trade convention was convened at Philadelphia, and the protectionists met in New York. Addresses to congress were issued by each faction, and the next session of congress was full of the tariff. The president had recommended a revision in his message, and the discontent of the south became more and more apparent. Two bills were prepared by the committee of ways and means, and a third was presented by the committee on manufactures; the secretary of the treasury had his bill, and the senate compiled the fifth measure. The result was the passage of a bill which maintained all of the protective features of the tariff of 1828 while reducing or abolishing many of the revenue taxes. The tax on iron was reduced, that on cottons was unchanged, and that on woolens was increased, while some of the raw wools were made free of duty. This measure was passed on July 14, 1832; in November a convention in South Carolina declared the acts of 1828 and 1832 null and void in that state. The president issued his proclamation against nullification, and in his annual message advocated as early a reduction of duties to the revenue standard as a just regard to the faith of the government, and to the preservation of the large capital invested in establishments of domestic industry, might permit. In January, 1833, a bill to enforce the revenue laws was reported to congress. The state legislatures took a part in the controversy. Alabama, Georgia and North Carolina condemned the tariff as unconstitutional, while New Hampshire passed resolutions in favor of reducing the tariff to the revenue standard. Massachusetts, Rhode Island, Vermont, New Jersey and Pennsylvania thought that the tariff ought not to be reduced. In February Mr. Clay introduced a measure that was intended as a substitute for all tariff bills then pending, and looked toward a gradual reduction in duties: of all duties which were over 20 per cent. by the act of 1832, one-tenth of the excess over 20 per cent. was to be struck off after September, 1835, and one-tenth each alternate year thereafter until 1841. As first drawn the preamble stated that, after March, 1840, all duties should be equal, "and solely for the purpose and with the intent of providing such

revenue as may be necessary to an economical expenditure by the government, without regard to the protection or encouragement of any branch of domestic industry whatever." The enforcing and tariff acts were carried through together. This was the famous "compromise" tariff, and was followed by a repeal on the part of South Carolina of the nullification law. "This tariff," says Sumner, in his "History of American Currency," "was deceptive and complicated. It had no principle of economic science at its root—neither protection, nor free trade. It was patched up as a concession, although it really made very little, and its provisions were so intricate and contradictory that it produced little revenue. Specific duties were unaffected by it, and these included books, paper, glass and sugar. It did not run its course without important modifications in favor of protection, for it could not bind future congresses, and the doctrine of the horizontal rate of 20 per cent.—a doctrine which had no scientific basis—produced an increase on many articles." Elsewhere the same writer speaks of it as a "pure political makeshift," in which the public and private interests had no consideration." (Mr. Benton, in his "Thirty Years in the United States Senate," has several chapters on this measure, which should be consulted.)—The four years after 1833 were marked by great speculation, which was chiefly directed toward schemes of internal improvement, and culminated in the crisis of 1837. The depression that naturally followed was made use of by protectionists, and hard times, produced by low duties and insufficient protection, was again a prominent cry. In spite of the fact that in 1836 the government was in a position to distribute a large surplus revenue among the states, in 1838 it stood in need of a larger income. The compromise bill had guaranteed that after 1842 the highest duty levied should not exceed 20 per cent. except in case of war, and in order to maintain this guarantee a 20 per cent. duty was levied upon many new commodities, but without producing the requisite increase of revenue. In 1841 a home league was formed, the purpose of which was to agitate for high duties, and the president's message gave an opportunity for a general discussion of the subject in congress. A provisional tariff bill, by which the operations of the existing tariff were to be continued until August, 1842, passed the house, but in the senate was amended by a proviso postponing the distribution of the proceeds of the public lands until the same date. The president vetoed it, on the ground that it abrogated the provisions of the "compromise act," and for other reasons. Congress did not pass the measure over the president's veto, but incorporated the same proviso respecting distribution into a general tariff law, which suffered the same fate. The president objected to it, first, on the ground that the bill united two subjects which, so far from having any affinity to one another, were wholly incongruous in their character, as it was both a revenue and an appropriation bill; secondly, the treasury being in a state of extreme embarrassment, the bill proposed to give away a fruitful source of revenue, a proceeding which he regarded as being highly impolitic, if not unconstitutional; and thirdly, because it was also in violation of what was intended to be inviolable as a compromise in relation to the tariff system. A general tariff act was passed without the obnoxious clause, and was a return to protection. The average rate of duty levied upon dutiable imports was about 33 per cent., and the principle of "home valuations," which had been adopted in the compromise tariff, was dropped. In 1844 Mr. Polk became president, and, as a southern man, it was expected that he would advocate a policy other than protective as a basis for tariff revision.—It will now be convenient to note some of the changes in circumstances that had occurred since 1825. Up to that time, as I have already said, the main object of the tariff was to countervail the restrictive commercial policy of other nations. It was an instrument for retaliation, by which it was hoped that concessions could be wrung from those countries with which we might have commercial relations. "To all the powers that wish 'free trade,' we say, Let free trade be; to all that will restrict us, we say, Let restriction be." So wrote that ardent protectionist, Niles, in 1826. Now, however, when England was preparing to mitigate the many limitations and restrictions that she had imposed upon her foreign commerce, it was claimed that her action would prove of injury to American interests, industrial and commercial, and that we must increase our restrictions in order that these interests might not suffer, but be amply protected. When Great Britain reduced the tariff on wools, a commodity that congress had more highly taxed in 1824, Mr. Everett said, "Unless the American people think it just and fair that the laws passed by the American congress for the protection of American industry should be repealed by the British parliament, and that for the purpose of securing the supply of our market to the British manufacturer to the end of time, it was the duty of congress to counteract this movement," and again, "Believing, of course, that there is no wish to single it out (the manufacture of woolens) for unfriendly legislation at home, I can not sit still, and see the gigantic arm of the British government stretched out across the Atlantic, avowedly to crush it." In 1832 the doctrine that a high tariff meant low prices was prominently advanced, and somewhat later the balance of trade theory, the excess of imports over exports, causing a drain of specie to the manifest impoverishment of the country, was harped upon. But all through this period the expediency and necessity of protecting "infant industries" were constantly depended upon by the defenders of the "American policy," and as a corollary to this a home market for the agricultural productions of the country, now excluded from foreign markets, was to be

created and maintained. In 1839 the agitation against the corn laws was begun in England, and resulted in their repeal in 1846. In 1849 another important step was taken, in the repeal of the navigation laws. Meanwhile a change was occurring in the complexion of the tariff debates in this country. "In the presidential campaign of 1840, protection was advocated, I believe for the first time, on the ground that American labor should be protected from the competition of less highly paid foreign labor. The pauper-labor argument appeared full-fledged in the tariff debates of 1842; and since that time it has remained the chief consideration impressed on the popular mind in connection with the tariff." (Taussig.)—Mr. Polk, in his inaugural address, was conservative. "I have heretofore declared to my fellow-citizens, that in my judgment it is the duty of the government to extend, as far as may be practicable to do so, by its revenue laws, and all other means within its power, fair and just protection to all the great interests of the whole Union, embracing agriculture, manufactures, the mechanic arts, commerce and navigation. I have also declared my opinion to be in favor of a tariff for revenue; and that, in adjusting the details of such a tariff, I have sanctioned such moderate discriminating duties as would produce the amount of revenue needed, and, at the same time, afford reasonable incidental protection to our home industry; and that I was opposed to a tariff for protection merely, and not for revenue." While Mr. Polk thus confined himself to general phrases, his secretary of the treasury, Mr. Robert J. Walker, prepared a report in which his treatment of the tariff question deserves to be ranked with Hamilton's famous report on manufactures. It stamped Mr. Walker as an economist and practical financier of the highest order, and his utterances mark an important stage of tariff legislation in this country. He laid down the following general principles as a basis for revising the revenue laws: 1, that no more money should be collected than is necessary for the wants of the government, economically administered; 2, that no duty be imposed on any article above the lowest rate which will yield the largest amount of revenue; 3, that below such rate discrimination may be made, descending in the scale of duties, or, for imperative reasons, the article may be placed in the list of those free from all duty; 4, that the maximum revenue duty should be imposed on luxuries; 5, that all minimums and all specific duties should be abolished, and ad valorem duties substituted in their place, care being taken to guard against fraudulent invoices and undervaluation, and to assess the duty upon the actual market value; 6, that the duty should be so imposed as to operate as equally as possible throughout the Union, discriminating neither for nor against any class or section. — In accordance with Mr. Walker's views, the tariff of 1846 was framed. He divided his classification into nine schedules, each of which had its own rate of duty (comprising many articles), running from 100 per cent. (distilled spirits and brandy), down to 5 per cent. (the raw materials of manufacture). This number of schedules was in the bill altered to eight, and the highest duty levied was 75 per cent. ad valorem. The bill also allowed the warehousing privilege for the first time. (See WAREHOUSE SYSTEM.) After a general debate the measure passed the house by a vote of 114 to 95, but was nearly killed in the senate, being passed only by the casting vote of the president of the senate. The average rate of duty under this act was 25 per cent. ad valorem, and it produced an average annual revenue of $46,000,000, as against one of $26,000,000 under the tariff of 1842. — Of the consequences of this "revenue tariff of 1846," Prof. Sumner says: "The period from 1846 to 1860 was our period of comparative free trade. The sub-treasury act of 1846 removed subjects of currency and banking from national legislation. Thus these two topics were for a time laid aside. For an industrial history of the United States, no period presents greater interest than this. It was a period of very great and very solid prosperity. The tariff was bad and vexatious in many ways, if we regard it from the standpoint either of free trade or revenue tariff, but its rates were low and its effects limited. It was called 'a revenue tariff with incidental protection.' The manufactures which, it had been said, would perish, did not perish, and did not gain sudden and exorbitant profits. They made steady and genuine progress. The repeal of the English corn laws in 1846 opened a large market for American agricultural products, and took away the old argument which Niles and Carey had used with such force, that England wanted other countries to have free trade, but would not take their products. The effect on both countries was most happy. It seemed as if the old system was gone forever, and that these two great nations, with free industry and free trade, were to pour increased wealth upon each other. The fierce dogmatism of protection and its deeply rooted prejudices seemed to have undergone a fatal blow. Our shipping rapidly increased. Our cotton crop grew larger and larger. The discovery of gold in California added mightily to the expansion of prosperity. The states, indeed, repeated our old currency follies, and the panic of 1857 resulted, but it was only a stumble in a career of headlong prosperity. We recovered from it in a twelvemonth. Slavery agitation marked this period politically, and if people look back to it now they think most of that; but industrially and economically, and I will add also, in the administration of the government, the period from the Mexican to the civil war is our golden age, if we have any. As far as the balance of trade is concerned, it never was more regular and equal than in this period." (Lectures on Protection, p. 54.) — The revenue collected under this tariff was so large, that, in 1857, it became necessary to reduce it, as the circulating medium of the country was being locked up in the treasury. An attempt

was made to pass a protective tariff, but it was defeated. The secretary of the treasury had recommended that raw materials should be made free of duty, and also salt, as a necessity for the western packer. The eastern manufacturers favored this measure, and wool was the most difficult commodity to rate, as the west wished it made dutiable and protected. The tariff of 1857 was denounced as the result of a "fraudulent combination of those who favored the protection of hemp, sugar, iron and the woolen manufactures of Massachusetts. It was a blow at the wool grower." By this act the average duty was lowered to about 20 per cent. ad valorem.—The crisis of 1857 was followed by deficits in the government finances, and it became necessary to revise the tariff. In 1861 a measure known as the "Morrill tariff" was passed, which was a decided step toward a protective measure, but it remained in force only a few months. The war created necessities which compelled the government to seek every possible source of revenue, and while the dilatory and tentative tax methods applied in the first years of the war only complicated matters, and forced the government to have recourse to that most dangerous of financial expedients, an irredeemable paper currency, the tax privilege was exercised as far as it could be before the end of the war. In these years the tariff was carried from a low and revenue rate of duty to one of extreme protection—not for the sake of protection, but in order to obtain revenue. An internal revenue system that was all-pervading was imposed, and it was to counteract the high taxes levied under this system that many of the tariff duties were carried to such an excessive point. Measure after measure raising duties was adopted between the years 1861 and 1866, and it was inevitable that protective duties should creep in. Settled policy there was none, and while revenue was always the plea for action, the duties imposed often defeated that plea, by becoming prohibitive. Everything was taxed, and, under customs and excise laws, commodities might be taxed many times. On the return of peace the important changes made applied chiefly to the internal revenue system, and the perpetual tinkering of the tariff had served to bring out in bold relief the many protective features it contained. "With the termination of the war," writes Mr. David A. Wells when special commissioner of the revenues, "and with accruing receipts from the tariff in excess of the actual requirements of the treasury, the popular tendency, as expressed by legislation, accomplished or projected, has been to reverse the order of importance of these two principles, and to make the idea of revenue subordinate to protection rather than protection subordinate to revenue. And in carrying out, furthermore, the idea of protection, but one rule for guidance would appear to have been adopted for legislation, viz., the assumption that whatever rate of duty could be shown to be for the advantage of any private interest, the same would prove equally advantageous to the interests of the whole country. The result has been a tariff based upon small issues rather than upon any great national principle; a tariff which is unjust and unequal; which needlessly enhances prices; which takes far more indirectly from the people than is received into the treasury; which renders an exchange of domestic for foreign commodities nearly impossible; which necessitates the continual exportation of obligations of national indebtedness and of the precious metals; and which, while professing to protect American industry, really, in many cases, discriminates against it. * * One of the first things that an analysis [of the existing tariff] will show is, that every interest that has been strong enough or sufficiently persistent to secure efficient representation at Washington, has received a full measure of attention, while every other interest that has not had sufficient strength behind it to prompt to action has been imperfectly treated, or entirely neglected."—The effect of the commissioner's recommendations was to lead up to a general debate on taxation in 1870. A bill which originally proposed to touch only internal duties, was gradually enlarged until it covered not only excise, but also customs duties. Protection had now become a cardinal principle of the republican party, the party in power, and most of the protective features of the tariff were retained under the new measure, which became a law July 14, 1870, and whatever reductions were made applied to commodities in common use, like tea, coffee, sugar, etc., or luxuries, like wines, spirits, brandy, etc. The reduction in revenue by these changes was estimated to be about $29,000,000, and at the same time internal taxes to the amount of $55,000,000 were removed. The real burden of the tariff was hardly lightened, as the high duties on the necessaries of life remained. In 1871 an attempt was made to repeal the duty on coal, but it failed. The question of protection, however, came up, and to prevent further discussion the duties were removed from tea and coffee (1872), and in the same year a general tariff was passed, which still left the protective duties almost unchanged; admitting large classes of manufactures to a reduction of 10 per cent. without designating specifically the articles to which the reduction should apply. Between March 1, 1861, and March 4, 1873, fourteen principal statutes relating to classification and rates, besides twenty other acts or resolutions modifying tariff acts, had been passed, and parts of each were in force. To this must be added the laws passed prior to 1861, and under which customs were still collected. This created great doubt as to what was the law, and the uncertainty gave much trouble to the government, and involved the importers in costly litigation and imposed upon them vexatious delays. "Under these various enactments, questions relating to the proper assessment of duties constantly arise. There is often a direct conflict between different statutes, and occasionally between two or more provisions of the same statute, while single provisions are frequently held to embrace different meanings.

These differences can be settled only by arbitrary interpretations or by adjudications in court. * * The number of statutory appeals to the secretary of the treasury on tariff questions during the last fiscal year (1873) was 4,731, exclusive of miscellaneous cases or applications for relief, numbering 5,065."—The financial crisis of 1873 naturally had some influence upon the revenues of the government, and in 1874 the cry was raised that the government finances were embarrassed through too large reduction in taxes. This allowed the protectionists an opportunity to carry a measure through congress restoring the 10 per cent. duties upon commodities which had been taken off in 1872, and also to increase by one-fourth the duties on sugar. While these movements precluded all idea of revising the tariff so as to return to a revenue standard of duties, yet great dissatisfaction was expressed with the operation of the law. I have just noted one of the difficulties connected with its administration, that of being needlessly complex. Other objections to it consisted in the great stimulus it gave to smuggling and undervaluation of imports, practices which even the honest importer was forced, in self-defense, to adopt. Moreover, the law became each year more and more complicated. It consisted, first, of the act of congress; second, of the decisions of the treasury officials interpreting the law, and these decisions had the force of law and were unchangeable; and, finally, of the decisions of the courts. The expediency, and even the necessity, of a revision, now became more and more urgent. "The revised tariff," writes the secretary in 1875, "contains thirteen schedules, embracing upward of 1,500 dutiable articles which are either distinctly specified or included in general or special classifications. To these must be added nearly 1,000 articles not enumerated, but which under the general provisions of two sections of the law, would be assigned a place as dutiable either by virtue of similitude to some enumerated article, or as articles, manufactured or unmanufactured, not otherwise provided for, making over 2,500 in all. The free list contains an enumeration of over 600 articles, thus constituting a total aggregate of more than 3,000 articles embraced by the tariff either as dutiable or free. Of the articles subject to duty, and either named in, or subject to, specific classification by schedule, 823 pay ad valorem rates varying from 10 to 75 per cent.; 541 pay specific duties, according to quantity or weight; and 160 pay compound, or both specific and ad valorem, rates."—Not only was a sentiment against the tariff being created on account of its many unreasonable and exorbitant features, but a like feeling was engendered by a desire to reduce war taxation to the limits that an economical administration of the government required. The largest sum collected from customs in any one year was in 1872, when it had attained the amount of $216,370,286. During the years of depression that followed the crisis of 1873 the receipts from this source steadily dwindled, reaching their lowest point in 1878, when they were only $130,170,680. An improvement then became manifest, and in the following years the increase was enormous, giving, in connection with other sources of revenue, a revenue largely in excess of the wants of the government. In 1880 this surplus revenue was nearly $66,000,000; in 1881, more than $100,000,000; and in 1882, $146,000,000. An examination of the annual appropriation bills for these years will show that expenditure kept pace with revenue. While these bills do not take into account the permanent appropriations—providing for the debt, for the collection of customs, etc.—yet, as they are prepared by the executive departments of the government, they give a better idea of the general tendencies of governmental expenditure than would the amounts actually expended. The total amounts appropriated by these bills vary from year to year, but they vary in a general way with the revenue of the government—increasing when the revenue increases, and decreasing when it becomes less. The ten years that followed 1873 gave a proof of this. The public income had hardly begun to be affected by the crash of 1873 when the appropriations for 1874 were framed; but from that year until 1878 there was a steady decrease. Beginning with the bill for 1881, when the effects of the revival of trade and industry in 1879 were beginning to be felt, the appropriations greatly increased, and culminated in the notorious bill for 1883, which included two of the most notorious legislative swindles that could be perpetrated—the river and harbor bill, and the arrears of pensions act. As the surplus revenue in the treasury increased, the demands upon it became greater, and the greater the surplus the more questionable became the schemes for spending it. The accumulation of such a balance was a source of danger, and a constant temptation to jobbers and swindlers who originate and live upon superfluous public expenditure.—It was now seen that some changes in the tariff would become necessary, not only for the purpose of simplifying its provisions, but also as a means of removing tax burdens from the people. The old question of revenue or protective taxation was revived, and it became manifest that the battle was to be fought on that line. While all right-minded persons saw that taxes should be reduced, when it came to a discussion of methods, a hopeless disagreement arose. Those who favored protection were desirous of abolishing all internal taxes in order that the tariff might remain untouched. The other side wished to reduce the tariff, and take from it the many extravagant protective features. Several measures of tariff reform were defeated in these years, and no final or decisive action was taken until 1882, when congress turned the subject over to a commission of nine members taken from civil life, for consideration. It was evident that here was an excellent opportunity offered for a satisfactory solution of the question. There was a general demand for reduced duties; even protectionists were willing to

submit to such a reduction. The presidential campaign of 1880 had been fought on the issue of the tariff, but in that blind and unreasonable way that settled nothing, though awakening a spirit of inquiry. This had given strength to many movements in favor of revenue reform, especially in the western states, and it was in answer to this feeling, which was developing into a political force, that the commission measure was adopted, because it was believed that such a plan would produce the best and speediest results. The president, who had the appointment of the members of the commission, nullified whatever of benefit might be expected of it, for he took men who were directly interested in the maintenance of high protection. Of the nine men chosen there was not one who could pretend to be a student of economic principles, not one who could have explained the incidence of a tax. The influence of the lobby in framing tariff legislation had become notorious, but in this commission the lobby influence was maintained, and allowed even better opportunities for carrying its point than it enjoyed before. The commission traveled over a part of the country taking testimony, and made its report to congress. It was afterward developed that the schedules of duties presented with the report had been prepared by men who were themselves manufacturers and therefore interested in keeping intact protection. The report, while promising a reduction in duties, contained some of the most barefaced attempts to double and triple duties; while making a pretense to revise and reform the tariff, it was but a juggle and a sham. The members of the commission (with one honorable exception, Mr. McMahon, whose technical knowledge of the operation of the then existing tariff was of great service) were wholly unfitted for the work intrusted to them, and as a consequence the results of their labors were of little value. One year had thus been wasted. — Nor were the events that followed the presentation of this report calculated to increase the expectation that the subject of revenue reform would be adequately handled by congress. The senate, rejecting the commission schedules, prepared a bill of its own; and the house also framed a new bill for its own consideration. The whole session of 1882–3 was given over to a discussion of these various measures, schedule by schedule, and line by line. Every possible difference of opinion was developed in these debates; but, as the high tariff party was in the majority, little toward a reduction of duties could be accomplished. A large number of ad valorem duties were made specific, though no change in the actual amount of tax was thus brought about. Owing to its being a short session, the house was unable to complete the consideration of its own bill, and took up that of the senate. Some differences being developed, they were referred to a conference committee, in which the high protectionists had a large majority. Here many changes were made, some of which had been voted down in both houses, and the resulting hybrid measure became a law one day before the session closed, no time being given for an examination of the recommendations of the conference committee. The law, however, satisfied no one, and there is every likelihood that the whole tariff will be again revised at no late day. — Meagre as this outline is, it is enough to show that the United States has never had a tariff that was at all suited to its industrial and commercial interests since the first revenue tariff imposed before 1826. And as the average rate of the tariff has increased it has become more and more injurious to the interests involved, as no high tariff can be applied to such various conditions as are to be found in this country without doing as much mischief to one part as good to another. — AUTHORITIES. Prof. Wm. G. Sumner's *Lectures on the History of Protection*, *Life of Andrew Jackson* and *History of American Currency*. The writings of Henry C. Carey and H. C. Baird. There is no good history of the finances of the country in the English language. The pretentious work of A. S. Bolles is unsatisfactory, and the facts are much distorted. Niles' *Weekly Register* contains much valuable material, and the writings of Condy Raquet, now quite scarce, should be carefully read. The public documents contain many exceedingly valuable reports on the tariff, and the proceedings of some early conventions (1819, 1831, etc.) throw much light upon the effects of tariff legislation. Mr. David A. Wells has contributed much to a proper understanding of the last war tariff, and stands well to the front in the great number of writers who have given attention to this subject. A special *Report on Customs-Tariff Legislation* was prepared by the Bureau of Statistics in 1873, and the provisions of the laws are fully given, as also in Heyl's and Williams' two *Manuals*. WORTHINGTON C. FORD.

TARTAR, TARTARY. The Chinese Tâ-tâ, or Tâ-tar, was originally a generic term for tributary or vassal peoples, especially of those hordes inhabiting the plateaus of northern Asia beyond the great wall which was built to repel them. One sinologue finds the derivation of the word in one of the forms of obeisance in vogue among the tribes of Mongolia, in which the foot is struck on the ground, and a prominent article of dress, usually worn in front, is at the same moment thrown behind. The leaders of most of the uprisings of population in the grassy plateaus of central Asia that have emerged into history, spurning the epithet of Tâ-tars, have taken to themselves various dynastic names, such as Hun, Turk, Liâo, Kitan, Kin, Mongol, Manchiu, etc. Genghis Khan, for instance, gave to his people the name Mongols (Mungku-jin), "braves," in order to show that they were no longer Tâ-tars, or tributaries, but conquerors. When the Mongols invaded Asia, and even Europe, overrunning Russia, and covering it with ashes and blood, the Christian monks, struck with the resemblance of the word Tâ-tar to Tartarus, and ready to associate these centaurs—

man and horse being as one animal—with devils from hell, called them "Tartars." Hence, our incorrect English spelling. Gradually the word Tartary was applied to all the lands ruled by the Mongols—the whole of eastern Europe, and central Asia; "European Tartary" was that part of Russia occupied by the Mongols, while "Asiatic Tartary" stretched from the Caspian to the Yellow sea. As the Mongols were by degrees expelled from Russia, the term was restricted to the Crimea (settled by the Crim Tâtars) and to the Chinese dependencies north and west of the great wall. As Chinese geography was better understood, the once vague and elastic term more and more lost value as a geographical expression. It continued to be applied, however, to that part of Turkestan which was until lately neither Chinese nor Russian—an annually decreasing territory. Since the Russian campaigns under Kauffman and Skobeloff, resulting in the fall of Khiva (1873), of Khokand (1876), and of Merv (1879–80), the whole of "Independent Turkestan" may be considered part of Russian territory, since it has been formally annexed. In 1882 deputations of the inhabitants to St. Petersburg gave their formal adherence to the czar. With this extension of Russian arms to the very borders of Afghanistan, "Tartary" ceases to be a proper geographical expression. In China, the term "Tâ-tar" is popularly applied to the Mongols beyond the great wall, and, by ultra-patriotic haters of the ruling dynasty, to Manchius in general; but it is so mixed up with opprobrious epithets, such as "horsey," "raw," "green," etc., that the word is not in good repute among writers. In central Asia, "Turk" and "Tâ-tar" are synonymous. Foreigners distinguish the Chinese from their Manchiu conquerors, and we read in works of travel and history of "the Tartar city," "the Tartar garrison," as parts of Peking, Canton, etc. — Ethnologically the "Tartars" are the Altaian group of tribes and nations, not of Aryan blood, that did once, or do now, inhabit the lands of northern and central Asia, including the Scythians of classic writers, the Huns, the Turks, Kirghez, Calmucks, Mongols, Manchius, Tungusians, the various peoples of Turkestan, with many tribes now greatly modified by Aryan admixture, with others as widely scattered as the Tamils of southern India on the one hand, and the Coreans and Japanese on the other, between whose languages modern linguists (Thirwall, Dallet, Ross, Edkins, Aston, Chamberlain) have demonstrated close affinities. Notwithstanding all variations from the original type, the Tâtar face has high cheek bones, thick nose depressed at the roots, scanty beard, round skull, and narrow, slit-like eyes, with a peculiar restless expression, which is the same whether in Constantinople or in Tôkiô. Balfour thus pictures from life the Manchiu and the Chinese, or the "Tartar," and the native Mandarin. "The Manchiu has a dark complexion and roughish skin; he is a large-boned man; his face is long and lantern-jawed; he has a wide mouth, and a firm, decided nose. The expression of his eyes is shrewd, and under the gloss of etiquette you can detect the natural fierceness of the nomad. The Chinese is the exact reverse. His build is small and flexible; his face—round, unctuous and fat, unseared by the suspicion of a wrinkle—is the color of Devonshire cream. His movements are graceful and suave; they give you the idea of liberally-oiled joints; his hands are delicate, slim, and very plump; his expression is courtly; he has a winning smile and bow for every one. * * Good emperors are not made of such material." The Tâ-tar hordes which have repeatedly rushed out of the north into China, have kept the hoary empire periodically infused with fresh blood and vigor and new imperial dynasties. Yet, though able to conquer, destroy or build on a well-established foundation, they have no elements of permanence; and away from the deserts, cut off from nomadic life, the Tâ-tar fabrics of government in continental Asia have, one after another, fallen to ruins after a burst of grandeur that seems strangely brief in comparison with the enduring character of Aryan institutions and European governments. In religion the Tâ-tars were at first devotees to Shamanism, and then to Buddhism, which degenerated into Lamaism, while in Europe and western Asia many tribes have adopted the Sunni form of Islam. (See also MONGOLS.)

WM. ELLIOT GRIFFIS.

TA-TSING (Great Pure). The name of the ruling dynasty of China, under whose reign the Middle Kingdom has perforce begun to adopt and assimilate the forces of western civilization. Direct commercial and diplomatic relations between China and Europe can scarcely be said to have begun until the Ta-tsing line of emperors filled the throne in Peking. One of the several foreign imperial houses that have ruled the mightiest empire of Asia, the Ta-tsing, is "the best Tartar dynasty China has ever had." The ancestral home of the Manchiu chieftains, to whom divine honors as founders are now rendered in Peking, is the northern base of the ever-white mountains which separate Corea from Manchiuria. According to legend, one of three celestial virgins, while bathing in a lake on the surface of which were mirrored the snowy peaks, found on her clothes a red fruit dropped by a flying magpie, and immediately eating it, conceived, and gave birth to a son. On the death of his mother, he floated down the river Hurka, and being hailed by the warring chiefs as a supernatural leader, established his capital at Odoli, and began in the fourteenth century the unification of the Manchiu tribes. The name of this ancestor was Aisin-Gioro, or Golden Family Stem. Gradually encroaching upon the Chinese possessions, the Manchius were invited to Peking to assist against rebels. Finding themselves there, they stayed, and began the conquest of the great plain of China. In a word, they supplanted the native Ming dynasty. In exchange for the shaven forescalp and long queue ("pig-

tail") which they inflicted upon the Chinese, they themselves took the civilization of China, and became docile pupils. The Jesuit missionaries in the capital enjoyed both the friendship and patronage of the first Ta-tsing emperors, Shun Chi, Kang Hi, Yung Cheng and Kien Lung. The sure foothold of the new dynasty in the empire was signalized by the compilation and issue of the famous "Imperial Dictionary," the "Webster's Unabridged" of the Chinese language. Learning and the arts flourished, and intercourse with western nations increased, until in this latter half of the nineteenth century we see that long contested problems are being solved in a manner not Chinese, but cosmopolitan. The old conception of China being the Middle Kingdom, around and far beyond the borders of which lay the uncivilized barbarian countries, is passing away. The long duel between Cossack and Tartar on the north has ended by making "ravenous Russia's" boundary lines the Amur and Usuri rivers, though Ili has been wrested back from the double-headed eagle; and strong garrisons, constantly maintained along her northern frontier, show China's determination to keep her borders from further "rectification" by diplomates. Her attitude toward France in Tonquin, and toward Japan in Corea, show her further intent to keep a "scientific frontier," and uphold her ancient doctrine of Whang-Ti, or sovereign over vassal nations. Under the pressure of necessity she has established legations and consulates in Europe and America, and has recognized the existence of her citizens abroad. At home the adoption of western military and naval organization and equipment, and of engineering, telegraphy and commercial methods, are largely due to the more practical and enterprising nature of the Manchiu leaders and statesmen. (See also TARTAR and RIU KIU.)—LITERATURE. Williamson's *Journeys in North China, Manchuria*, London, 1870; Ross' *The Manchus, The Reigning Dynasty of China*, Paisley, 1879; Griffis' *Corea, the Hermit Nation*, New York and London, 1888. WM. ELLIOT GRIFFIS.

TAUISM (TAÔ-ISM, TÔ, or Doctrine of Lao-Tse). One of the three state religions of China is Tauism. It is recognized and supported by the imperial government, and one of the popular sayings is, "However the empire be disordered and convulsed, the Changs (popes of Tauism) and the Kungs (descendants of Confucius) have no occasion to be troubled." Perhaps that which most attracts the attention of foreigners who observe the rites of the Chinese at home or on American soil, is that which is referred to Tauism, rather than to the cult of Buddha or the ethics of Confucius. Yet, the religion and the system of philosophy must be carefully distinguished; for, whatever else Lao-Tse is responsible for, "he ought not to bear the obloquy of being the founder of the Taôist religion." Pure Tauism is probably not to be found in China, though in Corea it is probable that it exists in something like its original purity. In this article we shall briefly sketch the man and his system, describing in detail the widely spread and highly popular religion that calls itself by his name, and of which he is in no sense of the word the founder. Rejecting the vulgar fancies and later traditions which find so dazzling an expression in the gilt and paint and cabalistic characters and incantations of a "joss-house," we shall outline the historical career of Lao-Tse. He was born in the feudal age of China, in the petty kingdom of Tsu, now the province of Honan, in 604 B. C. His surname was Li (plum), and his personal name Ur (ear, or flat ear). From early life he was an arduous student and much given to meditation. When come to manhood, he was appointed librarian, or keeper of the records, at the court of the Chow dynasty. When eighty-eight years old, he was visited by Confucius, then thirty-five years of age, and a conversation between the two followed, in which the elder appears to have given the younger a tart lecture, couched in vaguely oracular language. Confucius seems to have left the sage with the impression that his words were too profound or too transcendental for practical purposes, and after that pursued his own methods of inquiry. It was perhaps subsequent to this interview that Li Ur was known as Lao-Tse, or Venerable Sage; though the two Chinese characters may also be rendered Old Boy—on which basis, the popular legend that he was born with white hair and with the expression of an aged man, was reared. There is not, however, one line in the sage's works, which gives countenance to marvels or supernaturalism of any kind, the multitudinous fantastic legends concerning Lao-Tse having been invented much later. The sage devoted himself to expanding his doctrine of Tau (the Way), and shunned all notoriety. Foreseeing the fall of the Chow dynasty, he left the capital with his face set westward. Before passing through the boundary gate, Yin Hsi, the warden and his admirer, persuaded the sage to commit his doctrines to writing. Lao-Tse complied, and wrote down what appear like lecture notes, which need further oral expansion. In this treatise, *Tau-ti King*, containing eighty-one chapters in not over 5,000 characters, his views on the Tau (Way) are set forth in an exceedingly terse, gnomic style. He then passed westward beyond the frontier, and with this final sentence of the historian Sze-ma Chien (B. C. 135–68) the voice of history is silent. He died probably about 523 B. C. The systems of Lao-Tse and Confucius may be thus stated: Confucius, a statesman rather than a philosopher, sought to find for men a rule of conduct in a code of practical morals founded on ancient precedents, the examples and precepts of kings and sages. Lao-Tse's labors, on the contrary, were purely philosophical. Man was to attain to the perfection of his nature through contemplation of God, by subduing his passions and possessing his soul in calm. Quietism is thus the first requisite of a true life. The highest morality is inculcated.

In speculative physics, Lao-Tse teaches that creation proceeded from a First Principle, impersonal, self-existent and self-developing, which produced motion, whence issued all things in the universe, which have in them the dual principle of active and passive, or male and female. In politics, the sovereign elected of the people should be their model and teacher rather than ruler and judge. The voice of the people is Heaven's voice. The ruler must first right himself, then the country will be well governed. Too much government is to be deprecated. Light taxation, moderate punishments, the people well fed, but not too much enlightened, courtesy and moderation between states, will secure lasting peace and prosperity. Previous to Lao-Tse's time, the Chinese worshiped Shang-ti (Lord of Heaven, Theos, Jehovah) and Tien (Heaven). The *Tau-ti King* recognized God (Shang-ti) as before Tau, though it is through Tau that Heaven is to be attained. By means of Tau the soul was to attain its original state and be immortal. European scholars at first believed that the Hebrew name Jehovah was contained in Lao-Tse's book, both in phonetics, and by popular apprehension, but this idea is now exploded. The sage recognizes as fact the existence of God (Ti), but makes his Tau (Reason, the Way) primal, and superior to God. The Ti, or virtue of the Tau, becomes fulfilled in man in its highest development, by his abstraction from worldly cares, and freedom from anxiety. In other words, he teaches that non-existence is the goal of man, and equivalent to pure existence; or, as Hegel would say, they are identical. "Being and Non-being are the same." Whether Lao-Tse borrowed this tenet from the India Brahmans, or originated it, is uncertain, but the very vagueness of the system, increased by the terseness of his style, resembling that of oracles or enigmas, made it the fit soil for the strange crop that afterward grew upon it. Until the introduction of Buddhism, 68 A. D., idols were unknown in China, and Tauism was but a philosophy and a literary puzzle, though with new codes of natural and psychical philosophy grafted on it by disciples. As such it was more acceptable to minds to which metaphysical speculation was congenial, than the bald ethics of Confucius, based as these were on materialism and routine precedents; but its evolution was toward degradation. In contact and rivalry with Buddhism, the occult arts and superstitions of centuries past fastened upon Tauism so firmly that what was parasite and what was original stock could not be popularly distinguished. While the mystic element expanded voluminously, professing to teach corporeal immortality, the transmutation of metals, the composition of the elixir of life which raised men to the equal of genii—arts long after introduced into Europe—the popular belief, travestying Buddhism, filled its temples with images of deities, which became gods of the state. Out of the crowd of the early fathers of war, medicine and literature, idol deities were multiplied indefinitely, until Buddhism was offset with its own weapons, by a native instead of a foreign pantheon. The recognition of Tauism as a state religion practically began when Wu-ti (140–88 B. C.) encouraged the alchemists, though the Tang emperors (618–905 A. D.) first admitted Lao-Tse to the rank of gods, under the title of "Great Supreme, Emperor of the Dark First Cause." Later, titles were added by admiring emperors. It must be remembered that Confucianism was not until a thousand years after the death of its founder universally spread throughout China; nor was it until A. D. 1012 that he received by imperial mandate the title "Most Perfect Sage." During the early centuries of the Christian era, Tauism had the field. The first Tauist popedom, or patriarchate, held by Chang Tau-ling, which was founded in the first century, has been held in the line of his descendants to the present day, and the sect has spread into the various nations surrounding the Middle Kingdom that accept Chinese culture. In the popular religion, "the Three Pure Ones," which are found in Tauist temples, form the most conspicuous group of idols representing Lao-Tse, Chaos or Pan-kû, "The first man," and Shang-ti, or God, of the early Chinese religion. Many other idols, representing gods of every degree, incarnating perhaps the forces of nature, crowd the temples; and the religion of Tauism, though professedly based on reason, or at least rationalism, is a hopeless congeries of superstition. — LITERATURE. The *Tau-ti King* has been translated into English by the Rev. J. Chalmers (London), into French by Rémusat and Stanislas Julien, and into German by Plöncker and V. von Strauss, the first and last being considered the most faithful to the original. See also Legge's *The Religions of China*, New York, 1881; Martin's *The Chinese*, New York, 1881; and *Oriental Religions, China*, Boston, 1881.

WM. ELLIOTT GRIFFIS.

TAXATION, Principles of. It would seem to be in the nature of an economic or common-sense axiom, that a large and varied experience in respect to the management of any one of the great departments of the world's business would result in the gradual evolution and final definite establishment of certain rules or principles which would be almost universally recognized and accepted as a basis for practical application and procedure. But in respect to the matter of taxation—which is a fundamental necessity for the maintenance of civilization and of all government, and is constantly, outside of sheer barbarism, everywhere maintained—no such result has been attained. In no department of economic science is there so much of obscurity and conflicting opinion. "Most economists agree, that there is no science of taxation as there is a science of exchanges"; and "that there are no great natural laws running through and controlling taxation and its effects." And while the student will find examples in the history of states or govern-

ments of the practical application of almost every form of taxation which human ingenuity, prompted by necessity, selfishness or greed, could devise; and a sufficient record of effects, to warrant the drawing of general and correct inferences, it is nevertheless probably true, that there is not, at the present time, a single existing tax decreed by despotism, or authorized by the representatives of the tax payers, which has been primarily adopted or enacted *solely* with reference to any involved economic principles, or which has primarily sought to establish the largest practical conformity under the existing circumstances to what are acknowledged to be the fundamental principles of equity, justice and rational liberty. But, on the contrary, the influence of temporary circumstances, as viewed in most instances from the standpoint of a governmental administration—despotism or republican alike—desirous of retaining power, has ever been the controlling motive in determining the character of taxation; or, as Colbert, the celebrated finance minister of Louis XIV., is reported to have expressed it, in saying, "that the act of taxation consists in so plucking the goose [*i. e.*, the people] as to procure the largest quantity of feathers with the least possible amount of squealing." Hence, apart from its methods of distributing power and patronage, the popular idea of evil, as connected with government, may almost always be referred back to unequal or excessive taxation as a source; and to the reality of which, as evils, more than to any other one agency, may be referred the French revolution, and the ferocity with which it was conducted. Hence, also, the preference almost always shown, on the part alike of those who enact and those who pay taxes, for *indirect* taxation, which very successfully blinds the tax payer as to the amount which he pays, and as to the time and place of its collection. And hence, finally, the idea, which has come to be all but universally entertained, that taxation *per se* is in itself an evil; something to be avoided if possible, and an escape from which is always "good fortune"; when the real truth undoubtedly is, that there is no one act which can be performed by a community, which brings in so large return to the credit of civilization and general happiness, as the judicious expenditure, for public purposes, of a fair percentage of the general wealth raised by an equitable system of taxation. The fruits of such expenditure are general education and general health; improved roads, diminished expenses of transportation, and security for life and property. And it will be found to be a general rule, that no high degree of civilization can be maintained in a community, and indeed that no highly civilized community can exist, without comparatively large taxation; the converse of this proposition, however, at the same time not being admitted, that the existence of high taxes are necessarily a sign of high civilization. In short, taxation in itself is no more of an evil than any other necessary and desirable form of expenditure; but it is an evil when taxation is rendered excessive through injudicious or wasteful expenditures; or when, by reason of ill adjustment, the levy of the tax is made an occasion for the collection from the people, through the enhancement of profits and prices, of a far greater sum than is requisite to meet the public requirements. — Adam Smith, in his "Wealth of Nations," laid down four canons, or maxims, (to be hereafter stated), in respect to the levying and collection of taxes in general, which, as they are constantly quoted and referred to with favor, have a better claim to be regarded as in the nature of fundamental truths than any other propositions which have thus far been formulated on this subject. But as these propositions are, as their author characterized them, "general," and not particular, in their nature; and as at least one of them is, in the light of a larger experience, not considered as correct, there is, it must be conceded, much warrant for the assumption, that in the sense of propositions, or rules, universally, or in any large degree, recognized and made the basis of practical application, there are no principles of taxation. To admit the correctness of such an assumption, is, however, at the same time to confess, that human knowledge, in at least one department, has reached its largest limit; and that a class of transactions, which, more than almost any other, are determinative of the distribution of wealth, and the forms in which industry shall be exerted, are best directed by accident or caprice. It is accordingly proposed, in the present article, to make the true state of the case the main objective of inquiry; and, in place of framing any theory at the outset, to rather aim to place before the reader such a review of our knowledge of this subject, and more especially such a summary of the most recent experiences and investigations, as will qualify him for the forming of an opinion, whether any deductions which may be made are to be regarded as merely curious or valuable contributions to the department of economic science under consideration, or whether they rise to the dignity and importance of fundamental and incontrovertible truths or propositions. And as the first step in such a discussion, it is important to start with a definition, and define, at the outset, what is meant by *taxation*. — *Taxation* (from the Latin *taxo*, or *taxare*, "to rate," "to value"), in the ordinary sense, means the act or process of apportioning or assessing, and of collecting or gathering from a people, a portion of their property, for the use or support of their government, and for all public needs. The command of a constant and adequate revenue being absolutely essential to the existence of organized government, the power to compel or enforce contributions from the people governed, or, as it is termed, "*to tax*," is inherent in and an incident of every sovereignty, and rests upon necessity. The question of the obtaining of such revenue, obviously, therefore, is the question of first importance in the economy of a state; the one in

comparison with which all others are subordinate. For without revenue (and a government never has any resources except what it has obtained from the people), regularly and uniformly obtainable and coming in, no governmental machinery for the protection of life and property, through the dispensing of justice, and the providing for the common defense, could long be maintained; and in default thereof, production would stop or be reduced to a minimum, accumulations would cease or become speedily exhausted, and civilization would inevitably give place to barbarism and the wilderness.—Again, *the power of taxation being an incident of sovereignty, the right to exercise that power must be coextensive with that of which it is the incident;* or, in other words, as the power of every *complete* sovereignty over the persons and property of its subjects is unlimited, the power, therefore, in every such sovereignty to compel contributions for the service of the state, or, as we term it, "*to tax,*" must be unrestricted. Thus, "*the power to tax,*" says Chief Justice Marshall, in giving the opinion of the supreme court denying the right of Maryland to tax the bank of the United States, "*involves the power to destroy*"; and in the case of Weston *vs.* The City of Charleston, the same court, by the same eminent authority, held further, "*that if the right to impose a tax exists, it is a right which in its nature acknowledges no limits. It may be carried to any extent within the jurisdiction of the state or corporation which imposes it, which the will of such state or corporation may prescribe.*" In the United States, however, it may be here noted, that the sovereignty of the national government, and of the separate states, is materially limited in respect to both taxation and other matters; on the one hand, in virtue of an agreement of union accepted by all the states, and known as the federal constitution; and on the other, in virtue of certain original powers retained by the states, and not delegated by them, in entering the federal Union, to any other or higher sovereignty. Thus, no state of the federal Union can impose any tax upon any agency of the federal government, its mails, its custom houses, its lands, its judicial processes, its money, or through its evidences of indebtedness, upon its credit or borrowing power. On the other hand, the federal government can not tax the agencies or instrumentalities by which any state performs its functions. That such reciprocal limitations are natural and necessary, and exist by implication, not only in the constitution of the United States, but also in the very structure of the federal Union, must be evident, when one reflects that otherwise the federal government on the one hand, and the governments of the states on the other, might impose taxation to an extent that would cripple, if not wholly defeat, the operations of the two authorities, each within its respective and proper sphere of action.—*Natural Limitations on the Meaning and Exercise of Taxation.* The term taxation, however, involves something more than the mere act of taking on the part of a government, or its unrestrained power of compelling contributions for the use of the state. *The essence of all taxation consists in making the burden of taxation equal upon all subjects of immediate competition;* and when this principle is violated, the act of taking, or the enforced contribution, is no longer entitled to be considered taxation, but becomes at once an arbitrary spoliation or confiscation. Thus, to illustrate: suppose it were proposed to tax the stock in trade of red-haired men 5 per cent., and those of red-nosed men 10 per cent.; or (as was proposed by a bill introduced into the congress of the United States in 1874) to exempt incomes below $5,000 from taxation, and tax those equal to $5,000 5 per cent., and all above, 10 per cent.; or to do as actually once was done in England under an income tax law enacted in 1691—tax Catholics at rates double those imposed on Protestants; it seems clear that such transactions could not involve any principle, or be regarded in any other light than the mere arbitrary and despotic exercise of power; or the making of the possession of a red nose, or red hair, or the result of enterprise, skill, economy, or the fortuitous circumstance of birth or belief, the occasion for inflicting a penalty. Yet, this was what substantially was done in the middle ages, when nobles were exempt from taxation because they were nobles, and the common people were taxed because they were villains or bondsmen; when Jews were assessed because they were not Christians, and Catholics because they were not Protestants. And if it be said, as it doubtless will be, in rejoinder to a part of the above illustration, that the rich, by reason of their riches, are abundantly able to pay, and, therefore, should be made to, the answer is, that under a universal and uniform income tax (if there could be such a thing), which would establish a comparative equality of burden, they would pay more by an inevitable law and yet pay equally; while under an unequal law, which takes from them because they are rich, the act of taking has no claim to be considered a tax, but is simply confiscation. For if the state may take *five* per cent. from the man with $5,000 income, and *ten* per cent. from the man with more than $5,000, why stop at this amount? We have not approximated the limit or capability of the persons assessed to make contributions. Why not take all that such individuals receive in excess of the average income of the masses? Why not divide up and put every one on an equality? The advocacy of any such forms of contribution under the name of taxation (although the advocates may not be, and generally are not, aware of it), is simply, therefore, the advocacy of the most radical principles of communism. There is, accordingly, a broad and philosophical distinction, which may be claimed to rise to the dignity of an economic principle, between "taxation" and "arbitrary taking." In the soundings which have been made at great depths in the

ocean for telegraphic or other purposes, the sounding line has not unfrequently brought up from the bottom small-chambered shells or other minute animals of exquisite organization and structure; and the question naturally arises, In what manner can these minute organisms live and flourish under the enormous pressure that in some instances must be exerted, of at least three tons to the square inch? The explanation is to be found in the circumstance that the pressure is everywhere equalized, being as much from within outward as from without inward, and thus an equilibrium is maintained under which development goes on and existence is made possible; and it is in preserving this equilibrium, this equalization of pressure (says Mr. Lowe, from whose speech as chancellor of the English exchequer the above illustration is derived), that the whole secret of taxation consists. All experience shows that a people who are moderately prosperous will bear the heaviest burdens of taxation without complaint when they feel that the distribution is just and equal; but when the distribution is unequal, somebody inevitably is being either plundered or crushed. — *Limitations of Territorial Sovereignty and Limitations of the Taxing Power Coextensive.* It would seem to be in the nature of a self-evident proposition, although in fact it is by no means so regarded, that the power of every state or government to tax, must be exclusively limited to subjects within its territory and legal jurisdiction. "All subjects," says Chief Justice Marshall, in giving the opinion of the supreme court, in the case of McCullough *vs.* Maryland (4 Wheaton, 431), "*over which the sovereign power of the state extends, are objects of taxation; but those over which it does not extend, are, on the soundest principles, exempt from taxation.* * * The sovereign power of the state extends to everything *which exists by its own authority* or *is introduced by its permission.*" "Every nation," says Wheaton, "possesses and exercises exclusive sovereignty and jurisdiction throughout the full extent of its territory. It follows, from this principle, that the laws of every state control, of right, all the real and personal property within its territory. The second general principle is, that no state can, by its laws, directly affect, bind or regulate property beyond its own territory. This is a consequence of the first general principle; a different system, which would recognize in each state the power of regulating persons or things beyond its territory, would exclude the equality of rights among different states, and the exclusive sovereignty which belongs to each of them." (Wheaton's International Law, chap. ii., § 2; Fœlix International Prisé, §§ 9 and 10.) And in a decision of more recent date (State Tax on Foreign-held Bonds, 15 Wallace, 306, 328), the United States supreme court said: "The power of taxation, however vast in its character and searching in its extent, is necessarily limited to subjects within the jurisdiction of the state. Property lying beyond the jurisdiction of the state is not a subject upon which her taxing power can be legitimately exercised. Indeed, it would seem that no adjudication should be necessary to establish so obvious a proposition."— *Protection the Correlative of Taxation.* The correlative of taxation, furthermore, is protection; or, in other words, according to the political theory of our governments, national and state, and in fact of every government claiming the title to be *free*, taxes are the compensation which property pays the state for protection. "*Taxes are a portion which each individual gives of his property, in order to secure and have the perfect enjoyment of the remainder.* Governments are established for the protection of persons and property within the limits of the state, *and taxes are levied to enable the government to afford and give such protection.* They are the price and consideration of the protection afforded." (Ingersol, J., Circuit Court of the United States, Duer *vs.* Small.) "There is nothing poetic about tax laws *When they find property, they claim a contribution for its protection.*" (Lowrie, Chief Justice, Tinley *vs.* The City, etc., 32 Penn., 381.) Montesquieu, writing with the monarchical institutions of France mainly or solely in view, discusses this subject in his "Spirit of Laws" (book xxxi., ch. i.) as follows: "The public revenues are a portion that each subject gives of his property, *in order to secure or enjoy the remainder.*" — These fundamental principles, defining sovereignty in respect to taxation are, however, violated, either in theory or practice, by most of the states in the federal Union (but not in other countries) in their exercise of the taxing power; as, for example, in Massachusetts, where the law defines personal estate for purposes of taxation so as to include "goods, chattels, money and effects, wherever they are; ships, public stocks and securities, stocks in turnpikes, bridges and moneyed corporations *within or without the state*"; and where the administrators of the law tax *residents* for personal property, even of a visible, tangible character, having a *situs* in another state or country; and, by another and irreconcilable rule, tax *non-residents* for all of their personal property having a *situs* within the state. The claim or argument, however, which the advocates of such a system set up in its defense is, that personal property (more especially what is termed in law *choses in action*, or credits, titles, notes, bonds, mortgages, which are in their nature incorporeal, and therefore invisible and intangible) has no *situs*, and, therefore, follows and adopts that of its owner. But this rule or *fiction* of law—*mobilia personam sequuntur*—was never invented with a view of its being used as a rule to govern and define the application and scope of taxation, but was originally a device of international comity, intended to subserve the convenience of the owner of property; "by which a state holding jurisdiction of the property permits an act, done by the non-resident owner at his domicile, to have the same effect, touching it, as if done at the *locus situs.* It means, simply, that for the purpose of sale, distribution, or other disposition of the prop-

erty, any act, agreement or authority, which is sufficient in law where the owner resides, shall pass the property where it is; and the true and right use of it is to facilitate affairs of commerce and the distribution of decedents' estates, by enabling parties to dispose of their property without embarrassment from their ignorance of the laws of the country where it is situated." (Catlin *vs.* Hall, 21 Vermont, 152.) It would be a more accurate rendering of the rule to say, "Personal property follows the law of the owner's domicile," and not, as in effect claimed, that the law of the owner's domicile follows the property. But "no fiction," says Blackstone, "shall extend to work an injury; its proper operation being to prevent a mischief or remedy an inconvenience, which might result from the general rule of law." At any attempt to misapply a fiction, it falls within and is terminated by that other authoritative maxim of logic and the common law, *cessante ratione legis, cessat ipsa lex.* Another great authority in law, Lord Mansfield, says: "Fictions of law hold only in respect of the ends and purposes for which they were invented; when they are urged to an intent and purpose not within the reason and policy of the fiction, the other party may show the truth." It is also worthy of note, that in Rome, where this fiction originated, its applicability to property was never held, according to Savigny, to extend beyond Roman territory.* — It is a curious fact, also, that those states which adopt, in their systems of taxation, the rule of taxing property beyond their sovereignty or territorial jurisdiction, by reason of the possession of its owner, do not carry the principle involved to its logical conclusion, and tax real estate similarly situated. But for this distinction no good reasons can be given, although pretexts, claiming to be reasons, may. One claim, however, is obviously as good as the other. A robber who should draw romantic distinctions between watches and purses, would fail in business. If we are to be robbers in practice, let us, at least, secure some grace by honesty in our professions, and admit that what we thus

* "But it may be said, that the state in taxing personal property situate beyond its territory, does not in fact tax the property, but the owner, over whom the state has jurisdiction in respect to such property. In answer to this claim, attention is here asked to the following extract from an argument made some years ago by Mr. G. P. Lowrey, of New York, before a committee of the legislature of New York, when this subject was up before them for consideration. 'This claim,' he said, 'involves a dangerous inaccuracy, and arises from a confusion of the idea of the assessment with the idea of the tax. These two stand upon altogether different bases. The *assessment* is to the person in respect to the property; but the *tax* is to the property in respect to itself alone. In the order of consequence a tax goes before an assessment. A tax stands upon an existing relation between the property and the state, as protector and protected, and is that portion of the public burden which the property ought to bear because of that existing *relation.* An assessment stands upon the existing relation between the property and its owner or possessor; it follows the tax, and is merely the method of securing it. The danger, in saying that the tax is to the *person in respect of his property*, is, that, by the form of the expression we justify an assessment upon a person for all property indiscriminately. We transpose the subjects, and make the law seek out the person, and then tax him according to his property, instead of first seeking property which it has a right to tax, and then as a secondary matter, a person to whom it may be assessed. Even if a knowledge of the property is obtained by inquiry addressed to the owner in the shape of a general assessment, still the rationale of the matter presupposes the right to tax on account of the property and our relation to it directly. If we disregard this rationale, we may, perhaps, register an assessment where we are not entitled to levy a tax.'—The person to whom the assessment is made need not be the owner. He may be the agent, trustee, guardian, executor or administrator. This is because the property, which owes the tax by reason of being protected, has not hands wherewith to take from itself a portion of itself, to pay for protection to be accorded to the remainder. Therefore the law, following the property to get the tax, makes its demand upon whoever it finds in possession, without inquiring upon what interest the property is based. This it does, ignoring all persons beneficially interested in the title, even the owner himself. 'Every person,' says the statutes of New York, 'shall be assessed, etc., for all personal property owned by him, including all property in his possession, *or under his control*, as agent, trustee, guardian, etc.'—Thus it will be seen, that, for the purpose of assessment, possession is a title superior to ownership. And I now reiterate, that, according to the theory of our government, a tax stands upon the just obligation of all property to contribute to the support of the power which protects it; but that the assessment stands upon the possession or power of the person assessed, over the property taxed. This may be further illustrated. Movables can never be out of the actual or constructive presence of some one, and, therefore, there is always a person *in esse* to whom the assessment may be made. But the case is very different with unmovables, and therefore, lands are often taxed and assessed by their own name and designation, and specifically sold to satisfy the specific assessment, no person's name anywhere appearing in the proceedings. — Keeping this vital distinction between an assessment and a tax clearly in view, the mind will come by easy steps to an understanding of how it is that a tax, to a man who has no property in the state, is a tax upon his person. Process is the eye of the law. Its vision is limited by territorial boundaries. Whatever does not exist within that limit, does not, for any purpose of law, exist at all. The rich man, whose property is in Europe, and the pauper, whose property is nowhere, are then equal, as persons, before the law. A tax upon a pauper would be a personal tax. A tax upon the rich man is, by unimpeachable parity of reason, the same. Such a tax would be a gross solecism on our system. The philosophy of our plan of voluntary political association, is that all individuals, and all the values within a community, shall aggregate into one mass all the power which they separately contain, which sum total shall constitute a sovereignty of the whole. This sovereignty—the soul of the state, which can not be impaired, and the state survive—reflects back upon its constituents, in detail, all that it has received from them. What it receives, and what it returns, is of two kinds, as to both source and object, viz., individual service *to* the government, and protection to the individual *from* it. Thus, in his individual capacity, a man is bound to perform military service, and the state, by the military arm, is bound to protect him from invasion. He is bound to do jury duty, and the authorities are bound, upon his demand, to provide him a jury. He is bound to aid the sheriff, and the sheriff is bound to execute process in his favor by *posse comitatus* if necessary. These personal services correspond to those which in feudal times the mesne lord holding a frank-tenement owed the lord paramount. They can not be compounded for, for their value consists in their being rendered in kind. *Their performance is the only price which the citizen pays for his citizenship.* The terms are not only consistent and harmonious with our general scheme of government, but are highly politic. They are a liberal invitation to all men to come and add to ours their lives, their hopes, their strength, labor and courage, that we may build up a nation. To all political privileges we admit each one by virtue of his being a man, free born and of lawful age; we ask him nothing concerning his property, unless his property asks something from us."

take is not a tax received as the just recompense of a benefit conferred, but a compulsory levy, having its cause in our greed, and its justification in our power; and as these reasons are as good for a large levy as a small one, and the whole of a man's estate is greater than its part, why not take the whole? "Still further," says Mr. Lowrey, "if we tax a man (in New York or Massachusetts) who has come from Connecticut or England to stay a year, for the property he has left behind, why not the man who has come for a week?" If we are to do business upon the principle that "might makes right," would it not be a brilliant stroke to station ourselves at all the avenues of ingress to a state, and cry "Stand and deliver" to the passengers? From the above citations and arguments, the conclusion would seem to be inevitable, that when a state assesses property situated beyond its territory and jurisdiction, and which its laws and processes are not competent or able to either reach or protect, or assesses one of its own citizens in respect to such property, the act has no claim to be regarded as taxation, but is simply *arbitrary taking*, in no respect different in principle from confiscation.—It will be also here interesting to recall some of the antecedents of this fiction of law, that personal property, irrespective of its *situs*, follows the owner for the purpose of taxation. Its prototype was the ancient *taille*, or tax of servitude, imposed on persons originally bondmen, or on all persons who held *in farm* or *lease*, or resided on lands of the suzerain; and from which proprietors or suzerains of the land were exempt. And as no vassal could at will divest himself of servitude or allegiance to his lord or suzerain, so the obligation to pay taxes always remained upon him as a personal servitude, whatever might be the location of his property. In other words, the condition of the masses all over Europe during the middle ages was not unlike the condition of the slaves in the United States previous to emancipation. They (the slaves) had property in their possession, and spoke of themselves as owners of property, but in reality their property followed the condition of the servitude of their persons, and both persons and property belonged equally to the masters. The *taille*, furthermore, as a badge of servitude, was supposed to dishonor whoever was subject to it, and degrade him, not only below the rank of a gentleman, but of that of a burgher, or inhabitant of a borough or town; and "no gentleman, or even any burgher," says Adam Smith, "who has stock will submit to this degradation." Now, the idea embodied in the word servitude is, an obligation to render service, irrespective of, or without, compensation; and the idea upon which the taxation of personal property in this country has been based is, that the property owes a servitude to the state where the owner resides, irrespective of its actual location, in virtue of the obligation which its owner, as a citizen, may owe to the state by reason of the protection which the state gives him in respect to his person.—Again, in old times, the division of property into real and personal was wholly unknown; and under the common law, all property was classed as lands, tenements, hereditaments, and goods and chattels. "In the course of time, however, leases of land for a term of years were classed as chattels, and were distinguished as *chattels real;* while other chattels, which did not savor of lands, were called *chattels personal*, 'because,' says Lord Coke, 'for the most part they belong to the person of a man, or else for that, they are to be recovered by personal actions.' And Blackstone tells us, that 'chattels personal are property, and strictly speaking, things movable, which may be annexed to or attendant on the person of the owner, and carried about with him from one part of the world to another'; and as instances ,he mentions money, jewelry, garments. Personal property, in fact, consisted almost entirely of such things as could be, and actually were, carried about with the person of the owner, or could be easily secreted. And Blackstone also tells us, that the amount of the personal estate of our ancestors, was so trifling that they entertained a very low and contemptuous opinion of it; and that 'our ancient law books do not, therefore, often condescend to regulate this species of property.' Nothing of an incorporeal nature was anciently comprehended within the class of personal chattels. It was otherwise as to lands or real property, as to which 'incorporeal hereditaments' occupied a conspicuous place from the earliest times. Such was personal property in the early history of our laws. It was of comparatively small importance, and its laws were few and simple; while real property, being of a fixed and permanent nature, was regarded as immeasurably more valuable, and was governed by laws of its own, of the most intricate and abstruse character. Both species of property, when compared with that of our own time, were of small pecuniary value; but between the importance attached to personal and movable property, and the value of real property, there was a difference vastly greater than that which now exists, both because of the comparative insignificant value of personalty, and because of the feudal tenure by which lands were held, out of which grew some of the most important consequences to both the land and the person. From these circumstances arose the notion, which became a fiction of the law, that property merely personal always attended the person of its owner; while lands, tenements and hereditaments, being fixed and immovable, and of infinitely more consideration, were held, from their very nature, as well as from motives of political policy, to have a situs of their own, from which they derived their laws and incidents wholly regardless of the domicile of the owner. Growing out of the same reasons, it was also the prevailing opinion, that while immovables were exclusively governed by the law of locality, movables were controlled, according to the same maxim, by the law of the domicile of the owner, and not by that of its *situs*." In

the changed condition of wealth and property, such a fiction, however suitable and useful in primitive times, would now, in many cases, work the greatest injustice, and impair the supremacy which every government should maintain over everything within its territory, both on the ground of public expediency and the private interests of its citizens. And according to Wharton (Treatise on the Conflict of Laws, 1872), this fiction of law has been universally abandoned upon the continent of Europe, except in cases as to rights in respect to personalty, which spring from marriage and succession. (Hutchinson, "Southern Law Review.")— Finally, the attention of the reader or student should be asked to another interesting point in connection with this subject; and that is, that if this article were to have been written by a European, for incorporation into any foreign publication, this discussion of the taxation of extra-territorial property by a state would have no place, except possibly in review of curious tax experiences; for the reason, that nowhere, except in the United States, is there any such system of taxation, or any tolerance given to the ideas upon which it is founded. — *Legitimate Taxation Limited to Public Purposes.* Although this proposition has rarely received any notice or consideration by writers on the subject of taxation, and under despotic governments (where there is no restraint on the adoption of any economic policy on the part of the state) would obviously be regarded as of no consequence, or, if conceded, would be nullified by regarding the wishes or whims of the ruler and public purposes as matters synonymous, the experience of the United States, and the decisions of its highest courts, have nevertheless combined to establish it as an economic and legal principle under a free government of the very first importance. The record of this experience may be told as follows: In 1872 the legislature of the state of Kansas passed a law authorizing counties and towns of that state "to encourage the establishment of manufactories and such other enterprises as may tend to develop" such counties or towns by the direct appropriation of money, or by the issue of bonds to any amount that the local authorities might consider expedient; and under this act the city of Topeka created and issued its bonds, to the extent of $100,000, and gave the same "as a donation," a majority of voters approving, to an iron-bridge company, as a consideration for establishing and operating their shops within the limits of the city. The interest coupons first due on these bonds were promptly paid by the city out of a fund raised by taxation for that purpose, but subsequently, when the second coupons became due, and the bonds had passed out of the possession of the bridge company by *bona fide* sale to a loan association, the city repudiated its obligations, on the ground that the legislature of Kansas had no authority, under the constitution of the state, to authorize the issue of bonds, the interest and principal of which were to be paid from the proceeds of taxes, for any such purpose as the encouragement of manufacturing enterprises. Legal proceedings to enforce payment were thereupon commenced by the bondholders in the United States circuit court, and judgment having been there given for the city, the case was appealed to the United States supreme court, where, with only one dissenting voice, the judgment of the lower court was affirmed, and the following opinions or statement of principles involved given: "It must be conceded," said the court, through Mr. Justice Miller, "that there are rights in every free government beyond the control of the state. A government which recognized no such rights, which held the lives, the liberty and the property of its citizens subject at all times to the absolute disposition and unbounded control of even the most democratic depository of power, is after all but a despotism. It is true it is a despotism of the many, of the majority, if you choose to call it so, but it is none the less a despotism." * * "The theory of our governments, state and national, is opposed to the deposit of unlimited power anywhere. The executive, the legislative and the judicial branches of these governments are all of limited and defined powers. There are limitations of such powers which grow out of the essential nature of all free governments—implied reservations of individual rights, without which the social compact could not exist, which are respected by all governments entitled to the name." * * "Of all the powers conferred upon the government, that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used, and the extent of its exercise is in its very nature unlimited. This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there are no implied limitations of the uses for which the power may be exercised. *To lay with one hand the power of the government on the property of the citizen, and with the other bestow it upon favored individuals to aid private enterprises and build up private fortunes, is none the less robbery because it is done under the forms of the law and is called taxation.* This is not legislation. It is a decree under legislative forms. Nor is it taxation. Beyond a cavil there can be no lawful tax which is not laid for a public purpose. * * It may not be easy to draw the line in all cases so as to decide what is a public purpose in this sense, and what is not. But in the case before us, in which towns are authorized to contribute aid by way of taxation to any class of manufacturers, there is no difficulty in holding that this is not such a public purpose as we have been considering. If it be said that a benefit results to the local public of a town by establishing manufactures, the same may be said of any other business or pursuit which employs capital or labor. The merchant, the mechanic, the inn-keeper, the banker, the builder, the steamboat owner, are equally pro-

moters of the public good, and equally deserving the aid of the citizens by forced contributions. No line can be drawn in favor of the manufacturer, which would not open the public treasury to the importunities of two-thirds of the business men of the city or town." — Other judicial authorities in the United States to whom weight is accorded, have also concurred in this opinion. Thus, Thos. M. Cooley, one of the justices of the supreme court of Michigan, and professor of law in the university of that state, in his work, "Principles of Constitutional Law," thus defines the limits of taxation under the constitution of the United States: "Constitutionally a tax can have no other basis than the raising of revenue for public purposes, and whatever governmental exaction has not this basis, is tyrannical and unlawful. A tax on imports, therefore, the purpose of which is not to raise a revenue, but to discourage and indirectly prohibit some particular import for the benefit of some home manufacture, may well be questioned, as being merely colorable, and therefore not warranted by constitutional principles." The question at issue has also formed the subject of review by the supreme court of the state of Maine, and the following are extracts from the opinions given by the members of this tribunal respecting the limitations on the powers of a free government to impose taxes: "No public exigency can require private spoliation for the private benefit of favored individuals. If the citizen is protected in his property by the constitution against the public, much more is he against private rapacity." "If it were proposed to pass an act enabling the inhabitants of the several towns to vote to transfer the farms, or the horses, or oxen, or a part thereof, from the rightful owner or owners to some manufacturer, whom the majority might select, the monstrousness of such proposed legislation would be transparent. But the mode by which property would be taken from one or many, and given to another, or others, can make no difference in the underlying principle. It is the taking that constitutes the wrong, no matter how taken." "Taxation," said the chief justice (in giving an opinion adverse to the right of a town to grant aid, under a permissible statute of the state legislature, to a manufacturing enterprise), "by the very meaning of the term, implies the raising of money for public uses, and excludes the raising of it for private objects and purposes." "No authority or even dictum can be found," observes Dillon, C. J., in Hanson *vs.* Vernon, 27 Iowa, 28, "which asserts that there can be any legitimate taxation, when the money to be raised does not go into the public treasury, or is not destined for the use of the government, or some of the governmental divisions of the state." "If there is any proposition about which there is an entire and uniform weight of judicial authority, it is that taxes are to be imposed for the use of the people of the state in the varied and manifold purposes of government, and not for private objects or the special benefit of individuals. While the state is bound to protect all, it ceases to give that just protection, when it affords undue advantages, or gives special and exclusive privileges to particular individuals and particular and special industries at the cost and charge of the rest of the community." In short, the right of a government to levy discriminating taxes for purposes other than for defraying public expenditures, even though any injustice thereby done to the individual is more than compensated by some indirect benefit to the entire community, is one of those forms of procedure on the part of the state which is antagonistic to the principles of a free government, and which, if fully recognized and broadly carried out, will of necessity be utterly destructive of it; and in respect to which, as in the case of a tax to support an established church, or of a law compelling every man to help catch a fugitive slave, the dissent and resistance of even one citizen makes unjust any enactment authorizing such procedure. — *Subjects of Taxation.* The subjects of taxation, to use a happy generalization of the United States supreme court (Foreign-held Bond Case, 15 Wallace), "are persons, property and business. Whatever form taxation may assume, whether as duties, imposts, excises or licenses, it must relate to one of these subjects. It is not possible to conceive of any other, though as applied to them the taxation may be exercised in a great variety of ways." — A tax upon a person is a "*poll*" or *head* tax. The essential requisite of a poll tax is, that it be laid on all polls, and be unvarying in amount. A varying poll tax would be an arbitrary exaction, and would not be sustained for a moment as a proper exercise of the right of taxation, if laid without reference to a man's ownership of property. So soon, however, as the amount of the tax exacted is made dependent upon the amount of the property owned, the tax ceases to be a varying poll tax, and becomes a tax on the property itself. — *Apportionment of Taxation.* This department of the subject of taxation, while the most practical, and, therefore, the most interesting, is at the same time the one most obscure, and the one about which there is the most striking difference of opinion among writers on economic and fiscal subjects. The following four maxims, or canons, laid down by Adam Smith in his "Wealth of Nations," have attained a world-wide celebrity, and are almost always referred to in all discussions of the subject. 1. "The subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state." 2. "The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person. The certainty of what each individual ought to pay is, in taxation, of so great importance, that a very considerable

degree of inequality, I believe, from the experience of all nations, is not near so great an evil as a very small degree of uncertainty." 3. "Every tax ought to be levied at the time and in the manner in which it is most likely to be convenient for the contributor to pay it." 4. "Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state."—Almost universally accepted, as the embodiment of the highest wisdom, these four canons or maxims have been, and are, nevertheless, open to some criticism. In the first place, they are so general in their nature, and so lacking in any precise rule or test for application, that they stand in the light of aphorisms, somewhat as the maxims "Honesty is the best policy," "Never put off till to-morrow what can be done to-day," etc., to which all respect is always given, except the desirable one, of practical use in actual cases. In fact, the originators of the very worst forms of taxation now existing, might and probably would plead, that their methods or practices were based on the ideas of Adam Smith, or were as near in conformity to them as was possible under the existing circumstances. Again, the first maxim or canon embodies two propositions antagonistic to each other, and one of which can hardly be considered correct, namely, that every citizen should pay taxes for the support of the government in proportion to his ability; for if, as almost all authorities are now agreed, taxes are the compensation which persons or property pay to the state for protection, then it of necessity follows, that where there is no protection, ability is no just guide for assessment. "Where there is no protection," said Judge Story (in the case of United States *vs.* Rice, 4 Wheaton, 276) "there can be no claim to allegiance or obedience." And that Adam Smith did not intend to have his first proposition fully accepted would seem evident from the circumstance that he added to it, and qualified it with these other words, "that is, in proportion to the revenue which they (the citizens) respectively enjoy under the protection of the state." Montesquieu, who wrote at an earlier date, also enunciated even more clearly this common-sense and equitable principle, when he said (see "Spirit of the Laws"), "*that the public revenues ought not to be measured by the people's abilities to give, but by what they ought to give.*" "And what they *ought* to give," as has been remarked by another writer, "can of course be only measured by the benefit they are to derive."—*The True Measure of the Burden of Taxation on Production.* In addition to the maxims or canons proposed by Adam Smith, another, first pointed out by Mr. Edward Atkinson, of Massachusetts, is worthy of being added, and may even be regarded in the light of a fundamental principle; and that is, *that the burden or injurious effect of a tax on production or exchange, is not to be measured by the ratio which the tax may bear to the gross value of the subject of taxation, but rather by the proportion which the tax bears to the profit which might normally or naturally result from undertaking a certain line of industry or product.* To practically illustrate this, let us take an example. Let us suppose two men, A and B, to start shops for the manufacture of machinery, each with a capital of $20,000, and that each in his operations expends $20,000 for coal and iron, $40,000 in wages, and $4,000 for transportation to the shops of the raw materials for manufacture. The total cost of the annual product of each shop will then be $64,000, or a little more than three times the capital; and a sale of their respective products, at the net price of $66,000, would yield the owners $2,000, or 10 per cent. profit. Now, suppose further, that under such conditions, A has a tax imposed upon him of 3½ per cent. upon the value of his product; it may be a customs or excise tax, or an increased rate of railroad freight. This amounts to $2,000 on $64,000 of product; no excessive burden, it may be said, and only requiring A to sell his $66,000 for $2,000 additional. But suppose A can not get this $2,000 additional; and he certainly can not, if the other man, B, is exempt from this 3½ per cent. tax, or contrives to evade it, and competes with A in the open market. Then, in such a case, this 3½ per cent. tax upon product manifests itself as 10 per cent. upon the entire investment, and absorbs the entire profits, which otherwise might have been realized; so that the business of A first drags, then stagnates, and is finally abandoned; while his workmen are discharged, the village where the shop is located runs down, the artisans, shopkeepers and professional men connected with it complain of hard times, and emigrate from the locality or the country, while the railroad fails to confer all the benefit to the community or profit to its stockholders that might be possible. B, on the other hand, exempt from the tax, keeps on working, and, when hard times come, continues his sales and the occupations of his workmen by taking *five* per cent. profits instead of *ten*, and selling his goods, as he can afford to, at reduced prices, to meet temporary conditions. Actual practical illustrations of the injustice and disaster consequent on such discrimination in respect to tax burdens and exemptions are afforded on a small scale in the history of much railroad management, and to a larger extent where two nations, with different systems of taxation, undertake to compete with each other in the sale of the products of their labor in the common markets of the world. We find here an explanation, also, of the immediate beneficial effects which attended the first tentative measures of reform in the British tariff instituted by Sir Robert Peel in 1842 and 1845, which, although consisting mainly in the removal of numerous small but obstructive duties, nevertheless started British industry forward by leaps and bounds, even before the larger burdens of tariff restrictions were removed in later years.—*Popular*

Theory of Taxation in the United States Stated and Examined. The general idea which constitutes the basis of the system of local taxation mainly recognized in the United States (though not in other countries) is founded on the assumption, that in order to tax equitably, it is necessary to tax everything; the term *everything* being at the same time used in a sense so indefinite as to embrace not merely things in the nature of physical actualities other than persons, but also persons, income, rights, representatives of property, titles, trusts, conclusions of law, debts, and, in short, any act of assessing capable of resulting in the obtaining of revenue. As a logical consequence of this idea, the exemption of anything from taxation is furthermore held to be not only impolitic but unjust, and if made necessary by circumstances, as something to be regretted. — Equally popular and plausible is the argument by which this assumption, and the administrative system based upon it, is upheld and defended. "Is not all property," it is asked, "either directly, or through its owner, protected by the state, or sovereignty?" "Do not all persons owe allegiance to the state?" And if so, "why should not all persons and property contribute to the requirements of the state for revenue, in proportion to their ability?" — But, popular and plausible as are the arguments and assumptions for such a system of local taxation, which in the case of the United States has been made operative over the persons, property and business of nearly sixty millions of people, and fortified by a vast amount of adjudication, it will require but little investigation and analysis to satisfy any one who can divest himself from the influence of old prejudices, of the truth of the following propositions; *first*, that the assumption that it is necessary to assess everything in order to tax equitably involves an impossibility, and therefore unavoidable inefficiency, injustice and inequality in administration; *second*, that, as popularly used in respect to matters pertaining to taxation, the term *property* is made to apply equally to entities and to symbols or non-entities, which is in itself an absurdity; and *finally*, that the outcome of all this is a system which powerfully contributes to arrest and hinder natural development, to corrupt society, and is without a parallel in any country claiming to be civilized. — In the incipient stages of society, where property consisted almost or quite exclusively of things tangible and visible—lands, buildings, slaves, cattle, ships, household effects and implements—and the rate of taxation was small, the theory under consideration was not impracticable in its application, and under most circumstances afforded but little opportunity for the working of injustice in respect to arbitrary discriminations in assessing. But its full execution must, nevertheless, even in the most simple condition of society, have been always attended with great difficulties; for there is nothing which men more abhor in government than personal inquisitions; and, in the language of a committee of the French national assembly of 1789 (of which Talleyrand and Larochefoucald were members), the recognition and practice of such inquisitions by any government is something inconsistent with and antagonistic to the maintenance of a free people. — It is not generally known, furthermore, that Alexander Hamilton, as a member of the conventions which framed the constitution of the United States, and the first constitution of New York, gave all his influence in favor of the restriction of all internal or local taxation to visible, tangible objects, and to the assessment of these specifically and by some uniform and simple rule. The language used by him in one of his papers (the Constitutionalist) on this subject, is as follows: "The genius of liberty reprobates everything arbitrary or discretionary in taxation. It exacts that every man, by a definite and general rule, should know what proportion of his property the state demands. Whatever liberty we may boast in theory, it can not exist in fact while (arbitrary) assessments continue." — Again, had nothing come down to us in English history from the time of Edward III., other than one of the assessment rolls of that period (when there was little or no property capable of taxation but what was visible and tangible), the evidence would be complete that the mass of the English people were but little better than slaves; for the mere inspection of such rolls shows that their preparation involved such an inquisitorial scrutiny into domestic life, such a seeing, handling and valuation of everything in the household, from the utensils of the kitchen to the furniture of the bed-chamber, as to make personal freedom, or a sense of self-respect, on the part of the tax payer who submitted to such a scrutiny, almost an impossibility.* And in connection with this subject, it is interesting to note, that the famous insurrection of English yeomen and peasants under "Wat" the Tyler, in the reign of Richard II., the successor of Edward III., originated directly in the attempt of a tax gatherer or assessor to ascertain, by brutal personal examination, whether a daughter of "Wat" had attained the age of puberty, and in consequence had so become liable to enrollment for capitation assessment. — But to whatever extent simplicity in the elements of property simplified the original methods and ideas in respect to local taxation, the problem involved rapidly changed, and became more and more intricate as increasing population and increasing commerce and intercommunication required that property should, to a great extent, be put into a condition to admit of being readily mobilized, in order to allow of its most profitable use and application. Thus a large part, in fact, the larger part, of what is to-day termed

* A copy of an assessment roll of the time of Edward III. (1339–67) given by Lingard in his history of England, contains a list of articles, down to a towel and a bench; and the historian notes that in the returns are carefully mentioned the very rooms in which the articles were found, and that there were no exemptions except one suit of clothes for each person, which were supposed to be included in the tax levied on the poll or person.

"personal property" in every highly civilized state, is of the most intangible character, and in great part invisible and incorporeal; such, for example, as negotiable instruments in the form of bills of exchange, state, municipal and corporate bonds, and the multiplied forms of evidence of indebtedness, certificates of stock, copyrights, patents, legal-tender notes, etc., all of which, if entitled to the name of property, is, through a great variety of circumstances constantly fluctuating in value; is offset or measured by indebtedness which may never be the same one hour with another; is easy of transfer, and, as essential to using, is in fact continually transferred from one locality to another, and from the jurisdiction of one state to the jurisdiction and laws of another and a different state. In the absence of some superhuman power which will permit that to be seen, which to ordinary vision is invisible, and to know what through the exercise of ordinary reason can not be known, any attempt, therefore, on the part of an assessor to obtain independent cognizance of such commercial and financial instrumentalities for the purpose of valuation and assessment is, on its face, an impossibility; and if the co-operation of the person to be assessed is to be invited or relied on, two of the most powerful influences that can control human action—love of gain, or the unwillingness to part with property, and the desire to avoid publicity in respect to one's private affairs—immediately unite to oppose and prevent such co-operation.—A resort to personal inquisition, with the accompanying machinery of oaths, "dooming" and penalties, is next in order; under which the state, ignoring all rules enacted for the protection of debtors in the ordinary collection of debts, pursues the citizen for the collection of what it claims to be a debt, with no better result, in nine cases out of ten, than the impairment of the public sense of both justice and morality.*—

But this statement by no means presents all the difficulties that are encountered in the attempt to carry out the popular theory, that it is necessary to tax everything in order to tax equitably. A further large proportion of the so-called personal property of every highly civilized country which is *not* intangible and invisible, and which requires only ordinary perception for recognition and valuation, is in the nature of instruments or subjects of commerce between states and nations; such as railroad machinery, ships, steamboats, immense stocks of raw and manufactured products accumulated in store for the sole purpose of movement, or actually *in transitu*. What shall be the *situs* of all such things for assessment? If actual location is to be determinative, then a product of grain, or merchandise, which, in movement for a market or conversion into other forms, may happen to be in Illinois in April, in Ohio or Massachusetts in May, in New York in July, in New Jersey in August, and in Connecticut in October, will be liable to five separate taxes in one and the same year; for the laws of each of these states require their assessors to return for taxation all such property as at the periods mentioned may be actually within the sovereignty and jurisdiction of the taxing authority. On the other hand, if the fiction of law that personal property follows the owner is to govern, then all such property may be taxed *where it is not*, and be exempt from taxation in the place *where it actually is*, and where it shares in the benefits that flow from the protective expenditures—police, fire department, etc.—which are incident and necessary to

* "It is claimed that each individual owes the state annually a certain sum of money in the way of taxes, proportioned to his entire property. If he voluntarily pays, he escapes arbitrary measures. If he declines to pay, or tries to avoid payment, he has no just cause to complain if he is regarded in the light of a criminal, or if the same arbitrary measures are used to collect his tax, as if it were a debt owing by one citizen to another. But let us examine this averment. If the defaulting tax payer is to be regarded as a criminal, and as such placed in the worst possible light, he certainly ought not to be deprived of the privileges of a criminal; which are, a right to a public investigation according to the rules of evidence adopted by free and enlightened communities, a right to be heard before condemnation, and the right to be presumed innocent of having property subject to taxation until the fact is ascertained otherwise by legal proof. But under the existing tax laws of most of the United States there are not accorded to the tax payer the privileges of a criminal; for no tax can be assessed on a large proportion of the personal property of the state according to any rules of legal evidence that any common law court would adopt. No assessor, under the laws of New York, for example, in assessing personal property, can act judicially. The law gives him no power to obtain legal testimony of a character that is admissible in a court; he must act the part of an arbitrary despot against an inculpated tax payer, or not act at all, and his conclusions for acting must be reached at best by the testimony of those who have no means of knowing anything, in a legal sense, about the subject matter under investigation. It seems clear, therefore, that any attempt to tax without legal evidence is an act of usurpation or despotism, wholly antagonistic to the principles of a free government, and that it is a mockery to characterize such acts as, in any sense, judicial proceedings. Nor does the right to reduce or regulate the assessment by the oath of the tax payer relieve the law in any degree of its unequal and despotic character; for every individual holding public office knows that oaths, as a guarantee of truth in respect to official statements, have ceased to be of any value. The assessments made according to the oaths of parties, furthermore, are not made according to legal evidence, upon examination and proofs; but according to the will and secret caprice of each tax payer, instigated by his selfishness, and the natural depravity of human nature. Each tax payer, under the present rule, becomes, therefore, the interpreter, not only of the law, but of the fact, and makes a secret interpretation of both, and we have as many interpreters of the law as there are numbers of tax payers; and also an indefinite multiplicity of assessors; for each person who unfairly reduces his own assessment, arbitrarily assesses thereby some other of the community for the difference. Could or would any people apply the same rules for the collection of debts? Is there any one who has so much confidence in human nature that he will propose a law, that a person who is sued shall be discharged from all claims of indebtedness if he will make oath, interpreting both the law and the fact himself, that he owes the claimant nothing? Is it believed, that under tariff laws, the government could get sufficient revenue to pay for its collection, if the importer was permitted to offset debts against the value of his goods; or if the law was peremptory that his oath alone should be given, and that there should be no legal examination, inspection or proof of the value or character of the importations?" (Second Report of Commissioners of New York, 1873.)

the locality. Furthermore, to tax the instrumentalities or objects of commerce in one locality, and to exempt the same from all direct taxation in another, will clearly not permit the former to enter a common market on an equal basis for competition with the latter. And yet this unjust discrimination is exactly what does result from the attempt of a majority of the states of the federal Union to tax all such instrumentalities or objects under the general head of personal property, and the exemption of the same classes of property from any corresponding assessment in the British provinces of North America, and in all foreign countries with which the United States enter into extensive commercial intercourse and competition. Boards of trade and commercial conventions may pass "deploring" resolutions concerning the decay of American commerce, and committees of congress may continue to investigate the same subject, but so long as ships engaged in the carrying trade on the *free ocean*, and owned in Canada, England, France, Germany and Holland, are not directly taxed, and ships engaged in competition in the same business, and owned in Portland, Baltimore, New Orleans and San Francisco, are taxed, and taxed heavily, commerce will incline to move in the paths which are made easy and profitable to it. The difference in cost of a single penny in laying down grain at Liverpool, may alone be determinative of the question whether millions of bushels shall be supplied by the wheat fields of the United States, or those of Russia, India or Hungary. — It is also to be noted, that a very large part of what is termed "personal property" is, through the necessities, policy or organization of governments, made exempt from taxation, as, for example, all instrumentalities and property of a government—its bonds, legal tenders and money—and very generally, also, the deposits and surplus of savings banks. At the present time about one-fifth of all of the personal property of the United States is believed to be embraced within such a category of exemption. And finally, as regards so much of other "personal property" as is tangible and visible and clearly within the jurisdiction and territory of the taxing power, such as articles of personal adornment, clothing, furniture, works of art, musical instruments, books, etc., shall we assume that we have here a class of articles on which it is desirable to levy taxes? Of course the popular answer will be in the affirmative; for are not all these objects, it may be asked, the very ones best fitted to sustain taxation? and are they not in great part luxuries rather than necessities? But how, it may be asked, are you going to tax them? for it is reasonable to suppose that if they are to be taxed, it is to be by a system that works equitably, and not by a system which, by taxing A, and letting B, C and D escape, brings the law into contempt; and, by making the sense of the commission of a wrong on the part of the state the excuse for the commission of another wrong on the part of the individual, gradually undermines the morality of a community that does not wish to be dishonest. — *Distinction between "Real" and "Personal" Property Artificial, and not Natural.* As a further help to the understanding of the subject, it is important to here call attention to the circumstance, that the distinction between real and personal property is, to a very great extent, an artificial and not a natural one. Thus, for example, shares in the national debt of France (as well as stock in the bank of France), instrumentalities which in the United States would be regarded as personal property in its most typical form, may by French law be regarded as real estate, and, as such, administered upon. Again, before emancipation in the United States, slaves (which by the federal constitution were recognized as persons) were in some of the states regarded as real estate, and subject to all the laws pertaining to the mortgaging, sale and descent of real property; and at present in Wisconsin, the one species of property which is especially typical of mobility, and is of little value apart from its capability of motion, namely, the rolling stock of railroads, is also made by law real estate. Equally nice is the distinction in the case of machinery. Unattached, or movable, it is personal property; screwed or fastened permanently to the floor or wall, it becomes real estate. An apple upon the tree is real estate; but when fallen, and resting upon the ground, it is not real estate. The attempt to recognize in a system of laws distinctions of property which are purely arbitrary, and which sovereign states may alter at pleasure, are not likely, therefore, to result in anything generally harmonious and satisfactory. — But the advocates of the infinitesimal system will probably answer, that the fault here is not with the system, but with its administration. Therefore, let a law be made, they say, which will compel every person possessed of such description of property to make and hand in to the assessors a schedule, and certify to its correctness in respect to items and value by oath. But such substantially is already the law in most of the states of the federal Union, and its observance and execution amounts to nothing. Thus, in Ohio, the law subjects to taxation all visible personal property above fifty dollars in value, without any offset of debts; and yet the official reports indicate that not more than one in ten of the adult population of this great and rich state has any property in excess of this amount, which the eye of the law can discover: although investigation will show that it is impossible for a person to dress respectably, or live decently, outside of an alms-house, who has not always at least double this amount of property in his possession. Every intelligent assessor in Ohio, when questioned in respect to the law, will answer, that it can not be executed with even an approximation to exactness, and that a serious attempt to execute it would cause a political revolution; and yet such is the strength of popular prejudice, that any attempt to repeal this law would at present be wholly unsuccessful. In

Massachusetts, also, where the law admits no offset of debts against visible and tangible property, and is regarded as complete, and where its execution is acknowledged to be most arbitrary and inquisitorial—some towns publishing each year every known item of each man's personal property, even down to the family pig and a string of sleigh-bells—the most intelligent officials admit that their system is a comparative failure; and almost a complete failure as to reaching evidences of indebtedness, which, as before shown, constitute in modern times so large a part of the personal property of every civilized community. In the state of New York, where the letter of the tax laws in respect to the subjects of taxation is nearly the same as in Massachusetts and Ohio, but the administration less stringent, and where the aggregate of personal property nearly or fully equals in value the aggregate of real property, the proportion of the former returned for taxation is not in excess of one-fifth of the total assessed valuation; while in the great city of New York, with a population of over a million, not 1 per cent. of her citizens stand upon the books of the assessors as possessing any personal property subject to taxation other than shares in banking institutions. In the state of New York the assessed valuation of real estate for the year 1882 was $2,557,218,240, an increase over the preceding year (1881) of $124,556,861; while, on the other hand, the assessed valuation of personal property, in the same state, and under laws that allow but small exemptions, for 1882, was $315,039,085; a decrease from 1881 of $35,982,104. Again, according to the census reports for the United States, the gain in valuation of the real estate of the country between the years 1860 and 1880, was $6,063,760,876; while during the same period the valuation of the personal property of the country declined to the extent of $1,245,287,338. Now, as it is in the nature of an economic axiom, that the market value of the aggregate of land and that of the aggregate of productive capital are equal; and further, that the market value of land is merely the reflection of the value of the productive capital placed upon it, and its immediate vicinity, it follows that the decline in these valuations of personal property above noted, is not real; and simply represents the failure and utter inefficiency of the existing laws which attempt to assess and collect taxes upon such property. —Such, then, are some of the almost insuperable difficulties, having their origin in the nature of things, and growing out of the correlations of modern civilization, which must be always attendant upon the attempt of any sovereignty to tax everything over which it has dominion or jurisdiction. And hence it is, that, whenever a system of infinitesimal taxation has been projected, its authors have been led, as it were by instinct, to the conclusion, that its execution with any degree of effectiveness must depend upon the employment of extraordinary and arbitrary measures. Thus, the old Romans, who first established the taxation of personal property at the period of the decadence of the empire, and who were not troubled with any restrictions of a constitutional character, or any very nice notions about personal liberty or general morality, clearly perceived this, and accordingly invested their tax officials with the power of administering torture as a means of compelling information and enforcing payment. And thus also have all the officials in every modern state, adopting the infinitesimal system, tried to act, so far as public opinion would uphold them.* —To complete the record of experience it is only necessary to add, that every effort which has been made in modern times to carry out the infinitesimal system of taxation has proved so uncertain and unsatisfactory, that every country, with the exception of Holland and the states of the federal Union of North America, have abandoned the project as something wholly impractical.† — *Considerations respecting an Income Tax.* Recognizing the difficulties attendant upon the attempt to collect taxes from a multitude of objects and by a large variety in methods of assessment, many economists and writers on the subject of taxation are inclined to fall back upon and recommend an income tax, as the one system of taxation most free from objection. What can be fairer, it is said, than that each person should pay in proportion to his annual net gain or income? But practically an equitable assessment, based on the

* The most curious and confirmatory evidence of this is to be found in a method of procedure adopted in the city of Boston, Massachusetts—a method which has no parallel except in the records of the middle ages and of the inquisition, and constitutes, in itself, a satire upon any claim to the enjoyment of a wholly free and enlightened government. For failing to obtain satisfactory information about the private affairs of any individual, the chief assessors and their subordinates in this city, to the number of some fifty, meet in secret session, in a large upper chamber set aside for the purpose, and appropriately termed the "dooming chamber," when the citizen in question, without being present either by counsel or in person, is arbitrarily doomed to the payment of any sum which a majority of those present may think proper; and from which "dooming" there can be no appeal.

† Holland, by reason of her immense national debt, the largest comparatively of any country, has been obliged to maintain a most rigorous and extensive system of taxation in order to raise revenue sufficient to the wants and requirements of the state. But it has been prominently brought out in recent years, that the decadence of Holland dates almost from the hour when taxes were imposed on manufactories, commerce, fishing industry, and moneyed capital. Business went elsewhere, and with the decline of business the ability to pay taxes diminished, and the burden of taxation augmented. (See *Journal des Economistes*, November, 1871; also, "Principles of Political Economy," J. R. M'Culloch, pp. 470-71.) —Within recent years the local taxation of Great Britain has been made the subject of special inquiry and investigation by a committee of parliament; and, in addition to several official reports, two prize essays on the same subject have been published by the statistical society of London (*i. e.*, "On the Local Taxation of Great Britain and Ireland"; First and second Tayler Prize Essays, by R. H. Inglis Palgrave, and John Scott, of the Inner Temple); while the necessity of raising increased revenue in France has also drawn especial attention to the subject of local taxation in that country; but it is particularly noticeable, that in neither England nor France has any prominent speaker or writer advocated the direct taxation of personal property; or even alluded to the subject, except to scout the very idea of such a proposition.

known income of each man, is an idea that never has been and never can be realized. When we come to enacting laws for the collection of revenue, we must take human nature as we find it, and laws which are directly antagonistic to the two most powerful influences that can control human action—love of gain and a desire to avoid publicity in regard to one's private affairs—can never be efficiently administered. Under this head take one illustration. In 1868, with a federal law assessing all incomes over $1,000, and with a trained corps of officials, only 259,885 persons, out of a population of nearly 40,000,000, acknowledged the receipt of any taxable income; and when the exemption was increased to $2,000, the number of persons who paid an income tax was reduced to 116,000; and subsequently ran down to 71,000. Experience, therefore, would seem to demonstrate that an exemption in the United States of $2,000 of income accredited to each individual (for, with a view of keeping up an appearance of equity, the amount of exemption was allowed to be deducted from all incomes), would exempt more than nine-tenths of the property and more than ninety-nine hundredths of the property owners of the United States from this tax. Under such circumstances it is a misnomer to call such an exaction taxation. — Again, unless an income tax is an exclusive tax, or if it forms (as in most instances it would) an element of a general system of taxation, it must necessarily involve double taxation; first, on the property yielding the income, and second, on the income itself. If the property yielding the income were under the jurisdiction and control of one state, and the person receiving the income was a resident of some other state, the duplication could hardly be avoided. All modern systems of income taxation have recognized the principle of discriminating in favor of persons in the receipt of comparatively small incomes; and have provided as a fundamental feature of their policy, that all incomes below a certain sum (usually a small amount) should be exempted from assessment. Thus, for example, the existing income tax of Great Britain commences with an assessment on incomes of £150 ($750) and upward, and exempts all incomes of a smaller amount. In the United States the income tax, as *first* enacted in 1863, exempted $600 annual income for each person, together with whatever was paid annually for rent and repairs of residence. But under this form of an income tax there can be no equality between taxed producers and untaxed producers; and more especially, as with any considerable amount of exemption, the untaxed producers will be the most numerous and the greatest producers in quantity as a body.* No man is a free man the fruits of whose industry and capital are subject to surcharged (overburdened) exactions to an unlimited degree, and from which his immediate competitors are entirely exempt. Equality of taxation of all persons and property brought into open competition under like circumstances, is necessary to produce equality of condition for all, in all production, and in all the enjoyments of life, liberty and property. And any government, whatever name it may assume, is a despotism, and commits acts of flagrant spoliation, if it grants exemptions or exacts a greater or less rate of tax from one man than from another man, on account of the one owning or having in his possession more or less of the same class of property which is subject to the tax. If it were proposed to levy a tax of 5 per cent. on annual incomes below $750 or $2,000 in amount, and exempt all incomes above these sums, the unequal and discriminating character of the exemption would be at once apparent; and yet an income tax exempting all incomes below these is equally unjust and discriminating. In either case the exemption can not be founded or defended on any sound principles of free constitutional government; and is simply a manifestation of tyrannical power, under whatever form of government it may be enforced. The experience of Great Britain is often adduced as evidence in favor of the practicability and expediency of an income tax. But be this as it may, it would not seem to require argument to prove that any attempt to assess and collect an income tax which should be equal and have none of the features of spoliation or confiscation, from the sparse population of the United States extending from Florida to Alaska, would be entirely unpractical; and that unless the rate was excessive, the taxes received would not pay the cost of assessment and collection; while the rights of property, the great republican principle of equality before the law, and constitutional law itself, would alike preclude any exemption of any income derived from like property. — Regarding the record of experience as thus detailed, it is not surprising, that many, perhaps a majority, of economists, are ready to believe (as was stated at the outset, in this article), that there is no such thing as a science of taxation, and no definite rules for practical guidance adapted to all circumstances; and, despairing of coming to any more satisfactory conclusion, are willing to accept the maxim of M. Say, the celebrated French economist, that the best system of government finance is to spend little, and the best taxation that which is least in amount. Keeping steadily in view, however, the nature, object and scope of taxation as before defined, together with the acknowledged results of experience, and pursuing the investigation further, it is nevertheless the opinion of the writer, that certain conclusions can be reached which will commend themselves for acceptation as in the nature of principles and as infallible guides for administrative purposes. — *Nothing can not be Something for the purposes of Legitimate Taxation.* And

* If we assume 5 per cent. as about the average profit of money, land or other property in the United States, over and above all charges and taxes, then an exemption of $600 would represent an accumulation yielding an income of $12,000. If the exemption is raised to $2,000, as it was at one time in the United States, then it would represent $40,000.

as one of the first and most important steps that can be taken in such investigation, it is most desirable that all who wish to understand this subject should clearly comprehend, (and which, absurd as the averment may seem, comparatively few do now comprehend), that nothing can not be something; or, in other words, that *property is always a physical actuality*, which has become valuable or property, by some form of labor, and can not be created by mere paper documents, except to the extent of the value of the paper and the writing or printing upon it. In other words, a title to property, a representative of property, can no more be property, than a shadow can be a substance: and if this conclusion be true, then it would seem to follow, of necessity, that the act of making debts, bonds, verbal or written contracts, notes, book accounts, mortgages, warehouse receipts, titles, certificates of stock, or any form of salable or transferable rights, is not a creation or production of any new property, but simply an exchange, by contract or operation of law, of the rights and titles of parties in pre-existing property; and that any tax on any of these rights or titles is only another form of burdening the property which is the subject of the rights or titles. Enact such laws, also, in respect to taxing titles as we may, experience will prove that taxes can not be practically levied on imaginary things, or legal fictions, because it is some physical actuality, in the sense of embodied labor, that must, after all, and in the end, pay all taxes. If legislatures have the power of creating *flat* property, that is, imaginary or fictitious property, it is beyond their power to make it pay taxes, for nothing less than omnipotence can make something out of nothing.* On the other hand, let us consider, for a moment, the converse of this proposition, namely, *that titles are property, and, as such, ought not to be exempted from taxation.* If this is so, then it would seem to follow, that, by making titles, we can make property; and that when a man mortgages his farm for $10,000, the community have ten thousand dollars' worth of real estate and ten thousand dollars' worth of personal property, where, before the execution of the mortgage, there was only the specified value of the real estate. Again, if the title is the property, then either the actuality is not property where it exists, or else we have two things occupying the same place at the same time. Credits and titles, of themselves, have no value, and, separated from the things they represent, they can not honestly be sold at all. Who will buy them? But we know the character of the men who will sell them; and that their representatives can always be found in a state's penal institutions.—"A contract," says Ex-President Woolsey (Political Science, vol. i., p. 75), "does not create a right, but only transfers rights. A contract implies in each party a right to do that which the contract relates, and to pass over to another what is my own. If I have no right to use my labor according to my will, or have no property in a thing, I can not transfer the product of my labor, or what I have in my hands, to another. It is thus the exercise in a special case, for the benefit of another, of a right already existing. I can not make that the property of another, by contract, which is not mine already. Were it otherwise—were contracts a source of new power—it would be stronger than God." This is a brief statement of the true nature of a contract or obligation, and a complete refutation of the popular theory that the creation of debts is a creation of property. Again, when attempts have been made to claim salvage for the recovery of bills of exchange, or other titles to property, from wrecks, the courts have decided that salvage in such cases is not allowable; and, therefore, have practically held that credits and titles are not property, but mere rights to property, and in the case of negotiable instruments, when destroyed by fire or otherwise, the right under the destroyed instrument still remains, and can be enforced in courts when identified. A clear comprehension, then, of the facts, that property is embodied labor; that property can alone suffice to pay taxes; that rights, titles and franchises are but the representatives of property; and that, having subjected the property to taxation, there is no sense or equity in again assessing its representative, will at once divest the problem of taxation from many embarrassments which now seem to invest it, greatly simplify it, and go far toward the determination of sound and fixed tax principles.—*What Constitutes an Exemption in Taxation.* A word here in reference to the popular idea that the exemption of any form of property is to grant a favor to those who possess

* These views, it should be understood, are, however, heresies to some of the best thinkers and writers on political economy. Some confuse themselves on the subject, by first defining property as anything that can be bought or sold, and then, since a title—as, for example, a deed—can be bought and sold, accept the inference that a title is necessarily property. But let us analyze this definition and assumption. We can, without doubt, sell and deliver a deed to a farm, but what is sold in such instances is the farm, including a right, a right to have dominion over it. But it may be rejoined, that a right of dominion is property. Let us, therefore, carry the analysis a little farther. If the farm in California is property in the state where it is, and where it is taxed, any right or title to the same farm, held in New York or England, be it in the nature of a deed, a mortgage, a partnership interest, or any other form of title, can not be the property; for the same thing certainly can not be property in two separate states and jurisdictions, and in two distinct forms and manifestations, at the same time. On the other hand, if it be assumed that the title to the farm is the property, and, as such, can be rightfully taxed where it (the title) is, then it stands to reason that the subject of the title, the farm in California, ought not to be also regarded as property, and taxed in New York or England. In other words, if the title to the farm is property, then the farm is not really in California at all (unless the owner of the title resides there), but goes out of that state in the pocket of the individual who walks off with the title to it. We have all heard of such concentration of meat that all that is valuable in an ox for food can be put into a quart can; but such a concentration of property as is here supposed is something much more remarkable; and admits of a man having a drove of oxen in his hand, ten acres of woodland in his hat, a church with a steeple in one coat pocket, and a four-story brick block and a mill privilege in the other.

such property. An exemption is freedom from a burden or service to which others are liable; but in case of the exclusion of an entire class of property from primary taxation, no person is liable, and therefore there is no exemption. An exclusion of all milk from taxation, while whisky is taxed, is not an exemption; for the two are not competing articles, or articles of the same class. It is true, that highly excessive taxation of a given article may cause another and similar article, in some instances, to become a substitute or competing article; and hence the necessity of care and moderation in establishing the rate of taxation. We do not consider that putting a given article into the free list, under the tariff, is an exemption to any particular individual; but if we make the rate higher on one tax payer or on one importer of the same article than on another tax payer or importer, we grant an exemption. We use the word "exemption," therefore, imperfectly, when we speak of "the exemption of an entire class of property," as, for example, upon all personal property; for if the removal of the burden operates uniformly on all of such, then there can be no primary exemption. — *The Theory and Necessity of Infinitesimal Taxation not supported by either Reason or Experience.* If the above reasoning in respect to exemptions in respect to taxation be correct, it follows that it is not necessary, in order to burden equitably and uniformly all persons and property, to tax primarily all persons and property within the taxing district. But as this proposition is in direct opposition to popular theory (at least in the United States), appeal will first be made to the evidence of its truth, derived from the results of actual experience. It is a matter beyond dispute, that the universal, infinitesimal system of taxation is unsatisfactory and unjust, and that the more extensively and rigorously it is administered and applied, the more unequal and impracticable it becomes. On this point the proof already submitted is indisputable. On the other hand, the testimony is equally complete, that the more of simplicity we can introduce into a tax system, and the more the assessment can be restricted to a few articles, the more satisfactory the system becomes. There are places and countries where personal property is entirely, or in a great degree, excluded from taxation, as, for example, the cities of Philadelphia and Montreal,* and the countries of England and France, and where the burden of the expenses of the state is made to fall primarily and almost exclusively upon realty; and the result is an absolute demonstration, "that a complicated and inquisitorial system of separate taxation of goods and chattels is wholly unnecessary, an obstruction to trade, an injury to production, an unnecessary invasion of private affairs, and a self-torment inflicted on land itself."— Great Britain, commencing several hundred years ago with a system which contemplated taxing everything, has gradually reduced her tax list to some six or eight articles or sources under the customs, and to an equally limited number under her excise and local systems; and, with every degree of concentration, the relief experienced by the whole population, and the impetus given to material development, has been all but universally acknowledged. In France, also, where the number of owners of real estate, in proportion to population, is greater than in any other country, the essential features of a concentrated system also prevail for local, and, to a limited extent, for general, taxation. And in the case of the United States, it is to be further noted, that the national government, except under the exigencies of a great war, has always recognized in her tax laws the desirability of simplicity and concentration; and that now, although the present system does not tax *directly* the one-fiftieth part of the property of the country, all parties are agreed that a further limitation of the sources of national revenue is most desirable. But it is curious to note, that while no sensible person entertains the idea that the taxes levied by the national government on spirits, fermented liquors, or tobacco, or upon any imported articles, are paid by the producer or importer, except so far as he is a consumer of the same, the exactly opposite doctrine appears to prevail in the United States in respect to the incidence of local taxation; and the principle which has constituted the basis of most of the state legislation on this subject seems to have been, "that whatever is not taxed directly is necessarily exempt."— Let us appeal next from the logic of practical experience to the logic of common sense. The theory of infinitesimal taxation, if fully and completely executed, must logically lead, not only to the taxation of every cent in value of every kind of property within the borders of every state, county, township or municipality, but it would require a regular system of custom house espionage, and an army of officers to levy and collect taxes, by a multiplicity of rates upon all goods or property introduced into each township or municipality. If, however, this is not done, what becomes of the vaunted idea, that equality of taxation requires that every particle of property should be subject to a direct burden? But, fortunately for the prosperity of communities, this idea of what is necessary to produce equality of taxation is fallacious, and it is likewise fortunate, that it can be demonstrated that this false system, when partially or fully developed, produces unmitigated evil and inequality.—*All Taxation ultimately and necessarily falls on Consumption.* Property is solely produced to supply human wants and

* In 1874 the real estate of Philadelphia was assessed at $589,008,602, on an asserted full valuation. The personal property of the city subject to taxation at the same time, was returned at a valuation of $9,464,873; and included horses, carriages, furniture, gold and silver watches. The system of taxation in Montreal, dominion of Canada, the same year, was as follows: one-fifth of 1 per cent. on the value of real estate; one-fifth of 1 per cent. for school tax; one-twentieth of 1 per cent. on railway property; 7½ per cent. on rentals. In addition, there were water rates, and special taxes on insurance, telegraph, ferry and street railway companies, and on innkeepers, billiard tables, theatres, breweries, banks, brokers, etc., and licenses on grocers, butchers, exhibitions, dogs, etc.

desires; and taxes, like all other expenses which enter into the cost of production, must finally be sustained by those who gratify these wants or desires by consumption. Production is only a means, and consumption is the end, and the consumer must pay in the end all the expenses of production. The state is an active and important partner in all production. Without its assistance and protection, production would be impeded or wholly arrested. The soldier or policeman guards, while the citizen performs his labor in safety. As a partner in all the forms of production and business, the state must pay its expenses, *i. e.*, its agents, for their services; and its only means of paying are through its receipts from taxation. Taxes *legitimately* levied, then, are a part of the cost of all production, and there can be no more tendency for taxes to remain upon the persons who immediately pay them, than there is for rents, the cost of insurance, water supply and fuel to follow the same law. The person who wishes to use or destroy the utility of property by consumption to gratify his desires, or satisfy his wants, can not obtain it from the owners or producers with their consent, except by gift, without giving pay or services for it; and the average price of all property is coincident with the cost of production, including the taxes advanced upon it, which are a part of its cost in the hands of the seller. Again, no person who produces any form of property or utility, for the purpose of sale or rent, sustains any burden of legitimate taxation, although he may be a tax advancer; for, as a tax advancer, he is the agent of the state, and a tax collector from the consumer. But he who produces or buys, and does not sell or rent, but consumes, is the tax payer, and sustains a tax in his aggregate consumption, where all taxation must ultimately rest. In short, no person bears the burden of taxation, under an equitable, legitimate system, except upon the property which he applies to his own exclusive use in ultimate consumption. The great consumer is the only great tax payer.*—*Proportional Taxes on all things of any given Class will be diffused and equalised on all other Property.* The examination of the tax rolls in any state, city or municipality, will show that surprisingly small numbers of persons primarily pay or advance any kind of taxes. Thus, it is not probable that more than one-tenth of the-

* On this subject the eminent French economist, Joseph Garnier, in his *Traité des Finances*, ch. v., says: "From the point of view of distributive justice and economic truth, and to attain an equitable apportionment of the public burdens, we must put the question: A tax being given, on whom does it fall in the last analysis? No absolutely satisfactory answer to this question, insoluble in its generality, has been given or could have been given. However, Ricardo, who made a profound study of taxation, thought that taxes, no matter of what kind, are always paid by the consumer, on his capital or on his income, the producer always making them enter into the cost of production; and employing his capital and his industry in other branches when he can not include the taxes he pays in such cost. James Mill likewise adopted the same opinion. This was Franklin's view also; he thought that the merchant always added the tax to his bill or invoice. It was likewise Adam Smith's idea, who, in passing, says: 'The tax is finally paid by the last purchaser or consumer.' ['Wealth of Nations,' edited by J. E. Thorold Rogers, vol. ii., p. 132.]—The physiocrates had been led to think that taxes finally fell, directly or indirectly, on the landed proprietor, to whom they thought the entire net product of production, which in the end is the only thing taxed, and which alone should be taxed by the legislator, comes back.—J. B. Say says that Ricardo may be right in the abstract, but that, in fact, the producer does not always succeed in making the consumer pay the tax, a part of which he (the producer) must bear himself. The French economist adds: 'This subject does not admit of an absolute opinion. There is probably no kind of contribution which does not fall on several classes of citizens.' According to him, therefore, the subjects taxed (*bases de l'impot*) should be increased sufficiently to attain this end: that those producers who are not reached by one tax may be reached by another.—The views held by the physiocrates on production being incomplete and erroneous, their financial conclusion is no longer worthy of consideration. J. B. Say's conclusion is in harmony with those of Ricardo and Smith; but it is lacking in precision. That of Ricardo, if it be exact, should be amended thus: 'Taxes in general and *in the long run*, fall on the consumer.' And, indeed, in the face of the facts, it is difficult to admit, that this diffusion or transmission of burdens is made directly, immediately and without effort. If we may so express ourselves, Ricardo considers the phenomenon as if it were happening *in vacuo*, whereas, in reality, the tax, to find its natural or definitive incidence and to traverse the successive strata of society, needs a pretty long lapse of time, a thing which is effected only after many and complex repercussions. The burden weighs at first on certain classes of citizens; then, by degrees, it apportions itself among a greater number of tax payers, or among all tax payers, and by successive repercussions it becomes an integral part of the price of things, in such a way that the person who buys most things pays most taxes. At first view, the tax seems paid, whereas it has only been advanced.—However, the solution of this question is not, we repeat, possible, as to taxation considered in general; it is possible, if possible at all, only if we consider the different kinds of taxes apart from one another, and according to their special assessment. It is necessary to consider apart their accidental and their permanent effects, their temporary and definitive effects. We must remark, also, that both for taxation and for the cost of production, the law of supply and demand is predominant. That law it is which permits, according to very variable cases and circumstances, the landowner, capitalist or workman to have the tax reimbursed to him by the leaseholder, the manufacturer, or the merchant, and which permits these latter to have themselves reimbursed, in turn, by the consumers; or which compels each of them to pay a part of the tax. It is, therefore, erroneous to affirm that the producer has himself always and equally reimbursed by the consumer. At the end of a period of time, the tax imposed on one or many categories of individuals is repercussed on other classes, and in the end *fiscal charges weigh on all the classes of the population*, even the taxes on the wealthy, which fall indirectly and in a certain proportion on the poor themselves, since for the labor of the poor there is less demand by the wealthy, whose saving or consumption the tax has curtailed.—It is an error to say of a tax that its weight divided *ad infinitum* becomes almost insensible to those who bear it. This would be true of one sole tax, but it is not true when there is question of several taxes; taxes may apportion themselves and repercuss as much as you will, *but they must be paid;* and they produce their natural effects none the less. Division, diffusion and repercussion are unfortunately not synonymous with evaporation. We can, therefore, formulate no general law as to the incidence, the repercussion or diffusion of taxes. On this point there is among economists a great diversity of opinions and much hesitation."—Lorenz von Stein, in his *Finanzwissenschaft*, maintains that *all* taxes, and even the fines paid by criminals, finally become component parts of the prices of things, just as do the costs of production, and in the last analysis fall on the consumer. Etienne Laspeyres, in the article *Staatswirthschaft*, in Bluntschli's *Staatswörterbuch*, defends the same view. As far back as 1790 the Marquis de Casaux published a work, "The Absurd-

adult population, or about one-twentieth of the entire population of the United States, ever come in contact officially with a tax assessor or tax collector. It is also estimated that less than 250,000, or less than ½ of 1 per cent. of the total population of the United States, advance the entire customs and internal revenue of the federal government. It is therefore apparent, that there must be some natural law governing the diffusion of taxes; and if the great mass of the community did not instinctively recognize the existence of such a law, or, to speak more practically, if they did not feel and certainly know, as it were by instinct, and not by education, that the higher the taxes in any state, community or country, the higher their food, fuel, clothing and rents, and the higher the cost of all production, then why should the ninety and nine of the mass of the people take any interest in the fiscal affairs of the state? And why, if only the few who see the tax collector are the ones who pay all, or the major part, of the taxes, is it not for the interest of the many that expenditures on the part of the state should always be as large as possible? Why not have largesses out of the public treasury as in the days of old Rome? Why not public amusements for the many at the public expense? Why not tax the very rich exclusively? Adam Smith undoubtedly first gave the clue to the real and true law when he says "that no tax can ever reduce for any considerable time the rate of profit in any particular trade, which must always keep its level with other trades in the neighborhood." In other words, "taxes and profits, by the operation of the laws of human nature, constantly tend to equate themselves. Man is always prompted to engage in the most profitable occupation and to make the most profitable investment. And since the emancipation from feudalism, with its sumptuary laws, legal regulations of the price of labor and merchandise, and other arbitrary governmental invasions of private rights, individual judgment and self-interest have been recognized as the best tests or arbiters of the profitableness of a given investment or occupation. The average profits, therefore, of one form of investment, or of one occupation (as originally shown by Adam Smith), must for any long period equal the average profits of other investments and occupations, whether taxed or untaxed, skill, risk and agreeableness of occupation being taken into consideration.* Natural laws will, accordingly, always produce an equilibrium of burden between taxed and untaxed things and persons. We produce to consume, and consume to produce, and the cost of consumption, including taxes, enters into the cost of production, and the cost of production, including taxes, enters into the cost of consumption, and thus taxes levied uniformly on things of the same class, by the laws of competition, supply and demand, and the all-pervading mediums of labor, will be distributed, percussed and repercussed to a remote degree, until they finally fall upon every person, not in proportion to his consumption of a given article, but in proportion to his aggregate consumption. The capitalist bears no greater burden of taxation (and can not be made to bear more by any laws that can be properly termed tax laws) than the proportion which his aggregate individual consumption bears to the aggregate individual consumption of all others in his circuit of immediate competition; and as to his other taxes, he is a mere tax collector, or conduit, conducting taxes from his tenants or borrowers to the state or city treasury A whisky distiller is a tax conduit, or tax collector, and sells more taxes than the original cost of whisky. A dealer in imported goods keeps on hand a stock of accumulated taxes—imposts, excises, state, city and local taxes; the farmer charges taxes in the price of his products; the laborer, in his wages; the clergyman, in his salary; the lender, in the interest he receives; the lawyer, in his fees; and the manufacturer, in his goods. A Bible printed by the Bible society is always in part loaded with a whisky and tobacco tax, paid by the printers, paper-makers and book-binders, or paid by the producers of articles consumed by these mechanics, and reflected and embodied in their wages and the products of their labor, according to the degree of absence of competition from fellow-mechanics who abstain from the use of these and other taxed articles. The traveler who stops at one of the great city hotels can not avoid reim-

ity of the Land Tax," demonstrated by showing that all taxes, no matter of what kind, ultimately become part of the prices of commodities.—In addition to the opinions of recognized economic authorities above noted by M. Garnier, J. R. M'Culloch, whose article on "Taxation," contributed to the Encyclopædia Britannica, James Mill pronounced "masterly," thus expresses himself: "The truth is, that every burden laid, directly or indirectly, on any article for which there is any considerable demand, falls ultimately on its consumers." ("Taxation and the Funding System," p. 17.) M. Thiers, as shown by an extract from his work, "Rights to Property," quoted in connection with this article by the author, was an unqualified believer in the diffusion theory of taxation. Adam Smith would also appear to have completely indorsed it, when he says, "No tax can ever reduce, for any considerable time, the rate of profit in any particular trade"—*i. e.*, all business—which must always keep its level with other trades in the neighborhood." And again, in discussing the taxes upon luxuries, he says, "such taxes, though they fall indifferently upon every species of revenue, and are paid finally by whoever consumes the commodities upon which they are imposed," etc. The reader will, therefore, notice that Mr. Wells' views on this department of taxation are substantially in harmony with those of Adam Smith, Ricardo, James Mill, M. Thiers, J. R. M'Culloch, J. B. Say; they also found an earnest advocate in one of the soundest thinkers and shrewd practical observers America has ever produced—the late Isaac Sherman, of New York.—ED.

* As applied to the wages of labor, the truth of this principle is equally incontestable. "The sewing girl performing her toilsome work by the needle at one dollar a day, the street sweeper working the mud with his broom at a dollar and a half, the skilled laborer at two and three dollars, the professor at five, the editor at five or ten, the artist and the songstress at ten or five hundred dollars a day, are all members of the working classes, though working at different rates. And it is only the difference in their effectiveness that causes the difference in their earnings. Bring them all to the same point of efficiency, and their earnings also will be the same." (W. Jungst.)

bursing the owner for the tax he primarily pays on the property; and the owner, in respect to the taxation of his hotel property, is but a great and effective real estate and diffused tax collector. And so *all proportional contributions to the state from direct competitors* are diffused upon things and persons in the taxing jurisdiction, by a uniformity as manifest as is the pressure upon water, which is known to be uniform in all directions." (Isaac Sherman.)* — Any primary tax payer, who does not ultimately consume the thing taxed, and who does not include the tax in the price of the taxed property, or its products, must literally throw away his money and must soon become bankrupt, and disappear as a competitor; and accordingly the tax advancer will add the tax in his prices, if he understands simple addition. When Dr. Franklin was asked by a committee of the English house of commons, prior to the American revolution, if the province of Pennsylvania did not practically relieve farmers and other land owners from taxation, and at the same time impose a heavy tax on merchants, to the injury of British trade, he answered, that "if such special tax was imposed, the merchants were experts with their pens, and added the tax to the price of their goods, and thus made the farmers and all land owners pay their part of the tax as consumers." — These and other like investigations and experiences would, therefore, seem to warrant the annunciation and establishment of the following as great fundamental principles in taxation. Equality of taxation consists in a uniform assessment of the same articles or class of property that is subject to taxation. Taxes under such a system equate and diffuse themselves; and if levied with certainty and uniformity upon tangible property and fixed signs of property, they will, by a diffusion and repercussion, reach and burden all visible property, and also all of the so-called "invisible and intangible" property, with unerring certainty and equality. All taxation ultimately and necessarily falls on consumption; and the burden of every man, under any equitable system of taxation, and which no effort will enable him to avoid, will be in the exact proportion, or ratio, which his aggregate consumption maintains to the aggregate consumption of the taxing district, state or community of which he is a member. — It is not, however, contended, that unequal taxation on competitors of the same class, persons or things, diffuses itself; whether such inequality be the result of intention or of defective laws, and their more defective administration. And doubtless one prime reason why economists and others interested have not accepted the law of diffusion of taxes as here given, is, that they see, as the practical workings of the tax systems they live under, or have become practically familiar with, that taxes in many instances do seem to remain on the person who immediately pays them; and fail to see that such result is due—as in the case of the taxation of large classes of the so-called personal property — to the adoption of a system which does not permit of equality in assessment, and therefore can not be followed by anything of equality in diffusion. Such persons may not unfairly be compared to physicists, who, constantly working with imperfect instruments, and constantly obtaining, in consequence, defective results, come at last to regard their errors as in the nature of established truths. — *Benefits of limiting Taxation to a few Classes of Things.* "By limiting the sources or number of primary taxes we limit the sphere of government and the number and sphere of officials. We limit the sources of official corruption, and we give strength to free institutions by leaving the distribution of taxes, in infinitesimal form, to individual judgment and individual enterprise and competition, the great motor forces in all free government, rather than to the acts of officials, which must all be more or less arbitrary, inquisitorial and offensive; and if in any degree effective, must be executed by espionage, oaths and domiciliary visits, which are not in harmony with the spirit of the age and of free government." — *Conclusion.* The subject admits of elaboration and illustration to a much greater extent; but the general conclusions to which all investigation seems to lead, and which in all or part may be worthy of being regarded as principles, may be collectively stated or recapitulated as follows: 1. The right to tax is inherent in every sovereignty, and rests upon necessity. 2. The right to impose a tax, if it exists at all, "is a right which in its nature acknowledges no limits." 3. The subjects of taxation are persons, property and business. 4. Equality of taxation consists in imposing an equal burden upon all subjects—persons or things—of immediate competition. When this principle is violated, the act of taking, or the enforced contribution, is no longer entitled to be considered taxation, but becomes at once arbitrary spoliation or confiscation. 5. "All subjects over which the sovereign

* The method in which taxation diffuses itself has been thus illustrated by M. Thiers, in his work "Rights to Property." "In the same manner," he says, "as our senses, deceived by appearances, tell us that it is the sun which moves and not the earth; so a particular tax appears to fall upon one class, and another tax upon another class, when in reality it is not so. The tax really best suited to the poorest member of society is that which is best suited to the general fortune of the state; a fortune which is much more for the possession and enjoyment of the poor man than it is for the rich; a fact of which we are never sufficiently convinced. But of the manner, nevertheless, in which taxes are divided among the different classes of the state, the most certain thing we can say is: That they are divided in proportion to what each man consumes, and for a reason not generally recognized or understood, namely, that taxes are reflected, as it were, to infinity, and from reflection to reflection become eventually an integral part of the prices of things. Hence the greatest purchasers and consumers are everywhere the greatest tax payers. This is what I call '*diffusion of taxation*,' to borrow a term from physical science, which applies the expression 'diffusion of light' to those numberless reflections, in consequence of which the light which has penetrated the slightest aperture spreads itself around in every direction, and in such a manner as to reach all the objects which it renders visible. So a tax which at first sight appears to be paid directly, in reality is only advanced by the individual who is first called upon to pay it."

power of the state extends are objects of taxation, but those over whom it does not extend are, on the soundest principles, exempt from taxation." (Chief Justice Marshall, opinion United States supreme court.) The limitations of territorial sovereignty and the limitations of the taxing power are therefore coextensive. 6. Protection is the correlative of taxation; or taxes, under any government claiming to be free, are the compensation which property pays the state for its protection. "Taxation" without protection, is, therefore, a misnomer. Its proper designation is spoliation. 7. Legitimate taxation must be on account of and limited to public purposes; "and whatever governmental exaction has not this basis, is tyrannical and unlawful." (Cooley, "Principles of Constitutional Law.") 8. Every citizen should pay taxes, not in proportion to his ability to give, but according to what he ought to give; and what he ought to give can only be measured by the benefit he is to derive; or, as Adam Smith expressed it, "in proportion to the revenue which they (the citizens) enjoy under the protection of the state." 9. The burden or injurious effect of a tax on production or exchange is not to be measured by the ratio which the tax may bear to the gross value of the subject of taxation, but rather by the proportion which the tax bears to the profit that might result from undertaking a certain line of industry. 10. Property, in its true sense, as a subject for taxation, is always a physical actuality; and all experience proves that taxes can not be practically levied on imaginary things, or legal fictions, because it is some physical actuality, in the sense of embodied labor, that must in the end pay all taxes. 11. The exemption of any part of the property of the same class which is made the subject of taxation, is spoliation of that part which is discriminatingly burdened. On the other hand, the exclusion of an entire class of property is not an exemption. 12. Proportional taxes on all things of any given class will be diffused and equalized on all other property. 13. All taxation ultimately and necessarily falls on consumption, and the burden of every man, under any equitable system of taxation, which no effort will enable him directly to avoid, will be in the exact proportion, or ratio, which his aggregate consumption sustains to the aggregate consumption of the taxing district, state or community of which he is a member. — For practical guidance in devising or administering a system of taxation, intended to meet the wants of states or communities exposed to the competition of similar and competing organizations, the following rule or motto, proposed by Mr. Enoch Ensley, of Memphis, Tennessee, may be also regarded as in the nature almost of a tax axiom: "*Never tax anything that would be of value to your state, that could or would run away, or that could and would come to you.*"— *Taxation Bibliography.* Economic literature in all languages is very deficient in simple, and at the same time clear and comprehensive, works on the subject of the principles of taxation. No department of political economy, as stated at the commencement of this review, is more obscure or so little understood. Foremost in sources of information, to which the reader who desires to independently investigate is referred, is the chapter on *Taxation* in Adam Smith's *Wealth of Nations.* Apart from this, there is probably no one treatise, which any considerable number of economists are willing to accept as standard or authoritative, certainly in all departments. The best modern book, in the opinion of the writer, is J. R. M'Culloch's work, *Taxation and Funding,* 8vo, London, 1845. This work, however, is out of print, and difficult to obtain, but it can be found in most large libraries. The following other works may be recommended or mentioned. *The People's Blue Book: Taxation as it is and as it ought to be,* by Chas. Tennant, 16mo, London, 1872. This book is very complete in respect to the tax laws of Great Britain and their administration; and also discusses, in a very readable and generally correct manner, the theory and history of taxation. *The Science of Taxation,* Leroy-Beaulieu, 2 vols., 8vo, Paris, 1877. This is the best work in any foreign language on taxation. *Taxation of Fixed Capital,* M. Menier, 16mo, Paris, 1877; English translation, London, 1880. *Sur la Propriété,* Thiers, Paris. The chapter on taxation in this work is a luminous exposition of the principle of diffusion of equal taxation. Garnier, *Elements des Finances,* Paris, 1862–5, and De Parieu, *Traité des impots,* Paris, 1858, may also be mentioned. *Local Government and Taxation,* Cobden Club Essays, 8vo, London; a series of essays, presenting the best exposition of the existing systems of taxation in countries other than England and the United States—as Scotland, Ireland, Australia, Holland, Belgium, France, Russia and Spain. *The Taxation of the United Kingdom,* Baxter, 8vo, London. This work is out of print. It gives an analysis of British taxation, and discusses with great ability some of the most important questions connected with this subject. See also Noble's *The Queen's Taxes,* 8vo, London, 1870, and Dowell's *Sketch of the History of Taxes in England,* from the earliest times to the present day, vol. i., to the civil war of 1642, 8vo, London, 1876. — *Essays: First and Second Reports of the Commissioners appointed to revise the laws for the Assessment and Collection of Taxes in the State of New York,* David A. Wells, Chairman. As public documents these reports are now out of print. The first of these reports was republished by Harper & Bros., New York; and editions of both reports were republished in England and France. *The Taxation of Railroad Securities,* considered theoretically, and also with reference to actual experiences in the United States and Europe, by a Committee of State Railroad Commissioners, Charles Francis Adams, Jr., Chairman. *Rational Principles of Taxation,* by David A. Wells, Proceedings of the American Social Science Association for 1874. *Theory and Practice of Local Taxation in the United States,* do., At-

lantic Monthly, 1876; *The Reform of Local Taxation*, do., North American Review, April, 1876; *Are Titles and Debts Property?* do., Atlantic Monthly, September, 1877. *Twelve Letters on the Future of New York*, by Geo. H. Andrews, Commissioner of Taxes, 8vo, New York, 1877. *Taxation in Massachusetts*, by W. J. Minot, 8vo, Boston, 1877. *Exclusive Taxation of Real Estate*, by Isaac Sherman, New York, October, 1874. *The Tax Question: What should be taxed, and how it should be taxed*, by Enoch Ensley, Memphis, Tenn., 1878. *Taxation: A Plain Talk for Plain People*, by Jas. H. Canfield, 8vo, 1883, New York, published by the Society for Political Education. All of the above papers contain valuable information respecting the inequalities and character of the systems of local taxation in the United States. They can not all be easily purchased, but can usually be obtained for reference. For works expressing views antagonistic to those advanced in this article respecting the nature of property, and of credits and titles, the reader is referred to the works of H. D. Macleod, especially *Principles of Political Philosophy*, 2 vols., London, 1872; and to *Political Economy*, by Prof. A. L. Perry, New York, 18th ed., 1883.

DAVID A. WELLS.

TAXATION, National and Local. (See REVENUE, PUBLIC; TAXATION.)

TAYLOR, Zachary, president of the United States 1849–50, was born in Orange county, Va., Nov. 24, 1784, and died at Washington city, July 9, 1850. In 1808 he obtained a commission in the army as lieutenant, and in the war which followed he rose to the rank of major. At the outbreak of the Mexican war he held the rank of major general, and was in command of the army which advanced through Texas into northern Mexico and won a series of victories ending with Buena Vista. In 1848 he was the whig candidate for president, and was elected. (See WHIG PARTY, ELECTORAL VOTES.) His short term of office was marked by the sectional disputes on the subject of slavery which were settled in 1850. (See COMPROMISES, V.) The president's own plan of settlement was the admission of the disputed territories as states, but it was successful only in the case of California. See Fry's *Life of Taylor;* Powell's *Life of Taylor;* Abbott's *Lives of the Presidents*, 299; 2 Benton's *Thirty Years' View*, 737; 3 Von Holst's *United States*, 523; 3 *Statesman's Manual*, 1831 (for his messages). A. J.

TELEGRAPH. The electric telegraph, by annihilating time and space, is destined to play in the world a part analogous to that of steam. These two marvelous discoveries, by lending a helping hand to each other, have profoundly modified social relations, and we may, without exaggeration, assert that they are the beginning of a new era for humanity. The electric telegraph, which is still only in its infancy, has not yet yielded all the results which it is destined to produce; but we may even now get an obscure glimpse of what they will be. In politics it simplifies diplomatic relations, by putting governments themselves, by means of dispatches—which follow one another, so to speak, minute after minute—in direct communication, and by doing away with the hesitation and perplexity of their agents abroad. Without doubt political questions remain none the less obscure and embarrassed on this account, but the different opinions formed, the new facts which arise, becoming known instantly to the states interested in them, may have for effect rapid decisions and effectual measures, which but for electricity might arrive too late. From the point of view of the security of governments, the electric telegraph is one of the greatest administrative forces, for it gives the authorities the means of knowing immediately what is taking place at the points the most remote from the centre, and of making their action felt there without delay. In criminal matters the telegraph is a powerful auxiliary of the police; it prevents the flight of the guilty party by shutting him up in its wire-work as in the meshes of a net. By the telegraph line a general-in-chief may be present on every square of the chess-board on which the terrible game called a military campaign is played, and he may keep in constant and direct communication with his lieutenants. Unfortunately the net-work of telegraphs does not long remain intact in times of war, for the destruction of lines is one of the first acts of hostility. However, in the Italian war (1859) a successful effort was made to organize a system of lines which the enemy could not reach: this was the *flying* telegraph, the apparatus of which, that is, the posts and the wires, put up rapidly by agile workmen, followed the different army corps, and assisted in every movement. Prussia made a noteworthy use of this system in 1870. — We consider the electric telegraph one of the most powerful means of civilization which has been given to man; and we are of opinion that its future was opened to it only the day on which it was placed within the reach of everybody. The telegraph, which up to that time, in Europe, had been only a mysterious agent in the hands of governments, became an indefatigable apostle of human progress. From the point of view of morals, it is scarcely necessary to point out the influence of the relations it established among all the nations of the globe, of its diffusion of light which tends to raise all nations to the same level, and to the community of interests by which it draws them nearer to each other, or unites them. From the politico-economic point of view, the results are still more striking. By saving the time formerly spent in negotiating commercial affairs, the telegraph has increased commercial transactions in an incalculable proportion. It furnishes, moreover, sure and rapid information which enables merchants to expedite in time to a distant point, goods, the demand for which is urgent. Lastly, it establishes, among all the ex-

changes and all the markets of the world, a solidarity which prevents or attenuates catastrophes. In a still other order of facts, what misfortunes the telegraph may prevent! In case of a conflagration, it calls assistance from all directions; in case of a flood it warns those who live on the banks of rivers of their impending danger; on railways it averts the most frightful accidents by its power of vastly surpassing in speed the utmost rapidity of steam. We here recall the influence of the telegraph on facts of the moral order, and its influence economic and material, for neither politics nor political economy can be indifferent to these results. The increase of enlightenment and wealth is advantageous, not to individuals only; that increase is an increase of force in which the state which has known how to develop wealth and enlightenment finds the elements of its power. And hence it is that the most civilized peoples, who are at the same time the greatest peoples, were the first to understand the necessity of extending their network of telegraphs as rapidly as possible.—In the United States the exploitation of telegraphic lines is still left to private industry. And so it was in England before the law of July 31, 1868 (31, 32 Vict., ch. 110), which authorized the government to purchase the telegraph. The great states of Europe have reserved to themselves the monopoly of the telegraph. Apart from the fiscal interest which urges governments to find new sources of revenue, there prevailed not long since in Europe a powerfully accredited opinion, that the telegraphic mode of correspondence should be reserved to governments. But since the introduction of railways and the immense movement of relations and affairs which has been the consequence of that introduction, the telegraph has been looked upon as the necessary complement of that new means of transportation, and European governments have considered, that, with certain guarantees, the use of telegraphic correspondence should be allowed to the public.*

EDMOND BOUQUET.

* Aristide Dumont wrote in 1884: "The use of the telegraph, once it has been popularized, is called to render to the production of wealth services which have some relation to those created by economic and rapid ways of circulation, since these services shorten time, that stuff of which life is made, and since, in every industry, they impress greater activity upon production, and, as a consequence, diminish the amount of unproductive capital, lower the amount of current expenses in business, facilitate exchanges, and abridge transactions of every kind.—But from another point of view, the telegraph is called to render much greater services to industry. If we suppose the net-work of telegraphs extended and popularized, not only over the entire surface of Europe, but over every civilized point of the world, a single day would be sufficient to exchange news between the most distant markets; thenceforth there would be none of those uncertainties which so frequently disturb commercial relations, and none of those rumors which facilitate stock-jobbing [?]. A sort of equilibrium would become established, and production would become more independent of the emotions produced by politics. Is it not true that if the electric telegraph had embraced, in the course of the year 1853, the Danubian provinces, Constantinople, St. Petersburg, Odessa; and that if it had been possible to exchange a dispatch, in one day, between these different points and Paris, France's public funds and industrial values would have undergone fewer fluctuations? Kept constantly informed of what was happening, Frenchmen would have been less excited, and this would have prevented the ruin of a great many individuals.—Thus the electric telegraph facilitates the production of wealth in two ways: 1, by saving time and permitting a diminution in the amount of unproductive capital; 2, by establishing a sort of equilibrium between all markets, and of thus diminishing the influence of the uncertainty of politics on industry.—But if we consider the telegraph from the moral point of view, we believe that it has introduced into the world a revolution still more profound. If, in fact, the various continents are united, and they will be united in the course of this century [a prophecy fulfilled not very long after it was made]; if communication can be had in a few hours between London, Canton, New York, Calcutta and Paris, a new force will be added to the civilizing power of humanity, to the diffusion of enlightenment and to the radiation of good upon evil. The limits which pen peoples up will be blotted out, and peoples the most remote from one another acquire solidarity and unity. Men will emigrate more freely, for they will be no longer morally separated by any barrier. The superabundant population of Europe will feel less repugnance to transfer their activity to shores hitherto unknown; for, if they go even to the antipodes, they will not be, as formerly, remote from their country, their relations and their habits. This fear of remoteness has been hitherto a great obstacle to the spread of civilization. Some peoples are less subject than others to this species of nostalgia, and it is they who have accomplished the greatest things. The telegraph will tend more and more to remove that obstacle."

TELLERS. (See PARLIAMENTARY LAW.)

TEMPERANCE MOVEMENT in the United States. (See PROHIBITION, POLICE.)

TEN-HOUR LAW. In the early years of the textile manufactures in this country, the working day was protracted to twelve, thirteen and sometimes fourteen hours. The progressive diminution of the hours of daily labor in the manufactories of Great Britain to eleven hours was followed by a demand for a similar reform in the manufactories of the United States. After the enactment of the English ten-hour law in 1847, this demand became more and more articulate. In 1853 the managers of all the manufacturing companies in Lowell, Lawrence and Fall River, voluntarily reduced the hours of labor of their operatives to eleven per day. No further reduction having been made during the twenty succeeding years, in 1874 Massachusetts enacted a law making ten hours the limit of the day's labor for all females and for all males under the age of eighteen years, employed in the textile industries. (Public Statutes of Massachusetts, chap. 74, secs. 4, 5.) In Commonwealth *vs.* Hamilton Manufacturing Company, 120 Mass. Rep., 383, the supreme court held this act to be constitutional. C. C.

TENNESSEE, a state of the American Union. It originally belonged to North Carolina, whose boundaries extended indefinitely westward. In 1768 the country was opened to settlement by the treaty of Fort Stanwix, and a company of hunters, most of whom became settlers, was formed, June 2, 1769. Their settlements were on the Watauga, one of the headwaters of the Tennessee; and the inhabitants, framing a code of laws, signed by each person, became a body politic, the *Watauga*

association. Their numbers and their spirit of independence were both increased by immigrants driven from North Carolina by the tyranny of the royal governor, Tryon; and conventions at Jonesborough, Aug. 23 and Dec. 14, 1784, formed a separate state government, variously called *Frankland* and *Franklin*, in its official documents. The constitution was ratified by popular vote; a legislature and a governor, John Sevier, were elected; and a civil war between the two state governments seemed imminent. The North Carolina party in Tennessee finally overthrew the Frankland government in May, 1788; and the North Carolina legislature passed an act of oblivion, and admitted Sevier as a senator. In 1790 North Carolina ceded Tennessee to the United States, stipulating that the inhabitants were to have all the benefits of the ordinance of 1787 (see that title), except that slavery was never to be abolished. The cession was accepted by act of April 2, 1790. A governor, William Blount, was appointed, and the territorial legislature met in February, 1794. A convention at Knoxville, Jan. 11 - Feb. 6, 1796, framed the first state constitution, which was not submitted to popular vote. Under it, the state was admitted by act of June 1, 1796. — BOUNDARIES. The North Carolina act of cession describes Tennessee as the country within the chartered limits of North Carolina, and west of a line following the northeast and southwest line of the Iron, or Bald, Mountains. The northern and southern boundaries of Tennessee are therefore properly westward prolongations of the corresponding boundaries of North Carolina. The northern boundary, between North Carolina and Virginia, was run as far as the Holston in 1749, but from that point it was undefined. Feb. 2, 1820, commissioners from the two states, at Frankfort, agreed that the northern boundary of Tennessee was to vary slightly north from a true west line, from the Cumberland mountains to the Cumberland river, and then return to latitude 36° 30′. The western boundary is the Mississippi, the western boundary of the United States until 1803. — Knoxville was the capital until 1802. The capital was then changed to Nashville by the legislature, but has never been permanently fixed there by the constitution. The name of the state was given from that of its principal river. — CONSTITUTIONS. The first constitution, considered by Jefferson "the most republican yet framed in America," gave the right of suffrage to freemen over twenty-one, on six months' residence; provided for a house numbering not more than forty nor less than twenty-two, apportioned to the counties according to population; for a senate, one-third the number of the house, elected by districts; and for a governor—all elected by the people for two years; and for a judiciary, to be appointed and to hold office during good behavior; and indirectly legalized slavery, by providing for the enforcement of "laws and ordinances now in force and use in this territory," until altered or repealed by the legislature. — A new constitution was framed by a convention at Nashville, May 19 - Aug. 30, 1834, and ratified by popular vote, March 5–6, 1835. The principal changes were a permission to increase the numbers of the house to seventy-five, until the population should reach 1,500,000, and thereafter to ninety-nine; the omission of certain property qualifications for holding office, which had become obsolete; and the extension of the right of suffrage to persons so nearly white as to be competent witnesses against a white man. In 1853 an amendment made the judiciary elective by popular vote, on a different day from state and county elections. In 1865 a convention at Nashville, Jan. 9–26, framed an amendment abolishing slavery, and a schedule, both ratified, Feb. 22, by a popular vote of 21,104 to 40. The schedule declared the ordinance of secession, and the military league of 1861, null and void; repudiated the rebel war debt; and established a severe test oath for voters, containing the following among other provisions: "That I ardently desire the suppression of the present rebellion; and that I sincerely rejoice in the triumph of the armies and navies of the United States, and in the defeat and overthrow of the armies, navies and all armed combinations in the so-called confederate states." — The present constitution was framed by a convention at Nashville, Jan. 10 - Feb. 22, 1870, and was ratified by a popular vote of 98,128 to 33,872, March 26. It made very few changes, the principal ones being as follows: the legislature was given power to take away the right of suffrage as a penalty for conviction of infamous crimes, and to prohibit the intermarriage of whites and negroes, or persons of mixed blood to the third generation; slavery, and all laws recognizing the right of property in man, were prohibited; the governor was given the veto power; and homesteads, to the value of $1,000, were reserved to heads of families, and exempted from sale under legal process. — GOVERNORS: John Sevier, 1796–1801; Archibald Roane, 1801–3; John Sevier, 1803–9; Willie Blount, 1809–15; Joseph McMinn, 1815–21; William Carroll, 1821–7; Samuel Houston, 1827–9; William Carroll, 1829–35; Newton Cannon, 1835–9; James K. Polk, 1839–41; James C. Jones, 1841–5; Aaron V. Brown, 1845–7; Neil S. Brown, 1847–9; William Trousdale, 1849–51; Wm. B. Campbell, 1851–3; Andrew Johnson, 1853–7; Isham G. Harris, 1857–62; Andrew Johnson, military, 1862–5; Wm. G. Brownlow, 1865–9; De Witt C. Senter, 1869–71; John C. Brown, 1871–5; James D. Porter, 1875–9; Albert S. Marks, 1879–81; Alvin Hawkins, 1881–3. — POLITICAL HISTORY. From the beginning of Tennessee's settlement, there has been a marked political division between East Tennessee, the mountainous region, and the more level country west of it. The former was first settled, and the Watauga association, and the strength of the state of Frankland, had their location in it. For a long time the country around Nashville was the only settled district outside of it. The intervening country was a wilderness, and emigrants to Nashville usually went down the Tennessee to the Ohio, and thence up the Cumberland to their destination.

In both the districts of the state the dominant principle was that of democracy, strengthened by frontier independence. The admission of the state was therefore resisted by the federalists in congress as long as prudence would justify resistance; and the new state was strongly democratic. All her officers were democrats, and her electoral votes were cast for the regular democratic candidates at every election until the disruption of that party in 1824–5. Personal influence was always the strongest point in state politics. William Robertson, in West Tennessee, and John Sevier and William Blount, in East Tennessee, held a commanding influence in their respective sections. About the time of Blount's impeachment before the United States senate (see IMPEACHMENTS, I.), he was elected to the state senate, and that body unanimously chose him as its presiding officer. While his own impeachment was in progress, he was himself presiding over a state impeachment trial. His return to the United States senate was only prevented by his death, in 1800. Sevier was state governor twelve years, the intermission of two years being necessary on account of his ineligibility for more than three terms in succession, and was then a congressman until his death. Before the last of these leaders had disappeared from the scene, all their influence had been concentrated in one man, Andrew Jackson. Before the war of 1812 his personal character for frankness and fearlessness had brought him many friends, but probably more enemies, in the western part of the state. His military services, and the success of Tennessee troops under his leadership, made him the autocrat of the state. When he was nominated for the presidency by the legislature in 1824, only twenty-five members ventured to vote against him; and only three of these were elected to the next legislature. The popular vote for president in the state, 1824–32, will show his popularity: 1824, Jackson 20,197, Clay 312, Adams 261; 1828, Jackson 44,090, Adams 2,240; 1832, Jackson 28,740, Clay 1,486. Many towns voted unanimously for Jackson. In one, it is said, a stranger, at the end of the election of 1828, found the inhabitants pursuing, with intent to tar and feather them, two of their number who had voted against Jackson, and so disturbed the unanimity of the town.—The state-rights element, which in various southern states became a part of the whig party (see that title) about 1832–4, was strongly represented in Tennessee. In 1835 it was strong enough to elect Cannon governor, and ten of the thirteen congressmen; and in 1836 the state's electoral votes were cast for Hugh L. White (see his name), the representative of this element. For the next twenty years the general rule of Tennessee politics was that there was a strong democratic majority in Middle Tennessee, from the Cumberland mountains to the Cumberland river, a slight whig majority in West Tennessee, and a strong whig majority in East Tennessee. In 1839 Jas. K. Polk had 54,680 votes for governor, and Cannon 52,114; but in the next two elections Polk was beaten by Gov. Jones by about the same majority. Until 1856 the state's electoral votes were always cast for the whig candidates; and in 1844 Clay received 60,030 votes for president to 59,917 for Polk, a Tennessee candidate. From 1843 until 1853, five of the eleven congressmen were usually whigs; and from 1853 until 1855, six of the ten were of that party. In 1845 the democrats elected A. V. Brown governor; in 1847 he was beaten by Neil S. Brown, whig; in 1849 N. S. Brown was beaten by Trousdale, democrat; and in 1851 Trousdale was beaten by Campbell, whig; all by very small majorities. In state elections, therefore, Tennessee was exceedingly doubtful; but the general majority in the legislature must class it as a whig state.—On the dissolution of the whig party, its whole strength in Tennessee was turned into the "American" party. (See those names.) In 1855, for governor, Andrew Johnson, democrat, had 67,499 votes to 65,332 for M. P. Gentry, "American"; and the latter party carried the legislature. As secession and war grew more threatening, the feeling and vote in East and West Tennessee against both became stronger. In 1859 seven of the ten congressmen, all from these two sections, were elected by the "Americans"; but the democratic majority in Middle Tennessee was large enough to give Harris 71,539 votes in the state, to 59,867 for Robert Hatton, "American," and elect him.—Gov. Harris was an active secessionist, and to him is attributable the secession of the state in 1861. At the first appearance of trouble he summoned the legislature to meet Jan. 7, 1861, and consider the state's federal relations. The legislature passed a bill to call a convention, but at the same time submitted the question to popular vote. At the election, Feb. 9, East Tennessee gave 25,611 majority against, Middle Tennessee 1,382 majority against, and West Tennessee 15,118 majority for, a convention, and the convention did not meet. The first attempt at "coercion" (see SECESSION, III.) renewed the excitement. The legislature was summoned to meet again, April 25, but this time a more certain, though absurdly illegal, plan was followed. May 1, in secret session, the legislature authorized the governor to appoint commissioners to conclude a military league with the confederate states, and the league was ratified by both houses, May 7. It purported to agree, that, "until the state becomes a member of the confederacy," her whole force should be under the control of the president of the confederate states, "upon the same basis, principles and footing as if said state were now and during the interval a member of the said confederacy." Having thus invited confederate troops into the state, and authorized the governor to levy 55,000 state troops, the legislature completed the farce by submitting to popular vote, June 8, a declaration of independence and ordinance of secession. It is quite useless to argue about the right of a state legislature to make a treaty, or the power of a people to vote under military domination. It is only remarkable that so large a vote was cast against secession. In

East Tennessee the vote was 14,780 for, and 32,923 against; in Middle Tennessee 58,265 for, and 8,198 against; in West Tennessee 29,127 for, and 6,117 against; in the camps, 2,741 for, and none against; total vote, 104,913 for, and 47,238 against, secession. June 24, Gov. Harris, by proclamation, declared the state out of the union. The popular vote on June 8 had also ratified the confederate constitution. In the autumn, Gov. Harris was re-elected by a vote of 69,269 to 40,467 for Wm. H. Polk; but early in 1862 the advance of the federal forces drove him out of the state capital. — March 5, 1862, the senate confirmed the president's nomination of Andrew Johnson as military governor of Tennessee. He had been a democratic United States senator at the time of the secession; but had treated his state's action with great contempt, and gone on with his official work at Washington. In 1864 he made an unsuccessful attempt to reorganize the state government; and an equally unsuccessful attempt was made to organize East Tennessee into a separate state. In the following year Johnson was successful; the amendment to the state constitution, abolishing slavery, and the 13th and 14th amendments, were ratified; and the state was "restored to her former proper, practical relations to the union," by act of July 24, 1866. Wm. G. Brownlow, a radical republican, was elected governor; the legislatures were republican; and the electoral vote of the state in 1868 was cast for Grant by a popular vote of 56,628 to 26,129 for Seymour. — The first legislature, in 1865, passed an act to regulate the elective franchise, restricting it to 1, persons "publicly known to have entertained unconditional union sentiments from the outbreak of the rebellion to the present time"; 2, those who had since come of age; 3, persons of proved loyalty from other states; 4, federal soldiers; 5, loyal men who had been forced into the confederate armies; and 6, persons known to the election judges to "have been true friends to the government of the United States." It disfranchised ex-rebels of higher rank for fifteen years, and others for five years, and imposed on all voters the test oath before referred to. In the following year the test oath was made still more voluminous and stringent; it now contained 366 words. In February, 1867, disfranchisement was made a penalty for insurrectionary movements within the state, and negroes were allowed to vote. This latter step was proper under the constitution of 1834 (then in force), which gave the right of suffrage to every "freeman," without using the word "white." Disorder in the western and middle sections of the state now became very general. (See INSURRECTION, II.; KU-KLUX KLAN.) Laws were passed authorizing the governor to arm state guards (mostly drawn from East Tennessee), and to appoint commissioners of registration; and the governor interpreted the latter law as giving to these commissioners the appointment of election judges. Feb. 20, 1869, the governor proclaimed martial law in nine counties of Middle and West Tennessee. — In the summer of 1869 the dominant party split, and Gov. Brownlow retired to the United States senate. Of the two candidates for the succession, Senter declared in favor of the removal of most of the disfranchisement laws, and received the democratic vote, Wm. B. Stokes, the radical candidate, received 55,096 votes, Senter 120,333; and both branches of the legislature were democratic. The revision of the constitution in 1870 followed; and until 1880 the democratic majority was very large, except in 1872. In that year Andrew Johnson ran as an independent candidate for congressman at large; Horace Maynard, the republican candidate, was elected over his two democratic opponents; and the democratic vote in the presidential election was 94,391 to 88,655 republican. One district in East Tennessee has steadily chosen a republican congressman; and in 1873-5, seven of the ten congressmen were republicans, owing to the democratic division of 1872. In 1881-3 there are three republican congressmen, two from the East Tennessee districts, and one from the Memphis district. — Since 1874 the debt has been the paramount feature in state politics. Most of it was contracted before the rebellion, to aid state railroads under internal improvement laws of 1851-2. The total amount in 1870 was $41,863,406.69, with $20,701,825.76 nominal assets, most of it in railroad bonds paying no interest. The war had reduced the taxable property of the state nearly one-half; it was very difficult to collect any taxes; and one of the first steps of the new democratic government in 1870 was to reduce taxation over one-half. Thereafter, payments of interest went by default, until in 1879 the net state debt was $20,221,300 principal, and $4,052,717 lapsed interest. In 1876 an arrangement to fund the whole debt at sixty cents on the dollar and 6 per cent. interest, commonly called "the 60-6 plan," was nearly agreed upon between the state and the bondholders. Since that time various plans of settlement have been proposed, named similarly from their percentage of total debt and of interest, and ranging from "50-4" to "100-3"; and a small number of voters have even favored total repudiation of the railroad debt. In 1880 the legislature passed a "50-4" bill for most of the debt, but it was submitted to a popular election, and rejected on a very light vote. In 1880 the whole election turned on the debt question. The republican convention nominated Alvin Hawkins for governor, and declared that all the debt should be paid; that any proposition from the bondholders for its decrease should be thankfully accepted; and that the democrats were responsible for the failure of the 60-6 plan in 1876. The greenback convention nominated R. M. Edwards, and repudiated all but $2,025,000 of the debt. The "state-credit" democratic convention favored prompt payment on the best terms that creditors would accept, and nominated John W. Wright; but a part of the delegates seceded, nominated S. F. Wilson, and called for repudiation of the debt. The result of the election gave the state her first

republican governor since Senter, by the following vote: Hawkins, 102,969; Wright, 79,191; Wilson, 57,424; and Edwards, 3,641. The legislature chosen had fifteen democrats and ten republicans in the senate, and thirty-seven republicans, thirty-six democrats, and one greenbacker in the house; but the nominal representatives of both parties were so divided by the various plans that any agreement seemed impossible. In April, 1881, the legislature at last passed a "100-3" act, proposed by the creditors, making the coupons receivable for taxes; but in February following the state supreme court decided the law unconstitutional, on account of its coupon feature. — In addition to John Bell, Thos. H. Benton, Samuel Houston, Andrew Jackson, Andrew Johnson, James K. Polk, and Hugh L. White (see those names), the following have been prominent in state politics: John D. C. Atkins, confederate congressman 1861–5, democratic congressman 1873–83; William Blount, territorial governor 1790–96, and democratic United States senator 1796–7; Aaron V. Brown, democratic congressman 1839–45, governor 1845–7, and postmaster general under Buchanan; R. R. Butler, republican congressman 1868–75; George W. Campbell, democratic congressman 1803–9, United States senator 1811–14 and 1815–18, secretary of the treasury under Madison, and minister to Russia 1818–21; Wm. B. Campbell, whig congressman 1837–43, governor 1851–3, and republican congressman in 1867; Wm. C. C. Claiborne, democratic congressman 1797–1801, governor of Mississippi and Louisiana territories, and of the state of Louisiana; John Cocke, major general under Jackson in 1813–15, and democratic congressman 1819–27; Henry Cooper, democratic United States senator 1871–7; David Crockett, an eccentric whig congressman 1827–31 and 1833–5, killed in battle at Bexar, Texas, in 1836; John H. Eaton, democratic United States senator 1818–29, secretary of war under Jackson (see KITCHEN CABINET), governor of Florida tertory 1834–6, and minister to Spain 1836–40; Emerson Etheridge, whig and "American" congressman 1853–7 and 1859–61, clerk of the house of representatives 1861–3, and thereafter one of the state republican leaders; Meredith P. Gentry, whig congressman 1839–43 and 1845–53, and confederate congressman 1861–5; Felix Grundy, democratic congressman 1811–14, United States senator 1820–38, and attorney general under Van Buren, 1838–40; Isham G. Harris, democratic congressman 1849–53, governor 1857–62, and United States senator 1877–89; John F. House, Bell elector in 1860, and democratic congressman 1875–83; Howell E. Jackson, democratic United States senator 1881–7; Cave Johnson, democratic congressman 1829–37 and 1839–45, and postmaster general under Polk 1845–9; James C. Jones, governor 1841–5, and whig United States senator 1851–7; David McK. Key, democratic United States senator 1875–7, and postmaster general 1877–80; Horace Maynard, "American" and republican congressman 1857–63 and 1866–75, state attorney general 1863–5, minister to Turkey 1875–80, and postmaster general 1880–81; A. O. P. Nicholson, democratic United States senator 1841–3 and 1859–61 (see POPULAR SOVEREIGNTY); Bailie Peyton, whig congressman 1833–7; John Rhea, democratic congressmen 1803–15 and 1817–23; John Sevier, governor of Frankland 1784–8, governor of Tennessee 1776–1801 and 1803–9, and congressman 1811–15; Frederick P. Stanton, democratic congressman 1845–55, and governor of Kansas as a territory 1858–61; Wm. B. Stokes, whig congressman 1859–61, major general of United States volunteers, and republican congressman 1866–71; Albert G. Watkins, whig congressman 1849–53, and democratic congressman 1855–9; W. C. Whitthorne, democratic congressman 1871–83; and Felix K. Zollicoffer, state comptroller 1845–9, whig and "American" congressman 1853–9, brigadier general in the confederate army, killed at Mill Spring in 1862. — There is no good history of modern Tennessee. See authorities under NORTH CAROLINA, JACKSON, ANDREW, and JOHNSON, ANDREW; 6 Bancroft's *United States*, 377 (Watauga association); 3 Hildreth's *United States*, 589 (Frankland); 2 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions;* Haywood's *History of Tennessee* (to 1796); Ramsey's *Annals of Tennessee* (to 1800); Putnam's *Life of James Robertson*, and *History of Middle Tennessee;* Smith's *Historical View of East Tennessee* (1842); Carpenter's *History of Tennessee* (1854); A. V. Brown's *Speeches;* McLeod's *Rebellion in Tennessee* (1862); McPherson's *Political History of the Rebellion*, and *History of the Reconstruction; Tribune Almanac*, 1838–82; *Committee Reports to the Tennessee Legislature*, 1875–82.

ALEXANDER JOHNSTON.

TERM AND TENURE OF OFFICE. Term measures the period for which an office is conferred. Tenure marks the conditions upon which the office is held, whether for a fixed or for an indefinite time. The term of the president and the term of the postmasters he appoints are each for four years; but the tenure of the former can be severed only by the judgment of the senate upon an impeachment, while that of the latter exists only during the pleasure of superior officers. — Offices may be divided into three classes: civil, military and naval. In the two latter classes definite terms are now rarely found, though we read, that, among the Greeks, generals sometimes held supreme command only for the term of a day; and Roman consuls commanded armies during their short fixed terms of office. Military and naval officers, in modern times, almost invariably hold their offices, if not for indefinite periods, at least for periods determined in reference to probable efficiency of service. Yet, soldiers are generally enlisted for a defined term. (As to the tenure of military and naval officers, in the United States, see PROMOTION, REMOVALS FROM OFFICE.) — Civil offices may also be divided into three classes: legislative, judicial and executive. To properly pre-

sent the important considerations by which term and tenure should be determined in these three classes—in their whole range from the president to the highway surveyor, from the national chief justice to the town justice of the peace, from the federal senator to the village trustee—would require a space far beyond that accorded to this article. Few subjects within the range of political science have been so utterly neglected as that of the proper tenure of office, and none requires a more careful study. It is not perhaps possible to refer to any chapter where the subject is treated in even the most general manner. As a natural consequence, we find not only in different states, but in the same states at different times, for the same offices, terms of diverse lengths, and tenures of miscellaneous variety. The interests of factions and the ambition of leaders, rather than sound views of public interest, seem to have often determined both term and tenure. — On the one side, intense partisans tell us that parties can not be sustained without being able to give many places to which a long term or a stable tenure would be fatal; while, on the other, the most experienced and thoughtful citizens assure us that parties may trust to sound principles and good administration; repudiating the spoils and office mongering by which they say parties are only debauched and enfeebled. The reasons are almost obvious why the term and tenure most appropriate for one of these three classes would not be equally appropriate for the others. — 1. So far as judicial offices are concerned, the most important considerations have been presented in the article on JUDICIARY, ELECTIVE. And see REMOVALS FROM OFFICE. It may be added, however, that nowhere is well-trained experience more valuable than upon the bench. It not only promotes facility in the doing of the business of the courts, and clearness and consistency in the interpretations of the laws, but it develops that judicial frame of mind which is unperturbed by partisan excitements, and which commands the confidence of litigants. It can hardly be denied that the inexperience which short judicial terms have brought upon the bench has not only greatly delayed the administration of justice, but has greatly impaired public confidence in the courts of every grade. — 2. Turning next to the legislative department, we find decisive reasons why the terms of those elected to represent the people should not be long. These officers represent interests, opinions and policies which are constantly changing; and, at every phase, they have an equal claim to be represented in debate; and, if sound, to be expressed in statutes. Permanency of tenure on the part of legislators would obviously tend to defeat one of the great ends of representative government. Yet, so manifest have been the advantages of that wisdom and facility which come from experience in legislation, and so deep has been the sense of peril from incompetent legislators, that a great portion of these officers—notably senators, both state and federal—have been allowed to hold their places for terms during which great changes of interests and opinions have taken place. And so strong has public opinion been in this direction of late that in many of the states, the terms of judges, senators, mayors, and school officers, as well as of various other officials, have been considerably extended within the last few years, perhaps nearly doubled since the reaction has become vigorous against the spoils system theory of rotation in office. Biennial sessions of the legislature in more than half the states are due to the same cause. — Despite these changes, the vast volumes of crude statutes—more than a thousand pages a year in a single state—have proclaimed the incompetency of the law makers; causing needless litigation, and making justice remote and uncertain. It will be in vain that a remedy will be sought in limiting legislative power by constitutional amendments. As the statutes become more intricate and official functions more complicated, with our growing wealth and population, there will more and more be a need of larger official experience and larger official terms —to be held under a sterner responsibility—for the supreme work of legislation. Some plan may perhaps be devised for securing more experience in state legislatures, by classifying members, while increasing their terms of office, after the analogy of the national senate. — But in the legislative department there are inferior officers, not elected by the people—the clerks and other subordinates of congress, state legislatures and municipal councils —who are in no sense representative, but are simply ministerial officers. Next to fidelity and natural capacity, the highest qualification for these places is experience, invaluable experience, in the discharge of their duties. These duties have no honest relation to party politics, or to majorities in legislatures, but are the same at all times and under whatever dominant party. The office of speaker is, within certain limits, an obvious exception. But the less he is a partisan the more fit he is for his duties. The constitution of the United States, like that of Great Britain, confers the power of selecting and removing these subordinates upon the legislative chambers, without restriction as to term or tenure. So it is also in the state legislatures. Who will deny that economy, efficiency, purity and dignity, in legislation, alike demand that those officials should hold their places so long as they fitly perform their duties, and that they should be made to feel it to be a disgrace to allow that performance to be influenced by partisan considerations? — Before the British spoils system was suppressed by the reforms made within this generation, there had been as demoralizing contests in the British parliament, over the appointment and removal of such subordinates, as have ever disgraced our congress or state legislatures. Now, holding during good behavior and efficiency, the selection of these officials in Great Britain is by methods with which no party interferes; and the discharge of their functions is treated as having no political significance. Parliament has now more time for its great work, and

its dignity is no longer impaired by ignominious contests about clerkships and doorkeepers. The most perfect representation, which in theory is sought, would be attained by the shortest practicable terms of office. Terms of six years for federal senators, of two, three and four years for state senators, of two and three years for governors, mayors and various other officers—as they now exist—can not be justified on the mere theory of representation. This theory is based on the right of the people *at all times* to have their interests and opinions reflected in the halls of legislation. But terms, even if for only a single year—the shortest we recognize—violate that theory. For the opinions of parties and individuals do not make an annual revolution, but often more frequently. When Rhode Island, following the example of Grecian republics, fixed the terms of her representatives at six months, and Connecticut added to those short terms semi-annual sessions of her legislature, each at a different place, for the more convenient and exact representation of the people; and when the factious spoils system spirit of Florence and other medieval republics reduced official terms, first to six, then to four, and finally to two months, they obviously enforced a term tending to a more exact representation than any now provided for in the United States. — Our longer terms for such offices are justifiable only on the assumption, which they proclaim, that the experience secured by longer public service is more valuable than any ideal exactness in representation. This is an important truth, as bearing upon the proper term of mere ministerial and executive subordinates. It is a truth which senators will do well if they do not longer forget, when they stand up in their places, in the fifth or sixth year of their terms—perhaps long after the majority in the state and legislature which they pretend to represent has been changed since their election—and, in the name of justice and sound policy, demand rotation, removals and short terms on the part of their own subordinates, who represent nothing but the unchanging need of having the constant volume of public work well done, and done in the same way year after year, whichever party is in power, and whatever policy prevails. — 8. The executive department is affected by more complicated reasons. To approve or disapprove legislative enactments is the highest function of governors and presidents. To that extent they are both legislative and representative officers. Next in importance is the duty of those officers to carry into action, in the conduct of executive affairs, the principles and policy which the people approved in their election. This, too, is in a sense a representative function. Much the same reasons, therefore, which require the terms of legislative officers to be short, apply also to presidents and governors; and, in a limited degree, they apply to mayors also. In fixing the term of the president at four years, under our constitution, considerations drawn from his representative function plainly prevailed—must we not say unwisely prevailed?—to the extent that it made his term shorter than that of a senator. — The constitution *fixed the term of no officer in the executive department except that of the president and vice-president.* It created no department; yet says "the president may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices." Upon this narrow basis, and the precedents of the British cabinet, our cabinet has been reared; and while each of them are equally unrecognized in the constitution and laws (and with us the duty and responsibility are upon the president alone), the cabinet has been, in practice, in both countries, the great central council for advice in regard to all executive action. It is clear, therefore, that the heads of departments, who are to advise him as to his gravest duties, need to have faith in the principles and policy which the president is bound to enforce; and for that reason their tenure of office should depend mainly upon him. There may also be a few other executive officers—foreign ministers sent on special missions involving national policy would be examples—whose peculiar fitness will depend upon their sharing the views of administration, and in all such cases there should clearly be a tenure in the discretion of the president. — When we go below such officers, we come upon those who not only, upon the theory of the constitution and the laws, but from the very necessities of government, are required to obey legal instructions from those above them to whom they are directly responsible. Each head of a department is clothed by law with the authority and duty of directing the official action, subject to the constitutional power of the president, of all the subordinates of that department. Among all the eighty or more thousands of subordinates standing in graded ranks, from the department secretaries down past great collectors and postmasters to the customs service inspectors, the keepers of light houses and of signal and life-saving stations, there is not one who, according to the laws or sound policy, has any right of advice as to the policy or principles of an administration; not one for whom obedience to legal instructions is not a plain duty; not one whose political opinions are material for good administration; hardly one whose active participation in partisan politics is not a public detriment, tending to neglect of public business and the oppression of the citizen. The duties of these officers are in no sense representative. They are not called upon to act upon any political theory. They perform no duties that depend upon the triumph of political opinions or the success of any party. Whichever party comes into power, whatever party they belong to, their duties are the same. They have no right to regard the political or religious opinions of any citizen in their official action, or need to know them. They do not, like legislators, or town and village officials, meet to consider changing interests and fluctuating politics, but, month after month and year after year, they do, or they

should, steadily devote themselves to the same branch of that vast, unchanging public business which, from the smaller officers to the greater, moves on, like brooks and rivers, in an unbroken order and everlasting continuity. Unjustifiable as political indifference is in the citizen, the use of official authority and influence to coerce the action of the private citizen is not less indefensible. We may not, as was found necessary in England, for a hundred years, disfranchise those officials, but we should clearly see, and should make them *feel*, that they not only need not, but should not, as officials, interfere with party politics or regard political opinions as qualifications for their duties. — Before considering what should be the term and tenure of this vast body of federal officials—referred to in the national constitution as "inferior officers," and to which a vastly larger number of state and municipal officials holding like relations should be added in our reflections—it will be well to notice some objections which stand in the way of treating the subject upon its own merits. It is declared that any term and tenure which prevents these officers being removed and their successors appointed at the pleasure of the majority, disastrously restricts the freedom and effectiveness of party action, and also deprives them of essential representation in the official life of the country. — The answer is not difficult. Under our institutions, parties are inevitable and salutary. Their great functions are to arouse, embody, sustain and carry forward a sound public opinion until it finds fit expression in statutes and executive action. Under these institutions the federal and state legislators, and all who govern in municipalities and towns, are selected by the vote of the majority, which, in itself, but too generally expresses the mere will of the dominant party. In the selection of mayors, governors and presidents, that party majority is still more potential. These two classes of officers, the one wielding all legislative authority, and the other all executive authority, in their united action exert all the power which our institutions give, or a free people can safely confer, for the representation and enforcement of their will. All of these officers may be, and in our practice they generally are, within their respective spheres, the trusted favorites of the dominant party, bound in the double allegiance of gratitude and dependence. Through these two classes of officers the adherents of the dominant party practically make, enforce and repeal laws and ordinances at pleasure, instruct and require obedience from all who hold subordinate positions under them, enforce all principles and guide all policy in obedience to which the vast affairs of the nation, from the light houses and the signal stations to foreign embassies, and the great departments, are conducted. Is not this enough? Have we ever suffered because parties have needed opportunities or influence greater than these? Is not here a sphere broad and grand enough, a power and opportunity dazzling enough, to inspire the patriotism and reward the zeal of any party and of the noblest man who ever led any party in a great nation? Unless, therefore, it is claimed that a party, which can not gain or retain power by adhering to the spirit of the constitution and to common honesty and justice, may strengthen itself by using public authority to debauch and coerce the people—unless it can be shown that the term and tenure of "inferior officers" should, in the merely selfish interests of parties, be made brief and precarious, so that patronage and the appointing power may be conveniently prostituted as merchandise in the shambles of partisan politics—we may confidently declare that term and tenure alike of "inferior officers" should be determined quite irrespective of mere party considerations. — But let us not imagine, because these inferior officers are not representative and are not given large discretionary power, that their term, tenure or relations are not very important. The facts are quite otherwise. The creation of a term of four years for about 8,500 of these offices (to the history of which we shall refer), and the subjection of nearly all of them to a tenure of favoritism and partisanship, within the last forty-five years, contrary to the spirit of the constitution and to the practice of the early statesmen, while working a disastrous revolution in the measure of filling the executive departments, have also exerted a demoralizing influence upon parties and upon all official and political life. It was the short terms and the precarious tenure thus created which made it possible for great parties to levy the expenses of their campaigns, under the name of assessments, upon the humbler officials in the executive service, and to compel them to do the most servile work. It was these political assessments which President Grant prohibited by executive order; which President Hayes declared to be either "a gross injustice to the officers or an indirect robbery of the public treasury"; which President Garfield declared to be "shameful," and "the source of an electioneering fund which in many cases never gets beyond the pockets of the shyster and the mere camp followers of the party." It has been these precarious tenures and the habit of removing worthy officials to make places for clamorous favorites and henchmen, which developed the disgraceful acts of patronage mongering and office brokerage, by reason of which office seeking has been made a sort of business, and vast numbers of supernumeraries have been foisted upon the public service. It caused President Garfield to declare "one-third of the working hours of senators and representatives to be hardly sufficient to meet the demands in reference to the appointments to office," and that "with a judicious system of civil service, the business of the departments could be better done at almost one-half the cost." In the debates preceding the passage of the civil service reform bill (of Jan. 16, 1883,) for the suppression of such abuses, Senator Dawes, of one party, declared that the existing system of office getting "destroys the congressman's independence and makes him

a slave," and Senator Pendleton, of the other party, said, "It has debauched public morality and made Guiteau possible. It drives senators and representatives into neglect of their chief duty of legislation, and often makes the support of an administration conditional upon obtaining office for friends." — At the time of the formation of the federal constitution no human forecast could have taken the measure of such evils in our day. The few officials and the simple administration of the first decades hardly gave a hint of the varied complication and the vast official force we now have. There was $2,000,000 of revenue the first year, under the constitution, against more than $360,000,000 last year. Even as late as the administration of John Quincy Adams, the revenue was not one-fourth as much altogether as the surpluses now annually applied to the reduction of the national debt. The number of officers at the two periods is in about the same ratio. It is hence no matter for surprise that no adequate provisions are found in the constitution concerning the tenure of "inferior officers" in the executive service. The occasion for surprise is in the fact that with clearer lights, the later generations have created terms and a tenure which have greatly aggravated the consequences of the defects of the original constitution. — It is by no means an easy matter to decide with precision what would be the most useful tenure in the several parts of the executive service. Many considerations must be estimated, and a broad field of facts must be kept in view. We have only to consider the great variety of officials to see, that, to most of all the general rules we may lay down there must be some exceptions. The officers in the state department, for example, range from the secretary and the ambassadors to the consular clerks and the copyists. The department of the treasury has at Washington about 3,000 subordinates; to which must be added more than two hundred collectors of internal and customs revenue, the surveyors, the naval officers, the officers of the mints—and all their subordinates—the light house, the life saving, the hospital and the revenue marine services, and many more isolated officials. In the department of the interior there are the pension and patent office service, the land office, the Indian service, the bureaus of education and agriculture, and various other officers. The war and navy departments have civil subordinates of many grades, widely separated. More than 42,000 postmasters, with all their subordinates, and various others, with peculiar duties, of which the railroad and steamboat mail service and the complicated mail contract system are examples, are under the postmaster general. The department of justice, with its district attorneys, marshals and election supervisors and their subordinates, the officers of the District of Columbia and of the territories, are also to be added, before we get a general view of the vast number and variety of the officials under the executive. — The authority to appoint the higher officers, subject to confirmation by the senate, is given by the constitution to the president, with the power, as we have seen, in congress to vest the appointment of inferior officers in heads of departments. Beyond declaring that all civil officers shall be removed on impeachment and conviction of treason, bribery and other high crimes and misdemeanors, the constitution leaves the stupendous power of removal to mere implication. It has, however, been authoritatively decided, and the constant practice has been (save as qualified of late by the tenure of office acts), that the power of removal belongs to the president as an incident to the power of appointment. The *constitution provides no term*, and, otherwise than by implication, no tenure for any one of these inferior officers. And prior to a law of 1820, to which further reference will be made, no term or tenure was provided by law for any of them, with the single and peculiar exception of marshals. The tenure of usage had been that of combined efficiency and good behavior. (See REMOVALS FROM OFFICE, CONFIRMATION BY THE SENATE.) It was left for the politicians of later days to discover and to teach, that, to select public servants for their merits, and to retain them because they continued meritorious, are "un-American." That teaching has been the cause of a pernicious practice in its spirit. — Let us glance at the causes and progress of this great change as bearing upon terms and tenure of office. Aaron Burr early laid the foundations of the spoils system; and, with the aid of Van Buren, his most apt and distinguished disciple, that system had been made potential in New York, several years previous to 1820. It required short terms, and partisan tests for office. It demanded a tenure at the pleasure of the official superior, and required that superior to be a partisan leader. It made political opinions a ground of appointments and removals, and enforced servile obedience to chieftains on the part of all officials. Before 1820, Gov. Clinton, of New York, complained, in a message, "of an organized and disciplined corps of federal officials interfering in state elections." Tammany Hall was then becoming a political power. New York politics had already become so notoriously unscrupulous as to attract almost as much attention as during the present decade. Jackson, contriving how to reach the presidential chair, and affecting the character of a non-partisan, said to a New Yorker, "I am no politician, but if I were a politician, I would be a New York politician." Van Buren soon made him one. — The spoils system spirit, thus early reduced to practice in New York, was being slowly developed in other parts of the Union. The creed of the spoilsmen had not been avowed, but the men who were first to proclaim it were leading politicians before 1820. In that year, William H. Crawford, secretary of the treasury, was a presidential candidate, and Van Buren, who was to come into the senate in 1821—even then an aspirant for the presidency—was Crawford's supporter. They were unsurpassed for their skillful use of patronage. Both were able to

see that if the terms of the inferior officers were reduced to four years, there would be more patronage to dispose of, and an easier introduction of the New York system. — On April 20, 1820, about thirty days before the adjournment of congress, a bill, drawn by Mr. Crawford, was reported in the senate, which created a term of four years for district attorneys, collectors, naval officers, navy agents, surveyors of customs, paymasters, and for several other less important officers. Mr. Adams says the object of the law was to gain support for Crawford for the presidency. The officers thus subjected to the new term are said to have become "ardent Crawfordites." This was the first fixed term for any such office. The bill further declared that the holdings of all such officers whose commissions were dated Sept. 30, 1814, should expire on the day and month of their date next after Sept. 30, 1820. The expiration of other holdings was fixed for a year later. The bill was thus *retroactive, and it made the terms expire on the eve of the presidential election.* There was to be a presidential election in 1824, when Crawford and Jackson were to be leading candidates. How largely and promptly this change would add to the patronage of the treasury, where Mr. Crawford presided, need not be pointed out. — But these were hardly the most ominous provisions of the bill; for, taking the side of the partisan spoilsmen, against the approved doctrines of Madison, and the practice of every president, it declared that those officers "shall be removable at pleasure." Here was rotation legalized for the sake of rotation. Here was the first demand of surrender ever made upon the general government in the spirit of the New York spoils system. Here was practically a revolution in the term and tenure of office; an emphatic degradation of the standard according to which the fate of every one of these officers was to be determined. Without debate, in silence, suddenly, almost stealthily, this disastrous bill was carried through both houses. Mr. Adams, then secretary of state, says President Monroe signed the bill without perceiving its true character. The avowed reason, or rather the apology, for the new policy, was that it would remove unworthy officials; the speciousness of which appears in the facts that the tenures of all in office, worthy and unworthy alike, were, without inquiry, severed absolutely; and nothing but official pleasure was to protect the most meritorious in the future. There was no showing of delinquencies; no charge that the president could not or would not remove unworthy officials, not a word of discussion, not a record of votes, on this revolutionary bill! — But there were statesmen who foresaw the disastrous consequences. On Nov. 20, 1820, Mr. Jefferson, in a letter to Madison, said of the law that "it saps the constitutional and salutary functions of the president, and introduces a principle of intrigue and corruption which will soon leaven the mass, not only of senators, but of citizens. * * It will keep in constant excitement all the hungry cormorants for office; render them, as well as those in place, sycophants to their senators, * * and make of them, what all executive directories become, mere sinks of corruption and faction. It must have been one of the midnight signatures of the president, when he had no time to consider or even to read the law." Madison replied in the same spirit. When Mr. Calhoun, then secretary of war, heard of the sudden passage of the bill, he declared it "one of the most dangerous ever passed, and that it would work a revolution." The dangerous consequences of the new policy began very soon to appear. Five years after the passage of the act of 1820, an able committee of the senate, with Mr. Macon at the head—who never aided a relative or henchman to an office—made an earnest report in favor of its repeal. But the spoils system had secretly made progress. Vain, indeed, was it to attempt to repeal a law which had already become a bulwark of the new system, in the spirit of which Jackson, the military hero of the day, and Van Buren, the partisan chieftain of New York and the greatest party manipulator of his time, were working together for the presidency. — So rapidly did the spirit of revolution advance, that Jackson's first message declared "rotation a leading principle in the republican creed." Ignoring the true rule that every man's claim upon office is in proportion to his fitness to fill it, the same message proclaimed the communistic doctrine that every man has an equal right to office; which, by his removals and appointments, was interpreted to mean, in practice, that no man but a partisan servile to himself had any such right which a president was bound to respect. Three years later, in 1832, Senator Marcy, in the senate of the United States, expounded the spirit of the new four years term spoils system in these memorable words: "When they [New York politicians] are contending for victory, they avow the intention of enjoying the fruits of it. If they are defeated, they expect to retire from office. If they are successful, they claim, as a matter of right, the advantages of success. They see nothing wrong in the rule that to the victor belong the spoils of the enemy." The new system was, therefore, simply this: no term for more than four years; the tenure, removals at pleasure; office and salaries the spoils of party warfare; rotation in order to give offices to as many servile partisans as possible; appointments and removals for political reason; the duty of the official to be an obedient worker for his party and a servile vassal of its managers. (For the practical effects of this revolution see SPOILS SYSTEM and REMOVALS FROM OFFICE.) — The attempt made in the senate in 1825 to repeal the law of 1820 was renewed in that body in 1835. Despite the weight of Jackson's administration against it, the repealing act passed the senate by a vote of 31 to 16; every distinguished name in the senate—Benton, Webster, Clay, Calhoun, Ewing, Southard and White, among them, except Buchanan, of Pennsylvania, and Wright, of New York, those states then, as of late, being pre-eminently the "machine,"

"spoils system" states—being recorded in favor of the repeal. The senate had not at that time come very much under the vicious influence of patronage, or of the feudal code called "the courtesy," which have in late years been so disastrously potential in that body. There had been few officers to confirm. In the debate upon the repealing act, though several senators boldly avowed the barbarous creed of Marcy, Webster said the evil effects of the law of 1820 vastly predominated, and that he was for staying the plague. Mr. Clay declared "the tendency had been to revive the dark ages of feudalism." Mr. Calhoun stated, that "the law had taught officers that the most certain road to honor and fortune is servility and flattery." Mr. Southard declared that "it had tended to make office-holders servile suppliants, destitute of independence of character and manly feeling." — The partisan power which the four-years term had thus suddenly and vastly increased, aided by the prestige of Jackson's administration, and the forces marshaled for Van Buren's election to the presidency the next year, defeated the repealing act. The victory of the spoilsmen increased the pressure and strength in favor of extending short terms, which the partisan leaders demanded. They next laid siege to the postoffice department. The postal administration, which, when Washington became president, required only seventy-five postmasters, at the opening of Jackson's first term required about eight thousand. Practically, the tenure of postmasters had been during good behavior and efficiency, and there was no term fixed by law. The management of the postal service had been upon business principles, the postmaster general appointing and removing postmasters. There was no good reason for a radical change in that regard. Under such principles, Mr. McLean, as postmaster general under John Quincy Adams, had, with great satisfaction to the people, managed our postal affairs. He was not willing to enforce the new "spoils system" in his office; and for that reason Jackson hastened to remove him to the supreme court bench, and to put a more compliant and most inefficient officer in his place. It was very natural that the attempt should be made to extend the four-years-term theory to the postoffice. Every partisan manipulator wishing more offices for bribes, every politician desiring to be a postmaster, and every congressman seeking patronage, had an interest in favoring it. It would strengthen the four-years-term policy in the senate if a bill for enforcing it should contain provisions for increasing the patronage of senators by requiring postmasters to be confirmed by that body. Accordingly, in 1836—the year of Van Buren's election as president—a bill was passed, requiring that all postmasters whose compensation was one thousand dollars a year or upward, should be appointed by the president and confirmed by the senate, and that their term of office should be but four years. They were made removable "at the pleasure of the president." — It is not easy to decide who was most pleased with such a law, the partisan managers whose spoils it greatly increased, the senators whose patronage it more than doubled, or President Jackson, to whose despotism it added many vassals. But what each gained was the common loss of the people; nor was there hardly a pretense that any public interest (unless a perpetual rotation of postmasters and a more universal proscription are in the public interest) would be served by this postal service revolution. Postmasters whose income was less than one thousand dollars were left to be appointed and removed by the postmaster general, and their original constitutional tenure was left unchanged, nor has a four years or other term ever yet been applied to them. — Thus were a great number of purely business offices deliberately brought within the range of political forces, subjected to senatorial confirmation, given a term which both suggested and facilitated their being made incentives and rewards of selfish activity, and a part of the spoils of partisan victory in every presidential election. Nor was this all. New grounds of difference between the senate and the president were thus created, and great strength was added to the growing power of patronage in that body, which in later years has enabled it to usurp and exercise a controlling and dangerous influence over the appointment and removal of all the principal officers of the government. Here was the beginning of a great and lamentable change in the character and influence of that body. Naturally, true statesmen have since had less influence in the senate. No legislation beyond these two acts of 1820 and 1836 was necessary to complete the partisan revolution in the politics and official life of the country. But various other administrative officers have since been given a term of four years; and it is worthy of notice that congress, disregarding the great distinction between legislative and ministerial functions, has almost never given an officer a longer fixed term than four years. It looks almost as if it had been a settled purpose to force every officer, by a fear of losing his office, to become a henchman of party leaders in every presidential contest. — Greatly as the country was alarmed by the manifest degradation of political life which the new system was causing, the great contest concerning slavery, becoming absorbing at this time, was fatal to any considerable effort for reform from 1835 to 1867, when Mr. Jencks brought the subject before congress. He prudently directed attention mainly to methods for entering the public service, rather than to term or tenure. It soon appeared that the first condition of success was fuller information among the people in regard to administrative affairs. For more than thirty years the methods of administration, the debates and the political literature of the country, had been misleading the people in the spirit of the "spoils system," and hardening them into acquiescing familiarity with its abuses. The new theory of short terms for the inferior executive officers had come by many to be regarded as an essential part of our original

institutions. The new tenure based on favor and partisan servility had been accepted by not a few as peculiarly and essentially republican. The evils they had caused or greatly aggravated were generally regarded as the inevitable drawbacks against the blessings of our liberal institutions. A generation had grown up which accepted the doctrine of rotation in the executive offices as a rule of justice, if not an evidence of liberty. A great portion of the patriotic and honest voters of the country had been induced to think that parties could not prosper (if, indeed, they could live) without a quadrennial opportunity of using the public offices as rewards and bribes, and the right, at all times, of forcing those who fill them to do the partisan work of politics. They were consenting that the government should be plundered as an enemy by each party that captured it. These short terms rest on the false and pernicious theory that the most salutary admonition for good official conduct, in an executive subordinate, is not a sense of direct responsibility to his superior, and a right and duty on the part of that superior to remove for good cause, but the certainty of going out at once when his political opponents succeed, and of going out very soon, in order to make a place for another, however faithfully he may serve the people. It hardly need be pointed out that every time that an efficient and faithful officer leaves his place at the end of his term, or is sent away for political reasons, proclamation is made to the people that the well doing of the public work is not what the government most seeks, but effective party workers and compliant tools of party managers. — It should be noticed that these four-years term provisions did not extend to the clerks or other inferior officers in the great departments at Washington, or to the subordinates of postmasters, of collectors, or of naval or other officers named in the statutes referred to. And, applying only to postmasters whose compensation was one thousand dollars a year or more, and who alone were made confirmable by the senate, the quadrennial terms extended to only about four hundred out of the eight thousand postmasters—or to one-twentieth of the whole number—in Jackson's time. Nor have these humbler postmasters, or any of their subordinates, or any of the subordinates of the internal revenue service, or any of the customs service clerks, yet been subjected to a four-years term. As to them the theory of the constitution still prevails. Even Jacksonian politicians dared not make four-years terms more comprehensive; only some politicians of our day propose that. Mr. Kasson, of Iowa, for example, offered a bill in the house of representatives, at the last session, creating a four-years term for such subordinates. — The collectors nominate, and the secretary of the treasury approves the selection of inferior officers in the customs service. The secretary removes them. The postmasters, within the limits of the appropriations, both employ and dismiss their own subordinates without any overruling authority being provided by law. But when the heads of these offices and the prominent postmasters had been given the same four-years term as that of the president, the postmaster general, and the secretaries presiding over departments, and the rotation "spoils system" had become well established, the tenure of all such subordinates, and of the small postmasters as well, inevitably became almost as precarious, if their holding of office was not as short as that of their superiors. If a four-years term and a tenure conditioned on both the servility of the officer and the supremacy of his party, were best for the collector and the postmaster, why were they not best for their clerks? If best for the postmaster, whose compensation was one thousand dollars, why not best for him whose compensation was one hundred dollars, or only ten dollars? All over the country, from the postoffice doorkeeper and the custom house scrubbing woman, to the postmaster general and the secretary of the treasury, that term and tenure, by the force of such logic and the pressure of party leaders for spoils, tended to become universal. — When a statute of congress could be cited to prove the wisdom of removing a great postmaster to serve the ends of party in states and cities, how could a postmaster general resist the demands of the town and village politicians that the little postmasters should be selected and dismissed in order to serve the ends of little factions and cliques? And how could postmasters refuse to employ and dismiss their clerks upon a theory any less regardless of the public interests? It was the inevitable result of such a system that a servile partisan spirit, an intense, selfish political activity, forever meddling with the freedom of elections, forever bartering places for votes, and a consequent demoralizing neglect of the public business, were everywhere developed in the postal, not less than in the customs, service. Jefferson's prophecy was fulfilled. For the disastrous consequences which speedily followed, see SPOILS SYSTEM, REMOVALS FROM OFFICE. What sweeping and unprecedented removals for mere partisan reasons speedily followed the creation of a spoils system term and tenure, is well known. The name of Jackson is forever associated with merciless proscription and vicious rotation in office. That his system equally tends to keep the worthier classes from the public service and to draw into it scheming henchmen, debauched partisans, and bankrupt speculators, need not be pointed out. Why should an honest man of capacity and self-respect desire for its own sake an office in which to-morrow he may be the victim of a greedy faction of an electioneering secretary, and at best must reach the end of his term by the time he has learned his new business and forgotten his old? — Other effects injurious to the administration and politics of the country, either caused or greatly aggravated by these four-years-term statutes, have become too serious to be passed without notice. I refer especially to congressional patronage and the usurpation of the executive power by the senate in connection with confirma-

tions. When short terms were in theory made a sort of substitute for the discharge of the executive duty of removals for cause—when removals and appointments came to be based on political influence, and to be held to be a justifiable means of party aggrandizement—when, by the very language of an act of congress, not the welfare of the public, but "the pleasure of the president," and (by analogy) of heads of departments as well —became the rule of action, what more natural than that members of congress should first promise places (in aid of their own election), and next demand them of the president and secretaries as a condition of supporting the administration in congress? That many members have stood above this form of bribery and coercion, and that the majority have but mildly participated in it, we may well believe; yet it has become an alarming evil, the grave perils of which no candid man will deny. A great proportion of all the appointments and removals in our public service have become a part of the perquisites and spoils of congressmen, and have tended to the degradation of official manhood, and to corruption and coercion at elections, in manifold forms. A single appointment which a congressman could control can be vaguely promised to and be made to influence a score of voters. (For the effects of these short terms and of the tenure of office acts upon the senate, see CONFIRMATION BY THE SENATE.)—As the law now stands, under the tenure of office acts of 1867 and 1869, no officer nominated, subject to confirmation by the senate, of which there are about thirty-five hundred, can be removed, except with the consent of the senate. During the recess of the senate the president may suspend such an officer, and the suspension will be effective until the end of the next session, subject to an agreement between the president and the senate in the meantime. The significance of this condition of affairs can not be mistaken. That great excutive power of removal for good cause—the public, just, vigorous and uniform exercise of which is essential to all fidelity, to all economy, to all efficiency, and to every wholesome sense of responsibility, alike on the part of the superior officer who wields it, and the inferior officer who is subject to it—is apportioned and enfeebled. The greater part of it is handed over to a body acting secretly and through political majorities, the members of which neither have nor feel any direct responsibility for the working of the executive branch of the government. The president, constitutionally responsible for the faithful execution of the laws, can neither appoint nor remove any one of nearly thirty-five hundred of the higher officials through whom those laws are to be executed, without the consent of the majority, generally the political and perhaps the hostile majority, of the senate; if, indeed, he can make such removal or appointment without the consent of the senators of the state where an official delinquent defies executive authority. The tendency of such a system is to cause the wishes of senators to be potential, and their favor to be courted in the great departments, custom houses and post-offices, where their power should only be felt through independent criticism or stern investigation, to which their having favorites in office is almost sure to be fatal. Need it be pointed out that such a system tends to constant collisions or corrupt bargains between the executive and the senate? It teaches the people that partisan work and interests are the supreme standards for ministerial offices. It makes the senate as much an executive as a legislative body, its action tending more and more to impair the counterpoise and stability of our institutions. From such causes senators are more than ever before pressed by politicians of every class to make their action upon nominations and removals serviceable to the local interests of parties, factions and chieftains, whereby it has become equally unusual and difficult to make that action turn upon anything else. The struggles about the collectorship at New York and the case of Mr. Conkling are but examples of this tendency. Here again we see the sage prediction of Jefferson being fulfilled.—The same causes which have tended to make senators the partisan autocrats and patronage purveyors of their states, have drawn upon them a vast demoralizing solicitation for office. It has often made their elections scenes of intense strife and lamentable corruption. It has absorbed the time needed for their public duties. It has blinded them in clouds of adulation. It has made them unmindful of the higher sentiments of the people. It has caused the senatorial office itself to sink in public estimation. It made the late contest in New Hampshire possible. In estimating the control over state politics and elections gained by senators through their power to appoint and renew collectors and postmasters, it must be borne in mind that senatorial dictation may, and very generally does, extend to the selection and removal of the subordinates of those officers; so that senators (as Mr. Clay predicted in 1835) have very generally become feudal chiefs in the political affairs of their states.—A few days after President Grant's first inauguration, when every plausible excuse for retaining the tenure of office acts had ceased, the house, which has no share in confirmations, declared itself for the repeal of those tenure of office acts by a vote of 138 against 16. In his message of December, 1869, President Grant declared "those laws inconsistent with a faithful and efficient administration of the government." A few days after that message, the house again voted their repeal by a majority of more than six to one, and in 1872, without a division, the house a third time voted their repeal. The senate was persistent for its courtesy and its usurped power. A majority of its members uphold them still, relentlessly exercising the authority they confer. In this policy Mr. Conkling was a leader, and fell under the rebuke of his own state.—Such is the situation in large measure caused, and in every particular aggravated, by short fixed terms and a precarious

partisan tenure. The period is not remote when, if these laws shall continue in force, the whole time of the senate will not be sufficient for confirming postmasters alone. We must consider the small proportion of the inferior officers to whom a four-years term has yet been extended, if we would comprehend the consequences of making that term universal. Of the about 3,500 now subject to it, about thirty-five are in the treasury department at Washington, more than one hundred are collectors, and about nineteen hundred are postmasters. The proposal to make that term general, according to the Kasson bill, is nothing less than this: that each one of the more than 75,000 other inferior officers shall either go out at the end of four years, or be kept in through as many successful contests of influence and favoritism. Does any candid man believe our institutions could stand such a strain? It is true that the example of a four-years term and a tenure by favor on the part of the most prominent of such officers here caused a great portion of those in the grades below them to be frequently changed. Yet it is a significant fact, standing in strong condemnation of a four-years term, that, despite such examples, the average periods of service in the lower offices, of late, at least, *have been two or three times four years*, and have been the longest where administration has been best and politics least partisan and corrupt. The average time of service of the more than 42,000 postmasters, whose term is not fixed by law, has probably been about ten years, at least, if we exclude postoffices established within that period; and that of the subordinates in the New York city postoffice, where Mr. James and his successor have enforced the competitive examinations with such admirable results, is unquestionably longer. It is believed that the average period of service of the inferior officers of the treasury department (and certainly of the state department) at Washington, is longer still. — We have only to look at the facts to see how disastrous would be the consequences of a four-years term in the great departments and offices. It would require about seven hundred changes, or successful contests for reappointment each year in the treasury department (more than at the rate of two every secular day); changes as frequent as the most barbarous partisan proscription has ever accomplished. A new appointment or a successful contest for a reappointment at the New York custom house every day of the year would be quite inadequate under such terms. If all postmasters were given a term of four years, there would be over ten thousand and five hundred changes or contests every year, or about thirty every day, to be dealt with; to which must be added one-fourth of all the subordinates in all the postoffices in the United States, and also all cases of resignation and removal for cause. If it be conceivable that an intelligent people can ever enter upon such changes, it is plain that there must be an additional postmaster general and secretaries with no other duty than that of working a vast machinery of rotation and partisan warfare. Consider the effect of a four years' term upon the postoffice at New York. It would require between four and five times as many changes each year as have been annually made in the period during which its administration has been so greatly improved. Two new selections or reappointments every three days would not fill the places which such a term would vacate at that office. It is obvious that nearly or quite the whole time of a postmaster would be required to attend to them. — I have no space for tracing the effects of this short-term system in the offices of states or municipalities. It has contributed greatly to the perpetual and mischievous activity of parties and factions. Officers in cities and villages, whose duties have no legitimate relations with party politics, have been given short terms either in reckless thoughtlessness, or (apparently at least) for the mere purpose of creating annual or biennial prizes to be won in the low scramble of factions and bosses. It is not too much to say that at least the greater part of the political corruption of cities and of the fatiguing labors imposed on good citizens by reason of rotation in municipal offices would be superseded if the official tenure there was made what the public interests require. What can be more disastrous than the existing practice of giving the shortest of terms to heads of bureaus and the making of the tenure of them subordinate, dependent upon the triumph of a party, if not of a faction, or a demagogue, with whom that head is affiliated? — The salutary tenure for inferior executive officers, sanctioned by the constitution and enforced by all the presidents before Jackson, has also been approved by the last two presidents. "Let it once be fully understood that continuance in office depends solely upon the faithful and efficient discharge of duties, and that no man will be removed to make place for another, and the reform will be half accomplished," are words of the late president. (President Garfield's speech at Athens, Ohio, 1879.) In a letter to Secretary Sherman, dated Nov. 28, 1877, President (then collector) Arthur says: "Permanence in office, which of course prevents removal except for cause, and promotion based upon good conduct and efficiency, are essential elements of correct civil service." In his letter of acceptance as vice-president, he said: "The tenure of office should be stable. Positions of responsibility should, so far as practicable, be filled by the promotion of worthy and efficient officers," judgments which his messages have reaffirmed. These views imply that the right and duty of removal for good cause should remain unimpaired. They lend no sanction to a life tenure of office, which is quite inadmissible, or to any other tenure which does not make the common interest paramount to that of any office-holder, administration or party. One of the great objections to a short term is that it is treated as a sort of substitute for the discharge of the duty of removing the untrustworthy and the incompetent, whereby the moral tone, the discipline and the efficiency of the public service are alike degraded. The decisive ques-

tion as to an "inferior officer" remaining longer in the service should always be, not, Has he been in his place four years or any other number of years? but, Is he a good officer, who, if retained longer, will serve the people most usefully? — So far from life tenure, or a permanent tenure in the absolute sense, even being admissible, removals should be made for at least the following causes: 1, conviction of an infamous crime or one involving fraud or corruption; 2, facts showing that such crime has been committed; 3, the use of official authority or influence to coerce the freedom of citizens; 4, mental or physical incapacity for official work; 5, intemperance; 6; gross immorality or vices; 7, habitual inefficiency; 8, willful neglect of duty; 9, intentional disobedience to lawful instructions; 10, renunciation of allegiance; 11, acts of treachery or bad faith toward the United States. — There are yet other grave objections to these short terms. They were provided for a few of the higher offices, on the theory that a longer holding of executive places was a monopoly, and that a quadrennial rotation was republican justice, and essential to the healthy life of parties. The demand that the same term be extended throughout the service is in the spirit of its original creation. The fact that those holding under four-years terms have, as we have seen, retained their places for much shorter periods than those not subjected to such terms, proves that such terms cause the rotation which their champions favor. By reason of the simple facts that such terms are demanded, in the name of rotation and of the communistic theory that every man has an equal right to office, they make a sort of legislative proclamation of such doctrines. They apply alike to worthy and unworthy officials, and hence tell the people that every officer, no matter how pure and useful, should, on the ground of justice to those seeking office, leave his place at the end of four years. He is, in the spirit of such a law, if he stays longer, an odious monopolist, holding by favor what belongs to another. A law fixing a four-years term plainly says to the people that a ministerial officer should not hold his place either so long as he remains upright and efficient, or so long as his superior officer regards him as more useful to the public than an inexperienced man would be. It tells them, that, for reasons paramount to all such considerations, his service should end absolutely with the four years. These reasons—however partisan, communistic, or corrupt, as illustrated in practice—are, by the legislative, made imperative upon the executive. They are undeclared by the law, and are left to mere inferences to be drawn from practice. They are reasons, at once vague and mysterious, which plainly and equally disregard personal merit in the inferior officer displaced and the responsibility of his superior for good administration in his own department. These terms are an invasion by the legislative upon the executive. They suggest that the executive officer can not be trusted to decide how long the services of a subordinate are useful to the public—a power and duty which, under the constitution, plainly belong to the executive. Such considerations will prevent short terms ever being regarded as legislation in the interest of efficient or economical administration. They will be regarded as the enforcement of a pretended system of justice in office holding—as an approval of increased patronage for parties, of diminished power in the executive over its own subordinates, of encroachment on the part of congress beyond the sphere of its responsibility, of more absolute dependence upon mere favor on the part of subordinates. Short terms are, in principle, a sort of invitation, even to the executive himself, to remove for reasons other than the good of the public service; for those terms are in substance a removal, every four years, of every person in the public service, not for any good or even any avowed cause, but utterly irrespective of the merits of those removed. They emphatically teach servility, by saying to every subordinate: "Your sole chance of holding beyond the four years depends on executive favor or partisan and congressional influence exerted for your reappointment. A peaceful holding is not to be a consequence of well doing. Look to favor and influence. Under the laws of your country, or by reason of any merit or usefulness they pretend to respect, you have no claim to stay an hour beyond the quadrennial period." Mr. Webster, in 1835, in urging the repeal of the four-years term of 1820, covered the ground in these words: "The law itself vacates the office, and gives the means of rewarding a friend without the exercise of the power of removal at all." If official merit, in the estimation of the appointing power, is a good reason for continuing longer in office, why bring the holding to an end by a fixed term? The end of the term but refers that same question to the identical authority which would, except for the term, have decided it. If unworthy to decide when to remove for cause, is not the superior officer unworthy to decide when to reappoint for merit? — But the mischief of the four-years term law does not stop there. Every reason which can be urged in favor of a four-years term, can also be urged by party managers and scheming officials against reappointments at the end of those terms. For, how is rotation to be secured, how is each man any more certain to get his fair share of office under short terms, if all the good officers who ought not to have been removed are to be reappointed at the end of their terms? If there are not to be more changes under a four-years term than without it, if inexperience is not to be increased, and skilled servants whom the public has educated are not to be driven out, then what is the gain of the short-term law, upon the theory of its advocates? It would not cause rotation. It would give office to no more office seekers. Every patronage monger, every caucus manipulator, every shiftless office seeker of the land, every aspiring demagogue longing for more offices to pledge for votes, every unscrupulous chieftain seeking more callow officials to tax and more places to give as bribes, every in-

tense partisan believing that spoils are the strength of parties, and that rotation in office is a vital principle of republics, is not only in favor of a four-years term, but will insist on true Jacksonian proscription during that term. Can any argument be necessary to make it clear that every concession to such theories but intensifies and embitters the communistic, partisan and proscriptive spirit which they embody? If a four-years term should be provided in order to make more places for office seekers, then why, upon the same theory, should not terms be reduced to two years, or to one year? When, as of late, the ante-rooms at Washington are crowded with office seekers, and the tables of the secretaries are loaded with office-begging letters, why should clerks be allowed to monopolize their places for four long years, while these applicants are pleading for their share of the offices? The same reasons are just as good for bringing down the term even to two months, as we have seen was the fact in the Florentine and other Italian republics. We must reject rotation as a principle, or carry it to its legitimate results. If the best ability and character for serving the people, and the best and most economical administrators, be not the standard and the end recognized by law, then we can nowhere set them up against the claims of the communistic office seeker and clamorous patronage monger. — The proportion of federal officials to the population ranges from one in twenty-four in the District of Columbia, to one in 540 in Vermont, and one in 1,500 in Georgia. The average seems to be about one official to every 600 of the population, or one official to every 150 males and females with some competency for official duties. The greater number of postoffices in the northern states gives the larger ratio of federal offices there. That, as a rule, from five to fifty persons make a contest or claim for nearly every vacancy, is well known. Will this demoralizing office seeking be less, will the feverish and selfish activity of parties and factions which it stimulates and feeds be diminished, by giving a four-years term to 80,000 additional offices on the demand of politicians and office seekers who declare that every man has an equal right to office, and that a quadrennial rotation is but yielding to this right? Having, by proclaiming rotation to be a principle of republican justice, provided a place for one office seeker in fifty, shall we then be more or less able than before to resist the communistic demand of the other forty-nine office seekers? Will it tend to dissuade them from demanding removals without cause, or to make them better satisfied that senators hold for six years, and judges during good behavior? — It hardly need be pointed out, that terms fixed by law would advertise to parties, to every office seeker, and to the feudal lords of patronage, the precise dates of every vacancy. He must know little of office seeking, or of partisan methods for controlling appointments, who does not see that every approaching vacancy would be the subject of deliberate and mischievous bargains and combinations of influence for filling it. The appointing power would be solicited for pledges, men of prominence would be pressed for recommendations, party leaders would be besieged for influence, every corrupt element and every pernicious activity of politics would be intensified beyond anything yet known. For, so long as a removal at an indefinite time must precede an appointment, there is a great uncertainty as to whether any vacancy will exist, and a concentrated effort by patronage mongers at a decisive moment is generally impracticable. The appointing power has some chance of self-protection. An inevitable vacancy for all places at a time known months or years before, would change all this. The potentates of patronage would wrangle over, bargain for and apportion every vacancy months before it happened. — It is not of course a certainty, if a short term shall ever be established for executive subordinates, that it will be a term of four years, though that is the partisan's favorite period. It may be a term of six or more years. A six-years term would have the advantage of keeping a considerable portion of the changes it would cause out of the period of the presidential election. But with that exception, every other objection urged against short terms would, in large measure, hold against a term of six years. There are obvious reasons why a six-years term would be preferable to one of four years, as there are why a term of ten or more years would be preferable to one of six years. And competent persons would doubtless be more likely to take an official place and to serve for a moderate compensation under a tenure of six years, than under one of four, for much the same reasons that they would still more incline to the public service for a moderate salary under a tenure having regard to merit, which would appeal both to their ambition and to their sense of safety. A four-years or a six-years term for a young man takes him from business experience at an important period of his life. It puts the man of family to expense in adjusting himself to his position. It offers to either only a dreary, admonishing uncertainty, little inviting to a person of prudence or capacity. When, after coming into the service at twenty or thirty years of age, a four-years training by the government as an accountant, an appraiser, a mail distributer, an officer at the mint, the assay office, or the treasury, has made the official skillful, well-informed, and valuable as a public servant, it is certainly desirable that he should remain at least two years longer; but would it not be yet more desirable that he should stay so long as he is the most useful man for the place? What good reason can be given for sending away a valuable official at twenty-six or thirty-six, on merely showing that he has served six years? Is it not plain, that, if the tenure and usage should say to him, "So long as you do your duty promptly and well, and maintain a good character, your means of living will not be taken away, nor your place given to another without good cause," he would be stimulated to fidelity in a degree unknown to him who can hold his place only time enough to learn

its duties and to look out for another? The government will never be most economically served, nor gain the best to serve it, while its officials are selected or treated as needy birds-of-passage, in mercy supported to-day, but told to find a place elsewhere to-morrow. Who will deny that any intelligent man will engage for a less salary and be more careful to do his work well, if he feels that fidelity and efficiency will protect him against being discharged without cause?—It may be insisted that the service would not, as a matter of course, end with the six years, but only terminate in case the incumbent should be held unworthy of reappointment. This theory plausibly presents a short term as a kind of substitute for removals. It contemplates, that, at the end of the service of every one of the more than 14,000 executive officers whose period would expire within each year under a six-years term, there would be a special inquest as to the official conduct of each, and a just judgment rendered. We need not dwell on the magnitude of such an undertaking, which makes it chimerical. If the facts which this theory assumes be true, viz., that during the previous six years the official superiors have been ignorant of the merits of their subordinates, such neglect would prove them unworthy to decide as to reappointments. If these merits and demerits have been known, year by year, no special inquiry will be needed. The unworthy will have been, or should have been, removed. Whose duty would it be, in any event, to conduct that inquiry and decide upon reappointments, except that of the identical superior officers whose yearly and daily duty it now is to keep themselves in that regard fully informed, and to make removals day by day whenever good cause exists? Since that obligation can not be increased, the change, if any, contemplated in official supervision under short terms, would seem to be one that would excuse its performance until the end of the term. Insufficiency, insubordination, neglect of duty for party work, and conduct—not absolutely infamous or criminal, perhaps—are to be overlooked during the term, because at its end there is to be a grand inquest. In other words, the moral and legal obligations of officials in the higher places, and the experience and discipline essential on the part of those in the lower places, are both alike to be reduced to short measure, as a part of the benefits of short terms. That this would please the office seekers, patronage mongers and partisans most clamorous for such terms, we need not doubt. On any other theory, or any just or defensible theory as to removals, it is plain that the unworthy would all be removed before the end of the six years, and that all those left at its expiration—whose terms would end—would be precisely those who would deserve a reappointment; which of course shows the term to be unavailing for any useful purpose. If, therefore, the officials having a duty of removal are to be trusted, the six-years or other short term is needless, and if they are not to be trusted to make removals when they should be made, how can they be trusted to make reappointments at the end of the terms? Would they be improved for the duty of reappointment by a statute which would suggest that until the end of terms they should wink at the delinquencies of their subordinates? The better remedy than any short term would be to enforce far more sternly, and, if need be, by the aid of stringent legislation, the duty, declared by Madison, and implied in the constitution, to remove for adequate cause, and not to remove without it; and by fit reform methods (which can not be explained here), to take away the pressure, the threats and the corrupt persuasions which now make the proper discharge of that duty so rare and difficult. Under such a system the unworthy would be warned off as well as weeded out from the public service.—But let us not forget, that with fixed terms, either for six or ten years, it would be far more difficult to reappoint valuable servants than it would have been to retain them longer if no statute had taught the office seekers and spoilsmen the doctrine of rotation and removals without cause. It is unquestionably true, on the other hand, that an officer too cowardly to discharge his duty, to remove during a term, may more easily get excused by reason of a removal made by act of congress; and, so far as that kind of relief, which first encourages official neglect and then causes it to be forgotten, is an advantage, it must certainly be set to the credit of short fixed terms. With the duty of making removals for cause—which would of course embrace inefficiency by reason of age or any other cause—fitly discharged, we should hear little either of a life tenure, which is utterly indefensible, or of a tenure during good behavior merely, which is inadmissible. An inefficient official may exhibit only good behavior in the legal sense. Good behavior and efficiency combined, are the true basis of tenure for administrative officers. Who but the spoilsman, the partisan and the rotationist in theory—who but those who deny pure, economical and vigorous administration to be the supreme ends—will object to retaining a ministerial officer as long as he is the most useful man for the public service?—There are doubtless some who think—and, within very narrow limits, perhaps not wholly without reason—that short terms would impress upon the officials a new sense of responsibility in addition to that felt toward official superiors, a responsibility to public opinion. But to what kind of public opinion? The fact that the managers of small local administrations, open to the view of every one, in towns and villages, and that officers elected by the people, feel a wholesome responsibility to public opinion, is a natural source of delusion on the subject. If that sense of responsibility is reliable in the great officers, it would be a good reason why the 80,000 inferior federal officers should be elected rather than appointed—why, in short, the whole theory of the constitution should be abandoned. The greater parts of our

system would be indefensible. It is because such a theory is illusory; that, under our system, and under that of every civilized state, such officials are appointed and are governed by superior officers. The popular judgment can rarely decide, with intelligence, how far bad administration, in a great office, is due to the superior officer, or how far to his subordinates, who must obey the instructions. And for that reason all good governments have put the responsibility and duty of removal upon the superior—the president, the governor, and the mayor, whom the people elect, or upon the heads of departments, and hold them responsible for their subordinates. Every attempt by the legislature, through short terms, to substitute for the true responsibility to the executive and for the duty of removal, a new kind of responsibility, is therefore not only a legislative usurpation of executive functions, but is an effort not only repugnant to our constitution, but demoralizing in its tendency. The shorter the term of executive offices, the more difficult and unreliable would be the popular judgment. Make the term a year or a month, and will any candid man say that a popular judgment upon the official conduct of him who fills it could exist? What do the people know of the relative merits of any one of the thousands or hundreds of subordinates in a department? The worst administrations of later years—the corruption, partisan proscription, neglect of official duty in order to coerce elections, political assessments, the degradation of the public servants into the henchmen of chieftains and senators, the bartering of places for votes—have not been originated or most practiced by the more subordinate officials to whom a fixed term has never been extended, but have grown up and become most intolerable around the great custom houses and postoffices, at the head of which are officers holding for four years, confirmed by the senate and beyond removal, except by the consent of that body. If the many thousands of postmasters whose compensation is between five hundred and one thousand dollars a year, were given a term of four or six years, and were made confirmable by the senate, like the postmasters having a higher salary, I must think that not superior postmasters, but more active politicians, would be secured, and that new elements of vicious and feverish activity would be added to our municipal politics in every quarter of the Union. It would be no better, if postmasters were added to the excessive numbers of candidates in our municipal elections. The fate of every clerk and carrier would be involved in the election. Concerning most of these new confirmations, at best, there would be the same vigorous working of party machinery, and the same mischievous combination of selfish influences which now distract communities and vex congressmen in connection with the quadrennial appointment of collectors and postmasters of the higher grade. Few things are clearer in our politics than the fact that a large share of such confirmations are determined by mere official favor or partisan interests. Rare indeed is it that the administrative capacity of the candidate is made a decisive or even a prominent issue. The case of Postmaster James, of New York, is the first instance in our history of the office of postmaster general being conferred by reason of the administrative capacity of the person appointed. — There are doubtless some who favor a term of years only by reason of an assumed difficulty in bringing about removals. That difficulty grows out of the *spoils*-system method of making appointments. The same pressure on the part of great politicians and members of congress which crowds the service with their unworthy favorites, keeps them there. The threats and pleadings which foist a brawny henchman, a bankrupt cousin, or a favorite widow, upon the national pay rolls, are repeated when the attempt is made to remove them. The competitive examinations now placed at the gates of the public service will not only exclude the unworthy, but they will bring in those who would have nothing but their superior merit to keep them there, and removals for cause will be easy. They have no influence to back them. And should any superior officer decline to remove for cause, he can be impeached, as Madison advised; for, when members of congress and chieftains can no longer put their favorites and relatives into the departments, they will no longer, as now, have an interest to prevent the arraignment of extravagance and imbecility in the executive service. British experience has confirmed the plain suggestions of reason on those points. — It has been suggested, that, since competitive examinations are very offensive to the partisans and spoilsmen whose patronage they suppress, the need of them in a measure might be superseded by short terms of office. The suggestion is not even plausible. The shorter the term, the greater the need of ability and business experience upon entering the service; and the greater, also, the need of thorough competitive examinations for selecting the most competent. If the period of service be long, even those incompetent at the start may be trained into usefulness at the public expense. But if the term be too short for such education, large capacity must be required at the start. Make the term only a month, and the public work would be arrested, unless the standard for admission should be greatly raised. While, therefore, competitive examinations could be made to mitigate some of the evils of short terms, such terms would make competitive examinations indispensable. — It is important to see clearly that the time when a person should leave the public service does not depend upon the manner of getting into it, but upon his usefulness therein, however he got there. Whether he got in by favor, pressure, or competitive examination, the question of his proper term or tenure is the same. Such examinations, and, indeed, nearly all the practical methods of civil service reform, except the demand for the repeal of the short term acts, relate to the means of get-

ting into the service, and to the abuses therewith connected. It is only the specious, unwarranted allegations of the spoilsmen, which declare a dependence of those methods upon a life tenure or long term of office. There is no such dependence. A great portion of the removals without cause are, however, made in order to create vacancies into which dependents or henchmen may be pushed. And, since, under competitive examinations, the place would be filled by whoever could prove himself the better man, this pushing would avail little or nothing, and for that reason unwarranted removals would rarely take place, as the experience of such examinations at the New York custom house and postoffice has clearly shown. While, therefore, such examinations would tend to make a tenure more stable by making powerless the corrupt forces which cause proscriptive removals, I repeat, that the need of applying these methods would increase with every reduction of the term of office and every enfeeblement of tenure. It is an utter misconception of the subject to claim that a permanent tenure of office is an incident of competitive examinations, or any further a consequence of them than this, that, securing the better man, they make it more easy and natural to keep such men as long as the public needs or desires them. — But, suppose short-term theories should now prevail; what would be the result in the near future? Population doubles in about thirty-five years, and officers increase yet more rapidly. Men now vote who may live to see more than 200,000,000 of people in the Union, and more than 400,000 federal officials. — Within little more than a decade, the life saving and signal service, the national board of health, the agricultural bureau. the bureau of education and the civil service commission have been added to the public service, and some of them may soon be departments. When there shall be 200,000 postmasters and 500,000 federal officers, there will still be but one president, but one senate, but one secretary of the treasury, but one postmaster general, unless we create others to fight off the office seekers and work a vast machinery of office filling. Shall we deliberately create an official term which will require the refilling of nearly 100,000 of these places every year, in addition to all those that may be made vacant by removals and resignations? Washington could not contain the office seekers and their backers who would swarm there. Could republican institutions long survive? — Another consideration connected with short terms must not be overlooked. They would greatly embarrass, if not defeat, any adequate system for promotion based on merit or experience. Four successive presidents, all the best administrators in the country, and every well-governed nation of the world, have insisted on promotions for merit, tested by experience, as essential to good administration. When, in his late message, President Arthur declared that "positions of responsibility should be, so far as practicable, filled by the promotion of worthy and efficient officers," he affirmed a principle to which short terms are utterly repugnant, and the wisdom of which the best experience of the world affirms. These terms are an arbitrary interference by the legislative with the executive department, by reason of which, at a fixed time, and irrespective alike of the needs of the public service, of the merits of those who fill it, and of the wishes of those responsible for good administration, the good and the bad alike cease to serve the people. Every worthy officer is sent away—in substance, removed—without cause. Promotion for merit, on the other hand, is based on the theory that an officer is more valuable for his experience, and should, if otherwise worthy, be retained for that reason. Now, it is quite too preposterous for argument to pretend that such experience can be secured in the complicated affairs of government, if there is to be a quadrennial rotation. The very theory upon which such rotation is founded is but a declaration that the paramount aim of the government is not the most competent officers, is not to stimulate effort, and retain the skilled ability it has educated, but to give places to the greatest number of patronage mongers, and salaries to the greatest number of office seekers.— But it may be asked whether some evils may not attend constitutional tenure for "inferior officers"—a tenure during the coexistence of good behavior and efficiency—and whether some provision may not be wisely made for those who might leave the service poor and superannuated. We can not speak positively of the future. When evils from such a source shall be developed, then will be the time to meet them. At present, surely, there is not too much trained experience in the public service. It may be that the aptitude and inclination of our people for change of calling, and the facilities for saving and for securing employment in this country, will for many years prevent the need of legislation on such subjects, which in the old and densely populated countries, we know has existed. There will be ample time for action on such subjects years hence. It is not easy to understand an abuse which does not exist, or customary to legislate against evils which are only imagined. The first duty is to provide for bringing the most competent into the public service, and for suppressing patronage and the arbitrary removal of competent public servants. We do not refuse to cure the sick or arrest contagion, from a fear that the future may have an excess of population. Our business men have not, as a rule—though with increasing exceptions said to be advantageous to employés—yet made provisions for those worn out by faithful labor in their employment; and whether the federal government can wisely be more paternal and humane is a question properly left to the future. Much may be said on both sides of it. Our pensions in principle, and our retiring allowance in the army and navy, and for federal judges, directly affirm the justice and utility of making provision for faithful officers worn out in the public service. After putting

out the flames and purifying the air of the national household, we can take ample time for improving its attractions. The older governments, generally, and Great Britain with marked success, have made such provisions. The British statutes, which give a retiring allowance only after ten years' faithful service, are by no means based on a theory of mere benevolence. They are justified not only as enabling the government to secure its servants at a smaller salary, but as contributing to their efficiency and fidelity in office; in fact, as being, on the mere score of economy and selfishness, a manifest gain to the public treasury. The salary and the allowance are thought to be hardly more than the salary would need to be, on the average or in the aggregate, but for the allowance upon retirement. This experience, extending over three-fourths of a century, is well worthy of our study whether we ever have occasion to make similar allowance or not. It will show us a royal and aristocratic government regarding the self-respect and comfort of those who, in humble places, serve it faithfully, with a care, dignity and regard for economy which are not quite universal in this great republic. — If it be suggested that such allowances befit the paternal care of a monarchy, but not the stern justice of a republic, let it be remembered that every subordinate in the British service who can receive them is by statute compelled to gain his place through superior merit disclosed in a stern, open, competitive examination, where neither blood, wealth nor influence avail anything; while it is only in this republic that a great officer or politician can privately force his blockhead son, his discharged housekeeper, his servile electioneering agent, or his bankrupt dependent, upon the public service. — Whenever the time may come, there are various ways of dealing with the subject: 1, we may fix an age beyond which "inferior officers" shall not remain in the service, thus sternly excluding dotage; 2, we may fix an age after which the salary shall rapidly decrease, which would prevent full payment for impaired capacity, as well as cause seasonable resignations; 3, we may pay a small fixed sum on retirement, after a prescribed period of meritorious service and before reaching a fixed age; 4, we may, on retirement any time after ten years of such service, continue to pay a certain proportion of the salary receivable at the date of retirement, which is the British system; 5, we may, after the official has reached a certain age or period of service, retain a percentage of his salary, to be paid on retirement, which will cost the government nothing and yet be a provision against want; 6, we may refuse to make any provision whatever on the subject, dealing with the public servants according to the severest theories of hostile interest and business relations; or, 7, if we shall find the executive or heads of departments refusing to remove in proper cases (after the repeal of the tenure of office acts and relief from party and congressional influence shall have restored to them a real liberty to do so), or if any bad effects shall attend the restoration of tenure based on character and efficiency, it will be easy, if desirable, to establish a term of years, the length of which should be determined in the light of such experience, and not upon the "spoils system" theories which now prevail. Then if competitive examinations shall have been continuously enforced, there may be neither partisan interest nor prejudice enough left to embolden demagogues to seek popularity by denouncing as an "official class" those who, from whatever grade of life, have worked their way solely by superior merit, and who can hold their places only so long as they continue both upright and efficient. How can that be a class, into which no one can be born, which can be reached only by open competition of merit, through which nothing can be taken or transmitted, and in which no one can remain longer than he is freely retained because he is the best servant of the people? — We need, and, before the time for action shall arrive, we may expect, a more intelligent public opinion on the subject of office getting and office holding. Of what use to ask a legislator who believes in rotation, who holds a tenure of merit to be "un-American," who has promised ten clerkships to carry his last election, and demands a consulate and a postoffice to carry his next election—to consider the subject on the basis of the public interest? When we better comprehend that the real strength of parties is adherence to sound principles and the enforcement of good administration; when we are prepared to make capacity and character, and not influence and favoritism, the tests for admission to the public service; when the states as well as the nation shall have shown courage to suppress political assessment and the official coercion of elections; when we become convinced that promising places for votes is the worst form of bribery, and that the "spoils system" is as demoralizing to a party as it is disastrous and disgraceful to the country—then we shall see that to refuse to retain a public servant because he is faithful and efficient, is to refuse to protect the public welfare. Then, and possibly not till then, we shall be prepared to deal with our retiring public servants upon the grounds of justice and sound principles. Then we shall be able to give due consideration to wat contributes to the honor, efficiency and economy of the public service, to what makes it attractive to a prudent man with a family dependent upon his salary, to what will give it a high place in public estimation, to what will invite to it young men of promise by assuring them that merit will be the condition, alike of stability and of promotion.

DORMAN B. EATON.

TERRITORIAL WATERS are all waters within the jurisdictional limits set by international law to an independent state. Such waters* comprise: 1, inclosed waters, which are, first,

* Different writers use the terms jurisdictional waters, water territory, maritime territory.

rivers, lakes and other inland waters wholly within the boundaries of a state; second, if the boundaries of a state are rivers or lakes or other inland waters, unless one of the riparian states has a good title to the whole bed of the same, bounding non-navigable rivers to the middle of such streams, bounding navigable rivers to the middle of their deepest channel, and bounding lakes and other inland waters to the middle of the same; and third, ports, bays, straits, sounds or arms of the sea within (*intra fauces*) headlands belonging to the same state not more than two marine leagues apart; 2, uninclosed waters, or the open sea to the distance of one marine league outward from the line of low-water mark; and, when bays, straits, sounds or arms of the sea are inclosed by headlands belonging to the same state not more than two marine leagues apart, the open sea to a distance of one marine league outward from a line drawn between the two headlands. — The law relating to inclosed waters is well settled. The state inclosing them within its naturally extended territory has a right of ownership, as well as a right of jurisdiction, over them; and in order that the passageways of commerce and navigation may be subject to public authority and control, the title to the land under water, and to the shore below ordinary high-water mark, in navigable rivers and lakes (in England, and in states which have adopted the form rather than the substance of the English rule, tide waters) and in ports, harbors, bays, straits, sounds or arms of the sea inclosed as above described, is vested in the state for the public use and benefit. Although a state is entitled to exclusive jurisdiction both civil and criminal, over its inclosed waters, usage gives a concurrent criminal jurisdiction over offenses committed on foreign vessels in such waters to the states to which such vessels belong, and the state entitled to exclusive criminal jurisdiction will not exercise it in such cases, the parties being exclusively foreign, unless its authority is invoked, or unless the peace of the country is disturbed. — The law relating to uninclosed waters is not thoroughly settled. It is the historical result of the assertion by different states at different times of conflicting claims of ownership or jurisdiction over the same or different parts of the open sea. It is a compromise by which all states have practically abandoned the claim of ownership over any part of the open sea, upon the express or tacit assent of all the states that each state is allowed an artificial extension of its territory over the open sea adjacent to its coast, to such a distance as is necessary for its defense and security. — When modern international law had its rise, few parts of the sea were free from the claims of some European state. England asserted a right of ownership over the sea surrounding Great Britain as far as the coasts of neighboring countries; Spain declared its exclusive right to navigate the gulf of Mexico and the Pacific ocean; Portugal sought to bar the rest of the world from the gulf of Guinea and the Indian ocean; Venice claimed the Adriatic, Genoa the Ligurian, and Denmark the North seas. Sailing without license upon some of these waters was prohibited under penalty of death, and forfeiture of all the offender's goods. Whether originating in capricious assertions of brute force or in substantial services done in policing these seas, many of which were then infested by pirates, some of these claims were so far admitted, that a right of control became established and was recognized by the payment of toll, the furling of flags and other salutes, from which even kings were not exempt. — From this right of control, as "a dissociation of the ideas of control and property was not then intelligible, the step to the assertion of complete rights of property was almost inevitable." During the sixteenth and seventeenth centuries assertions of proprietary rights based upon prescription, or discovery, or police services, or papal grant, over the open sea, were general, and were maintained with varying success. The physical impossibility of obtaining and keeping exclusive possession of any part of the open sea, the growth of commerce and the consequent recognition of the necessity of the free navigation of the ocean, led to a contest between the advocates of *mare clausum* and those of *mare liberum*, which was begun in 1609 by Grotius, and which was ended in 1824-5 by the complete abandonment of the last of these "vain and extravagant pretensions"—the claim of Russia to the Pacific ocean north of fifty-one degrees north latitude. It is now universally admitted that the open or high seas—the ocean and all connecting arms and bays or other extensions thereof not within the territorial limits of any nation—are not the subject either of property or of exclusive jurisdiction, and that the right to navigate these seas is common to all nations and their members, and can be abridged or renounced only by actual consent. — The first germs of the modern doctrine of uninclosed territorial waters are discoverable in a proclamation[1] of James I. of 1604, which contains the two principles which now limit territorial jurisdiction over the open sea, confining it, 1, to a reasonable distance, and 2, to a distance within which the state can prohibit violence. Grotius, while advocating the freedom of the open sea, admitted that portions of it might be occupied by the state possessing the adjacent land. Bynkershoek, in 1702, formulated the modern rule, which is based upon the necessity of securing peace and protection to the lives, property and industries of the subjects of states who live upon their coasts, and which extends the territorial waters of a state over so much of the open sea as can be defended from its coasts. This, according to Bynkershoek's formula, was as wide a belt of open sea as could be effectively commanded from the coast by cannon, a distance which subsequent writers fixed as one marine league, although to the present time it is often described as a distance of a marine league *or as far as cannon shot will reach from the coast*. To continental jurists this suggestion of Bynkershoek seemed to afford a

reasonable basis for the settlement of conflicting claims over the open sea, and, though widest disagreement regarding the extent of territorial waters continued for a century, the principle has gradually gained recognition that any control over the open sea to be valid must be effective. No mention of a marine league belt of territorial waters appears to have been made in any English court until 1801, and no exhaustive examination of the nature of the rights of a state over such waters, and their extent, was made in any English court till 1876, when a case arose (The Franconia)[2] involving the right of England to punish a foreigner for an offense committed while on a foreign vessel on a foreign voyage within a marine league of the English coast. The critical review of the opinions of authoritative writers upon international law, then made, showed that: 1. All these writers acknowledge the right of a maritime state to an extension of its territory, in a qualified sense of the word, over some portion of the adjacent sea beyond low-water mark; 2. Though there is found a great variety of opinion among these writers, as to the distance to which such maritime territory should be allowed, that distance varying (setting aside even more extravagant claims) from 100 to three miles, the present limit, not one of them puts such distance at less than three miles; 3. All the earlier writers, and many of the later writers, maintained, that within the zone of three miles the state had, without qualification, a proprietary as well as a territorial right, so that it might at its pleasure exclude foreign ships from passing along the same; but that others of the later writers contended that the state had a territorial, but not a proprietary, right over the zone, or that, at all events, the innocent use of the zone by foreign ships for the purpose of navigation could not without wrong be interfered with. (2 L. R., Ex. Div., 71, 122, 123.)[3] — But, as the opinions of publicists, even if there were no disagreement among them, are, at best, only secondary evidence of what international law is, the primary evidence of the fact which these writers assert—the existence of an international agreement to treat any part of the littoral sea as belonging to or under the control of the adjacent state—must be sought in treaties and usage. What these disclose is most authoritatively expressed in the opinion, delivered in the leading case above named, by the late Lord Chief Justice Cockburn, who said: "1. *Treaties.* It may be asserted, without fear of contradiction, that the rule that the sea surrounding the coast is to be treated as a part of the adjacent territory, so that the state shall have exclusive dominion over it, and that the law of the latter shall be generally applicable to those passing over it in the ships of other nations, has never been made the subject-matter of any treaty, or, as a matter of acknowledged right, has formed the basis of any treaty, or has ever been the subject of diplomatic discussion. It has been entirely the creation of the writers on international law. It is true that the writers who have been cited constantly refer to treaties in support of the doctrine they assert. But when the treaties they refer to are looked at, they will be found to relate to two subjects only: the observance of the rights and obligations of neutrality, and the exclusive right of fishing. In fixing the limits to which these rights should extend, nations have so far followed the writers on international law as to adopt the three-mile range as a convenient distance. There are several treaties by which nations have engaged, in event of either of them being at war with a third, to treat the sea within three miles of each other's coasts as neutral territory, within which no warlike operations should be carried on. Again, nations, possessing opposite or neighboring coasts, bordering on a common sea, have sometimes found it expedient to agree that the subjects of each shall exercise an exclusive right of fishing to a given distance from their own shores, and here also have accepted the three miles as a convenient distance. Such, for instance, are the treaties made between this country and the United States in relation to the fishery off the coast of Newfoundland, and those between this country and France, in relation to the fishery on their respective shores; and local laws have been passed to give effect to these engagements. 2. *Usage.* The only usage found to exist is such as is connected with navigation, or with revenue, local fisheries or neutrality, and it is to these alone that the usage relied on is confined. Usage as to the application of the general law of the local state to foreigners on the littoral sea, there is actually none. No nation has arrogated to itself the right of excluding foreign vessels from the use of its external littoral waters for the purpose of navigation, or has assumed the power of making foreigners in foreign ships passing through these waters subject to its law, otherwise than in respect of the matters to which I have just referred. Nor have the tribunals of any nation held foreigners in these waters amenable generally to the local criminal law in respect of offenses."— So far, then, as it is settled, the law applicable to uninclosed territorial waters is as follows: 1. The rights, whatever may be their description, of an independent state over such waters, are created by international law, and are evidenced by the assent of nations which "may be expressed by treaty, or the acknowledged concurrence of governments, or may be implied from established usage," and in the absence of such proof of assent the opinions of writers on international law are relevant only as tending to show what claims* one independent state may exercise over such waters without interference from other independent states. 2. The rights of an independent state over such waters, so derived and so evidenced, are, first, a right of jurisdiction limited to the protection of its coasts from the effects of hostilities between other states which may be at

* "Territorial Waters Jurisdiction Act (1878)," 41 and 42 Vict., cap. 73, notwithstanding its preamble, is such a claim.

war, the prevention of frauds upon its customs laws, and the regulation of fisheries; and second, a usufructuary right to fisheries. Modern writers who affirm any proprietary right over uninclosed marginal waters unite in basing it upon the fact that the adjacent "state has admittedly an exclusive right to the enjoyment of the fisheries" in such waters. But this seems to be more accurately classed as a usufructuary right, for, if a state has any proprietary right over such waters, it would seem to have the exclusive right to set law over them, and to close them to foreign vessels, as it may close its ports, whereas it is universally admitted that foreign ships have a *jus transitus* over such waters. 3. The internationally valid exercise of the rights above enumerated by an independent state is limited to a distance of one marine league from low-water mark on its coast. — There are a few apparent exceptions to this rule. 1. Local pilot laws, which require that a pilot shall be taken on board all vessels entering certain territorial waters at a distance of more than three miles from the coast. Such laws are no real exception to the rule, being based upon the principle that a state has a perfect right to say to foreign ships voluntarily seeking its ports, that they shall not, without complying with its law, enter into its ports, and that if they do enter, they shall be subject to penalties unless they have previously complied with the requisitions ordained; whether these requisitions be, as in former times, certificates of origin, or clearances of any description from a foreign port, or clean bills of health, or the taking on board a pilot at any place in or out of its jurisdiction before entering its waters.[3] Other local laws containing provisions affecting foreign ships, or foreigners within such ships, in respect to acts committed or omitted beyond the marine league belt, are referable to the same principle. 2. Customs laws and hovering acts, which authorize municipal seizures beyond the marine league. "It will not," says Dana,[4] "be found that any consent of nations can be shown in favor of extending what may be strictly called territoriality, for any purpose whatever beyond the marine league or cannon shot. Doubtless states have made laws, for revenue purposes, touching acts done beyond territorial waters; but it will not be found, that, in later times, the right to make seizures beyond such waters has been insisted upon against the remonstrance of foreign states, or that a clear and unequivocal judicial precedent now stands sustaining such seizures, when the question of jurisdiction has been presented. The revenue laws of the United States, for instance, provide, that, if a vessel bound to a port in the United States, shall, except from necessity, unload cargo within four leagues of the coast, and before coming to the proper port for entry and unloading, and receiving permission to do so, the cargo is forfeit, and the master incurs a penalty (Act March 2, 1797, sec. 27); but the statute does not authorize the seizure of a foreign vessel when beyond the territorial jurisdiction. The statute may well be construed to mean only that a foreign vessel coming to an American port, and there seized for a violation of revenue regulations committed out of the jurisdiction of the United states, may be confiscated; but that, to complete the forfeiture, it is essential that ths vessel shall be bound to, and shall come within, the territory of the United States, after the prohibited act. The act done beyond the jurisdiction is assumed to be part of an attempt to violate the revenue laws within the jurisdiction. If foreign vessels have been boarded and seized on the high sea, and have been adjudged guilty, and their governments have not objected, it is probably either because they were not appealed to, or have acquiesced, in the particular instance, from motives of comity." Phillimore and Twiss both substantially agree with Dana, and hold that judgments affirming the legality of municipal seizures beyond one marine league could not have been sustained if the foreign state whose subject's property had been seized had thought proper to interfere, unless, perhaps, when that state had put in force or at least enacted, for its own benefit, a similar municipal law. 3. The waters in the centre of certain straits, gulfs and bays, which central waters lie outside the limit of a marine league from any of the adjacent coasts, are claimed to be territorial waters, and certain gulfs are in actual practice so treated. France appears to claim inlets whose entrance is not more than ten miles wide. England long claimed the "Queen's Chambers," these being waters within headlands as distant as Orfordness from the Foreland. The bay of Conception, in Newfoundland, which penetrates forty miles into the land, and is fifteen miles in mean breadth, was recently decided to be territorial water by the privy council. The United States claimed Delaware bay in 1793. "Of practice," says Hall,[5] "there is a curious deficiency, and there is nothing to show how many of the claims to gulfs and bays which still find their place in the books, are more than nominally alive. It is scarcely possible to say anything more definite than that, while on the one hand it may be doubted whether any state would now seriously assert a right of property over broad straits or gulfs of considerable size and wide entrance, there is, on the other hand, nothing in the conditions of valid maritime occupation, to prevent the establishment of a claim either to basins of considerable area, if approached by narrow entrances, such as of the Zuyder Zee, or to large gulfs which, in proportion to the width of their mouth, run deeply into the land even when so large as the bay of Fundy, or, still more, to small bays, such as that of Cancale." — The United States, being an independent state, has the international rights and is under the international obligations above described, in respect to the open sea which washes its coast; but, being a federal Union, jurisdiction and ownership over these waters, as between its constituent members, are regulated, not by international law, but by the terms of that Union. Thus it has been decided[6] that the article of the

constitution which describes the judicial power, and extends it to cases of admiralty and maritime jurisdiction, does not make a cession of territory or of general jurisdiction, so as to vest in the United States the shores of the sea, below low-water mark, and that whatever soil below low-water mark, within the ebb and flow of the tide, is the subject of exclusive property and ownership, belongs to the state within whose territory it lies, subject to any lawful grants to that soil by the state or sovereign power which governed its territory before the declaration of independence. Massachusetts, for instance, expressly asserts,[7] that, "The territorial limits of this commonwealth extend one marine league from its seashore at low-water mark. When an inlet or arm of the sea does not exceed two marine leagues in width, between its headlands, a straight line from one headland to the other is equivalent to the shore line. The boundaries of counties bordering on the sea shall extend to the line of the state, as above defined." So the counties and towns in the state of New York which are bounded generally on Long Island sound, comprehend[8] within their limits, for the purpose of ordinary civil and criminal jurisdiction, the waters between their respective shores and the exterior water line of the state. Subject, then, to the paramount right of navigation, the regulation of which in relation to foreign and inter-state commerce has been granted to the United States, each state owns[9] the beds of all tide waters within its jurisdiction, unless they have been granted away, and may appropriate them, to be used by its citizens as a common for taking and cultivating fish, if navigation is not thereby obstructed. In like manner, the state owns the tide waters themselves and the fish in them, so far as they are capable of ownership while running. The right which the citizens of the state thus acquire is a property right, and not a mere privilege or immunity of citizenship, and a law of a state, as Virginia, prohibiting citizens of other states from planting oysters in the soil covered by her tide waters, is neither a regulation of commerce nor a violation of any privilege or immunity of inter-state citizenship. — See Phillimore's *Commentaries upon International Law*, vol. i., chaps. 4–8, Philadelphia, 1854; Kent's *Commentaries*, 12th ed., vol. i., pp. 26–36; Twiss' *The Law of Nations* (Time of Peace), London ed., 1861, chap. 10; Woolsey's *International Law*, 5th ed., secs. 56–63; Holland's *Jurisprudence*, pp. 297, 298; [1] Twiss' *Arts. in Law Magazine*, 1877; [2] *The Queen* vs. *Keyn*, 2 L. R., Ex. Div., pp. 63–240; [3] Lush., *Adm.*, 295; [4] Wheaton's *International Law*, chap. iv., secs. 177–206; [5] Hall's *International Law*, pp. 104–130, Oxford, 1880; [6] *United States* vs. *Berans*, 3 Wheaton, 336; [7] *Pub. Stats. of Mass.*, title 1, chap. 1, sec. 1, and title 6, chap. 22, sec. 1; [8] *Mahler* vs. *Transportation Co.*, 35 N. Y. 352; [9] *McCready* vs. *Virginia*, 94 U. S., 391; *Territorial Waters Jurisdiction Act*, 1878, 41 and 42 Vict., cap. 73; *Foreign Relations of U. S.*, 1878, pp. 245–251. JAMES FAIRBANKS COLBY.

TERRITORIES (IN U. S. HISTORY). Before the American revolution the thirteen colonies were "territories" of the British empire: that is, they held much the same relation to the British empire that the present territories hold to the United States. They had many political privileges: they had assemblies of their own, which made their local laws, laid their local taxes, and paid their local officers; three of them until 1691, and two of them thereafter, elected their own governors (see MASSACHUSETTS, CONNECTICUT, RHODE ISLAND); and in very many respects all of them were self-governing commonwealths. But, whatever the colonies may have thought of the matter, in the view of the mother country these privileges had their basis in the continuing will of the British sovereignty. The king had no right, theoretically, to alienate permanently any of the prerogatives of the crown; and when his judges or his parliament advised him that any of the privileges which he had granted to the colonies were abused, or proved to be inherently vicious, it was his duty to revoke or alter them. Even a "charter," in this way of looking at it, had no inherent sanctity; it was no contract between king and people, but a grant by the king of privileges whose permanence was conditioned on the advantage of their results to the mother country. Connecticut had the privilege of electing its own governors down to the revolution; but the privilege had no solider basis than in Massachusetts, where it was revoked in the charter of 1691. Of course the colonies saw the matter differently. (See REVOLUTION.) But we are considering now only the view taken by the sovereignty in both cases; and from that point of view it is difficult to see any great difference between the status of the colonies under the British empire, and of the territories under the United States. Both had political privileges, but in both the continuance of the privileges was dependent on the continuing will of the superior, and on the advantages of the arrangement to the superior. The history of the territories of the United States will, it is confidently submitted, show the infinite superiority of the American over the British colonial policy. Indeed, its superiority has become so apparent that the British policy has of late years been radically altered in the direction of the American policy. — I. ACQUISITION. 1. *Under the Colonies.* Six of the colonies, New Hampshire, Rhode Island, New Jersey, Delaware, Pennsylvania and Maryland (see their names), had defined western boundaries; the other seven, Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina and Georgia, had none, unless we may consider the Pacific ocean, assigned in the charters and grants of most of them, as a western boundary. There were some irregularities. The boundaries of New Hampshire were always exceedingly vague; and, though most of them were settled by convention with Massachusetts, the New Hampshire authorities asserted an indefinite claim to the territory to the west, to which New York long

opposed an equally indefinite claim. (See VERMONT.) New York, as it came into the hands of the English, consisted only of the strip of land on both sides of the Hudson river, which the Dutch had settled. To the north and west of Albany there was a vast extent of Indian territory, whose tribes had either been conquered by the Dutch or had made treaties with them. New York, therefore, claimed a sort of suzerainty over it, without any express grant from the king. The claim was in effect recognized by the king's proclamation of 1763, constituting the province of Quebec, and by the act of parliament of 1774, defining its boundaries: the two ran the boundary line between Canada (Quebec) and New York very much as at present. This really satisfied New York, and yet that colony, perhaps to call attention away from the vagueness of its acknowledged title, continued to assert a much vaguer claim to still further western territory. Massachusetts, Connecticut, Virginia, and the colonies to the south, were bounded west by the Pacific ocean in their grants. Virginia (see that state) asserted that her northern boundary ran northwest, instead of west, so that her territory was continually widening as it went westward. The boundaries of Maryland and of the western part of Pennsylvania conflicted with Virginia's claim, but Virginia yielded in these respects, for the purpose of establishing the rest of her claim. South Carolina had really been given a western boundary by the formation of the colony of Georgia, which cut off her further expansion to the west; but it was not yet known whether Georgia covered the whole western boundary of South Carolina, and the latter colony claimed that a narrow strip along the northern edge of its former territory still remained. If there was any such strip it was not more than a dozen miles wide. — The king's proclamation of Oct. 7, 1763, after constituting the new provinces of Quebec and the Floridas, declared it to be his "royal will and pleasure," as to the territory between them, "to reserve under our sovereignty, protection and dominion, for the use of the said Indians, * * * all the lands and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest." This was clearly the establishment of a western boundary for all the colonies which had hitherto had none; and the ground of the establishment was as clearly the asserted right and duty of the king to modify his grants and charters, when their results proved to be injurious to the interests of the empire. The right was always denied by the colonies, and their resistance to it was one of the most powerful forces which led to the revolution; and yet, curiously enough, when independence was established, this very proclamation was asserted by the states which had original western boundaries as a valid assignment of a western boundary for the others. — Virginia hardly showed an enterprise in asserting western claims commensurate with their magnitude and importance. The first Virginia exploring party crossed the Blue Ridge in 1666; but it was not until 1712, under Spotswood's administration, that the country beyond the mountains was reduced to possession. Before the middle of the eighteenth century, settlements had crossed the mountains. The organization of the Ohio company in 1748–9 was due to individual Virginia enterprise; but in the French and Indian war, which followed it (see WARS, I.), Virginia supported the company with her whole force. The place of the first struggles, though now in western Pennsylvania, was then supposed to be in Virginia. In 1774 Gov. Dunmore led the Virginia forces against the Scioto Indians, and compelled them to make peace; but his motives in the expedition were strongly suspected to be selfish. The settlement of Kentucky (see that state) was also due to individual enterprise; and its formal establishment as a Virginia county in 1776 was almost forced on Virginia by George Rogers Clarke, a Virginia surveyor resident in Kentucky. Clarke at once became the champion of Virginia's interest in the northwest. In 1778–9 he led a Kentucky force into Illinois, and conquered that territory and Vincennes, now in Indiana; and the whole was made the county of Illinois by the Virginia legislature. But little attempt was made by Virginia to incorporate the conquest; and at the time of the first cession in 1784 it is improbable that there was any Virginia government in Illinois. — North Carolina asserted her western claims with more energy and success. The first assertion was due to individual enterprise. The first settlement of Tennessee (see that state) was by hunting parties, and by persons who had found the disturbed state of North Carolina under the royal governor unpleasant. In 1776 their settlements were made "Washington district" of North Carolina; and, as settlements increased, other counties were formed. After the first session, in 1784, the Tennesseans revolted, and formed the state of Franklin, or Frankland; but North Carolina revoked her cession, and suppressed the Franklin revolt. The authority of the state was thus established from the Atlantic to the Mississippi. — Other colonies dealt in nothing but assertions. None of them made any practical effort to maintain their claim to territory beyond their present western boundary, with two exceptions. Connecticut made a long but finally unsuccessful attempt to oust Pennsylvania from a part of her territory (see WYOMING), and Massachusetts compromised her claims to the territory of New York. (See NEW YORK.) — 2. *Under the Confederation.* The essential importance of the western territory was as a bond for holding the states together during and after the revolution. The revolution was undoubtedly begun under a vague idea of separate state action in theory, with a controlling necessity for national action in practice; and the articles of confederation were carefully framed with the view of securing as much of the former and as little of the latter as possible. (See STATE SOVEREIGNTY; CONFEDERATION, ARTICLES OF.) So strong was the particularist feeling

in the different states that they were only held firmly together by the first flush of the war feeling; and as this influence relaxed, the tendency to disintegration grew more plainly evident. At first sight, the most powerful opposing force to this disintegrating tendency was the common commercial interest which grew up throughout the states (see FEDERAL PARTY); but the possession of the western territory was a more powerful, though more silent, force, for it reached states which the other force did not touch. If the western territory was to be retained and utilized, but two courses were open: to allow all the states to engage in a general scramble for it, in which each state should secure as much of its claims as it could enforce; or to accept it as national property, defend it by national force, and govern it by national authority. To allow the national bond to break altogether, through the default of the articles of confederation, would have had the former result; and in this instance, as in others, the prejudices of the people at last gave way to their common sense, and they chose the latter. But the process by which they were brought to this conclusion made up one of the vital issues of American politics from 1778 until 1784. — In the beginning congress seems to have had no notion that the western lands were national property. Among its measures to raise an army, Sept. 16, 1776, it promised grants of lands to officers and soldiers, but was careful to provide that the money necessary "to procure such lands" should be assessed upon the states like other expenses. Oct. 15, 1777, before the articles of confederation were proposed to the states, a motion was made in congress to add a provision that congress should be empowered to fix the western boundaries of the claimant states, and to divide the western territory into independent states; but only Maryland voted for it. Clarke's expedition to the Illinois country in 1778, and Virginia's sudden prospect of boundless territorial wealth, threw the apple of discord among the states. Heretofore the claimant states had been content to claim, without taking active steps to enforce their claims; and their extreme demand had been only the negative provision of the ninth article of confederation, that "no state shall be *deprived* of territory for the benefit of the United States." Ten of the states, all but New Jersey, Delaware and Maryland, had already ratified the articles; but most of them had ordered their delegates to propose alterations before signing. When the proposed alterations were considered in congress, June 22–25, 1778, it was found that Maryland proposed to alter the ninth article by empowering congress to fix the western boundaries of the claimant states; that Rhode Island proposed to alter it by empowering congress to sell crown lands within the states; and that New Jersey only protested against the article as it stood, as unfair to the non-claimant states. All amendments were voted down. Eight of the states signed the articles, by their delegates, July 9; North Carolina, July 21; and Georgia, July 24. New Jersey, Delaware and Maryland refused to sign. New Jersey yielded first: her delegates signed the articles, Nov. 26, 1778, relying on "the candor and justice of the several states" for cessions of their claims. The Delaware delegate signed Feb. 22, 1779, protesting at the same time that his state was justly entitled to a share in the territory which had been won "by the blood and treasure of all." Maryland was now the only obstacle, but it proved for some time insuperable. Dec. 15, 1778, that state formally instructed her delegates "not to agree to the confederation," unless the ninth article should be amended as she had desired; and the letter of instructions demanded that the western territory "should be considered as a common property, subject to be parceled out by congress into free, convenient and independent governments, in such manner and at such times as the wisdom of that assembly shall hereafter direct." This seems to have been the first official proposal of that extension of the federal system which had been first suggested in 1777, probably also by Maryland, and which has been the secret of the success of the American policy. — Maryland held out for three years; and during that time the articles hung fire. At first her opposition threatened to provoke an explosion, for some of the claimant states seem to have been willing to break up the Union rather than surrender their claims. Dec. 19, 1778, Virginia formally offered to put the articles in force with any one or more states which should ratify them as they stood, so that Maryland at least would have been left out of the Union; and Connecticut agreed, April 7, 1779. But Maryland remained firm; and her firmness, and perhaps the discovery that Virginia's claim, if allowed in full, would neutralize those of the northern states, gradually turned the scale of opinion against Virginia. Feb. 19, 1780, New York led the way by empowering her delegates to agree to a western boundary, and relinquishing all claims beyond. The ceded territory was to be held for the use of "such of the United States as shall become members of the federal alliance," and for no other purpose. By this New York really gave up nothing, and gained a certain instead of a doubtful boundary. But the precedent was a promising one, and congress used it to pass a resolution, Sept. 6, 1780, "earnestly recommending" the other claimant states to follow New York's example, and "earnestly requesting" Maryland to ratify and sign the articles. This was followed, Oct. 10, by another resolution, in which congress committed itself to Maryland's proposed extension of the federal system, promising that the territory ceded should be "formed into distinct republican states, which should become members of the federal Union, and have the same rights of sovereignty, freedom and independence as the other states." From this line of policy congress has never swerved, and it has been more successful than stamp acts or Boston port bills in building up an empire. — In October, 1780, Connecticut offered to cede her claims, reserving a tract along Lake Erie.

Jan. 2, 1781, while Arnold was ravaging Virginia, that state offered to cede her claims northwest of the Ohio, on condition that congress would guarantee her possession of Kentucky and the larger part of Tennessee. Neither of these offers was accepted by congress, but the prospect was so encouraging, that Maryland at once empowered her delegates to sign the articles, and they did so, March 1, 1781. On the same day the New York delegates assented to the western boundary of the state, on condition that the same guarantee should be given to New York as to any other state. Thus the articles of confederation went into force without any real settlement of the territorial question, for the only cession likely to be accepted had amounted to nothing. — Oct. 30, 1779, congress had passed a resolution, against the votes of Virginia and North Carolina, recommending Virginia to close her land office and forbear issuing land warrants until the end of the war. Oct. 29, 1782, the persistent Maryland delegates moved that the cession of New York be accepted by congress, and the motion was carried against the vote of Virginia, North and South Carolina being divided, and Massachusetts having but one delegate and no vote. The purpose of this action was to get a fulcrum from which to operate on the claim of Virginia, and it was effective. The claim of New York to her own territory west of Albany was derived from her supremacy over the "Six Nations"; and this was now recognized by all the states. But the Six Nations had always asserted a general right by conquest to all the territory west of New York, Pennsylvania, Virginia and North Carolina. If this also were admitted, it also had passed to New York, and had been ceded by New York to congress; and the whole western territory was already national property, without the formality of a cession by Virginia or any other state. May 1, 1782, a committee had made an elaborate report to congress. It upheld the claim of New York to its full extent; considered the jurisdiction of the whole western territory, including Virginia's claim, to be already vested in congress by New York's cession of it; and recommended Virginia to make a new and full cession. Consideration of the report was postponed, but it was evidently high time for Virginia to cede the northwest territory absolutely and gracefully, if she desired to save Kentucky and her land warrants there. — The act of cession was passed by the Virginia legislature, Oct. 20, 1783, and the deed was executed by her delegates in congress, March 1, 1784. Under the circumstances, the terms accorded to the state were sufficiently liberal; the land titles of Virginia settlers were to hold good; the expenses of the state in conquering the territory were to be repaid to her; 150,000 acres were reserved for Clarke and his troops; and any deficiency in Virginia land warrants in Kentucky and Tennessee was to be made good in the northwest territory. The ceded territory was to be organized according to the federal policy which congress had outlined in October, 1780. A supplementary act of cession was presented in congress, Dec. 30, 1788; but this was only to conform the original act to the terms of the ordinance of 1787. Virginia's cession was complete in 1784. — Massachusetts made an unqualified cession of her claims west of Niagara river, April 19, 1785, in accordance with an act of the legislature of Nov. 13, 1784. — Congress had not as yet accepted Connecticut's proffered cession, on account of the reservation of a tract extending from the Pennsylvania line 120 miles westward. But Connecticut had loyally accepted the award of congress against her in the case of Wyoming (see that title); and congress at last accepted her cession, May 26, 1786. April 28, 1800, an act of congress authorized the president to deed to Connecticut the title to this "western reserve," on condition that Connecticut should surrender all claim to its jurisdiction, and abandon any claim to the territory within the limits of New York; and the state fulfilled the conditions, May 30. — Aug. 9, 1787, South Carolina made an unqualified cession of her claims west of a line from the head of Tugaloo river to the North Carolina boundary. The actual cession was a strip of land about twelve miles wide. That portion of it which is now a part of Georgia was transferred to that state in part return for its cession in 1802. — The South Carolina cession closed the formal record of acquisitions of territory under the confederation; but there were two more cessions, which, though made under the constitution, were only belated completions of confederation arrangements. North Carolina ceded Tennessee in 1784; but, before congress could meet, and accept the cession, it was revoked on account of the anger it excited in Tennessee. Five years later, this feeling had disappeared. In December, 1789, the North Carolina legislature made another cession of Tennessee, which was accepted by act of congress of April 2, 1790. The North Carolina titles and military land warrants were to hold good, and the territory was to be organized as the northwest territory had been, "provided always, that no regulations made or to be made by congress shall tend to emancipate slaves." — Most difficulty was met in the case of the claims of Georgia, covering the present states of Alabama and Mississippi, north of parallel 31° and south of the South Carolina cession. It had been claimed by South Carolina, because the original grant to the Carolina proprietors covered the territory between parallels 31° and 36° west to the South seas. But the proprietors had transferred their rights to the king; the king had formed the colony of Georgia in 1732, and given to it the territory between the Altamaha river and the most northern part of the Savannah, westward to the South seas; and his proclamation of 1763 had annexed to Georgia the territory between the Altamaha and the St. Mary rivers. In 1787 the two states made a treaty at Beaufort, by which South Carolina obtained the territory afterward ceded by her, and Georgia the rest. Georgia took no steps

to cede her share to the United States, but made preparations to reduce it to possession. (See YAZOO FRAUDS.) April 7, 1798, an act of congress organized the territory of Mississippi (see that state), but it covered less than half of the present extent of the state. Its southern boundary was parallel 31; its northern boundary a line due east from the mouth of the Yazoo to the Chattahoochie. This territory had been annexed by the king to West Florida, and was claimed by the congress of the confederation as common property under the treaty of peace in 1783. Feb. 1, 1788, Georgia had passed an act ceding this part of the territory to the United States, on condition of being guaranteed the rest of her claims. This congress refused to do, July 15, 1788, and the cession fell through. Spain, by the treaty of 1795 (see ANNEXATIONS, I.), abandoned all claim to this part of the territory, and the act of 1798 proceeded to organize it into a territory, in spite of Georgia's claims to it; but the same act authorized the appointment of commissioners to treat with Georgia for all her western claims. Madison, Gallatin and Lincoln were appointed commissioners; and the act of May 10, 1800, gave them full power to treat, provided that no money was to be paid by the United States except out of the proceeds of the lands ceded. April 24, 1802, the commissioners agreed upon an arrangement by which Georgia was to cede all her western claims, and receive in return the proceeds of not more than 5,000,000 acres, or $1,250,000. Previous titles were to hold good; and slavery was not to be prohibited in the new territory. The agreement was confirmed by the Georgia act of June 16, 1802, and the act of congress of March 3, 1803; and the ceded territory was added to Mississippi territory by act of March 27, 1804. A provision in the cession for the extinguishing of Indian titles in Georgia by the United States gave some further trouble. (See CHEROKEE CASE.) — 3. *Under the Constitution.* This branch of the subject is treated as a separate article: ANNEXATIONS. — 4. *Right of Acquisition.* It must be evident that there was an essential distinction between the acquisitions of territory under the confederation and under the constitution. In the former case, the so-called "acquisitions" were not really acquisitions at all, and Maryland's position was correct. The territory in question had been conquered by national force, and the nation's title to it had been recognized by the international recognition of its boundaries. The "acquisitions" were merely the removal of the cloud on the title which came from the troublesome claims of the states. Under the constitution, the acquisitions were real acquisitions of originally foreign soil. — But, in either case, the mere holding and organization of the territory into inchoate states is fatal to the notion of an absolute sovereignty in the states. We may call the nation any question-begging name we will, federal alliance, confederacy, or what not: but it is a nation if it can hold and organize territories, and in due process of time and increase of strength it will be prepared to vindicate its right to existence and respect against all comers. And, on the other hand, if we do not recognize the United States as a nation, it is altogether impossible to locate any basis for the right to acquire, hold or organize the territories. Under the confederation, congress had no right to exercise any power not expressly granted to it; and the power to acquire, hold and organize territories is conspicuous by its absence. "All this has been done," says the "Federalist," "and done without the least color of constitutional authority." Under the constitution, congress was, it is true, empowered to "dispose of and make all needful rules and regulations respecting the territory belonging to the United States." (Art. IV., § 3); but all respectable authorities agree that this provision referred only to the territory *then* (1787–8) "belonging to the United States," and gave no power to make future acquisitions. It might fairly be argued, that, when new acquisitions *were* made, the power above stated applied to them, as then "belonging to the United States;" but the power to acquire is not there. It is the inherent characteristic of a sovereignty, as it is of the individual person, and in neither case requires a permit by charter. It is clearly stated in a resolution proposed by the Maryland delegates, Sept. 13, 1783, that "the United States are vested, as one undivided and independent nation, with all and every power and right exercised by the king of Great Britain over the said territory;" though only Maryland and New Jersey voted for it. There is but one way to evade this conclusion, by the supposition of a temporary suspension or informal alteration of the organic law. Some such idea is advanced by Judge Taney, in his Dred Scott opinion, when he holds that the states had a right to accept a "cession of territory for their common benefit, which all of them assented to;" and by Jefferson (see ANNEXATIONS, I.), in supposing that his unconstitutional acquisition of Louisiana could be condoned by general popular acquiescence. But neither of these will do. The former lacks the essential confirmation of the facts in the case. The dates on which the cessions were accepted by congress have been given above, and a reference to the journals of congress under those dates will show the reader that there was not one cession to which "all of the states" assented. The New York cession was accepted against the vote of Virginia, with two states divided; the Virginia cession against the vote of New Jersey, with South Carolina divided; the Massachusetts cession with New York divided; and the Connecticut cession against the vote of Maryland, with four states divided. The only doubtful one is the unimportant cession of South Carolina, as to which there is no record of the vote. Thus, the various cessions were not accepted by a unanimous agreement of sovereign states, but by an actual, though hardly recognized, national power. Judge Taney was bound to imply unanimity, but his conclusion falls with his innuendo. Jefferson's view is a rank distortion of the national idea, disguised as ultra

democracy; and it shows the proneness of man to dress in familiar garments, and re-baptize with a more welcome name, an unwelcome fact to which he can no longer shut his eyes. Jefferson would have been the first to reject the notion that a strong popular majority, regardless of state lines, can rightfully set aside, even for a time, the organic law; yet here he extends the idea to a permanent alteration, rather than countenance the idea of a national power in internal affairs. The truth seems to be, that, without the recognition of such a power, the acutest man must be puzzled to explain the right to acquire territory; and that the acquisition of territory is itself the boldest exercise and assertion of national power. — II. ORGANIZATION OF TERRITORIES. The organization of the territories of the United States has a double object: to provide for good government while the population is sparse; and to encourage their development into self-governing commonwealths, and their incorporation into the federal system, as rapidly as possible. This latter point is the peculiar feature of the American colonial system. — The organization of the territory northwest of the Ohio, from which have since been formed the states of Ohio, Indiana, Illinois, Michigan and Wisconsin, has been considered elsewhere. (See ORDINANCE OF 1787.) It is sufficient to say here that the government was at first vested in a governor and judges, appointed by congress until 1789, and by the president thereafter; that they were empowered to form a code of laws for the territory, by selection from state statutes; that congress retained a negative on their acts; but that, when there should be 5,000 male inhabitants in the territory, they should have a legislature of their own, congress still retaining the veto power. For a long time, a territory with a complete legislature was called a territory of the first class, and others territories of the second class. There are now only territories of the first class, and two unorganized territories (Indian territory and Alaska). — For the territories within the original limits of the United States, the ordinance of 1787 was the model. As the successive territories were carved out of the northwest territory, the fundamental provision of the organizing act was that "there shall be established within the said territory a government in all respects similar to that provided by the ordinance of congress, passed on the 13th day of July, 1787, for the government of the territory of the United States northwest of the river Ohio, and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges and advantages granted and secured to the people by the said ordinance." The organizing act for Wisconsin, in 1836, was the first of these which was very elaborate. In the cases of Tennessee and Mississippi, south of the Ohio, the organizing acts were like the corresponding acts for northern territories, excepting that section of the ordinance of 1787 which forbade slavery; but in the organization of Alabama, in 1817, the ordinance of 1787 is not referred to, unless it is included in the provision that all laws then in force in the territory of Mississippi should remain in force until otherwise provided by law. — In the organization of the territories acquired under the constitution, and hence beyond the original limits of the United States, it has been necessary to follow a more elaborate scheme of organization than that of the original territories. The first act in relation to Louisiana, in 1803, was simple enough. It merely empowered the president to appoint all civil, military and judicial officers of the new territory, to define their duties, and to support them with the army and navy of the United States. It was in effect the establishment of a military despotism over Louisiana, and may suffice as an example of the extent to which the sovereign power of the United States over the territories might go, if a wiser policy were not the rule. In this case the despotism was only intended to be temporary; and in the following year the territory was properly organized. As this was the model regularly followed afterward, it may be as well to itemize it. 1. The governor was to be appointed by the president for three years, to be the executive, to pardon offenses against territorial laws, and to reprieve offenders against laws of the United States until the president could act. 2. The secretary was to be appointed for four years, to record territorial acts, and to send copies of the governor's acts to the president every six months. 3. The governor and a legislative council of thirteen members, appointed annually by the president, made up the territorial legislature; and its acts were to be sent by the governor to congress, through the president, and, if vetoed by congress, were to be void. 4. The judges were to be appointed for four years (see JUDICIARY, VI.); but trial by jury, *habeas corpus*, the privilege of bail, and moderate and usual punishments were secured to the people. 5. Specified laws of the United States were declared to be in force in the new territory. This was really a territory of the second class. When Missouri was formed in 1812, it was as a territory of the first class. Its legislature consisted of a governor, a legislative council, and a house of representatives. The representatives were to be elected by the people; they were to nominate eighteen persons, and out of these the president was to appoint the legislative council of nine. In all cases the territory was to elect a delegate to congress, who was to have the privilege of debate, but not of voting. (See HOUSE OF REPRESENTATIVES.) In second-class territories the delegate was regularly chosen by the legislature; in first-class territories, by the people. In minor points, as in the term of office-holding, boundaries, etc., there were constant variations; but the general system has been as above. — It will easily be understood that such a system exerts, from the beginning of population, a steady pressure toward the exercise of political power by the people; and that it is so self-governing in its action that it can correct the dangers of early border lawlessness, while it gives

more and still more power to the people as the population becomes fixed and settled. At the same time the land system of the territories, next to be referred to, has been steadily operating to increase, fix and settle the population. The two, working together, inevitably result in the natural and simple development of states. In this manner nineteen territories have been transformed gradually into states. A list of the ratifications or admissions of the thirty-eight states (1883) is elsewhere given. (See CONSTITUTION, I.) Of these, the first thirteen were original states. Of the remaining twenty-five, four were formed out of other states, Vermont, Maine, Kentucky and West Virginia; one, California, was admitted as a state before it was possible to organize it as a territory; one, Texas, was annexed as a state; and the remaining nineteen are the fruits of the territorial system. In the process of transformation, it has been usual, since the admission of Ohio, that congress should pass an "enabling act," authorizing the people of the territory to form a state government; but this has not been regarded as a *sine qua non*, since the absolute power of congress to admit or reject the state is a sufficient safeguard. (See FLORIDA, IOWA, KANSAS, MICHIGAN.) — There are now, (1888) eight organized territories, all of the first class, Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington and Wyoming; two unorganized territories, Indian territory and Alaska; and the district containing the national capital, the District of Columbia, governed directly by congress or its agents. (See the names of these territories.) All of the organized territories are inchoate states; Dakota has already applied for admission; and, unless peculiar circumstances interfere in the case of Utah (see MORMONS), it will probably not be long before the United States will have no organized territories. — It is impossible within reasonable limits, to give the historical geography of the territories, for the changes in their boundaries and areas have been very numerous. For these the reader is referred to the map prefixed to the second volume of Hough's work, cited below, and to the analysis in Walker's statistical atlas of the United States. — III. LAND SYSTEM. (See PUBLIC LANDS.) — IV. SLAVERY IN THE TERRITORIES. The prohibition of slavery in the northwest territory is elsewhere given (see ORDINANCE OF 1787); it held good in spite of efforts to evade or abrogate it. (See INDIANA, ILLINOIS, SLAVERY.) In organizing Tennessee and Mississippi territories, it was provided that the article of the ordinance prohibiting slavery should not be enforced; and in organizing Alabama the same thing was done in effect by continuing the laws of Mississippi territory. No act of congress ever established slavery in a territory. In the new acquisitions, in Louisiana and Florida, the territorial organizing act practically allowed slavery by continuing former laws; and the same thing was done in Missouri and Arkansas by continuing the former laws of Louisiana and Missouri. The struggle of 1820 (see COMPROMISES, IV.) ended the extension of slavery by this system, and established a line north of which slavery was prohibited. For further security, all the privileges of the ordinance of 1787 were guaranteed to the people of Oregon territory in 1848; and the same thing was done in effect with Iowa territory in 1838, and Minnesota territory in 1849, by guaranteeing to them the privileges of Wisconsin territory, which came under the ordinance. No such provision was in the Kansas-Nebraska act (see that title) in 1854. — The acquisition of new territory from Mexico brought up a new series of difficulties. (See WILMOT PROVISO.) California took care of herself by coming in as a free state. Utah and New Mexico were organized without mention of slavery; but, when their territorial legislatures passed laws practically recognizing slavery, it was not possible to unite both houses of congress in vetoing them, and they held good. Nevertheless, when the territories of Nevada, Colorado and Dakota were organized, during the early months of 1861, there was no mention of slavery therein, and the system of slavery had the benefit of the decision in the Dred Scott case. (See that title.) Finally, in 1862 (see WILMOT PROVISO), slavery was abolished in all territories then held or to be acquired. — See (I.) Poore's *Federal and State Constitutions; Report of Regents on the Boundaries of New York;* authorities under the states named; (2) the leading authority under this section is H. B. Adams' *Maryland's Influence in Founding a National Commonwealth;* other authorities are the *Journals of Congress* under the dates named; *Land Laws of the United States* (1828); the authorities given in Adams' notes; Perkins' *Annals of the West* (1846); Burnet's *Notes on the Northwest Territory* (1847); Barber and Howe's *History of the Western States* (1853); Dillon's *History of Indiana* (1859); Hildreth's *Early History of the Northwest* (1864); Blanchard's *Discovery of the Northwest* (1880); Towle's *History of the Constitution*, 350; 1 Bancroft's *History of the Constitution*, 168; 1 Curtis' *History of the Constitution*, 291; *St. Clair Papers* (1882); 1 *Stat. at Large*, 106, 549 (acts of April 2, 1790, and April 7, 1798); 2 *ib.*, 56, 69, 229, 305 (acts of April 26, 1800, May 10, 1800, March 3, 1803, and March 27, 1804); the cessions, etc., are also given in 1 *Stat. at Large* (Bioren and Duane's edit.) (II.) See authorities under ORDINANCE of 1787; the organizing acts in *Stat. at Large*, as given among the authorities under states and territories named; 2 Hough's *American Constitutions* (map); Walker's *Statistical Atlas of the United States*. (III.) See table 4 in 1 *Stat. at Large*, a list of acts of congress in regard to public lands, until 1845; Cutts' *Constitutional and Party Questions*, 161 (Senator Douglas' description of the land system and its operations); Porter's *West in* 1880, 585; *Report of the Commissioner of the Land Office* (1875); *Johns Hopkins University Studies in Political Science*, particularly No. 3, Shaw's *Local Government in Illinois*. (IV.) See authorities under the states and other articles referred to.

ALEXANDER JOHNSTON.

TEXAS, a state of the American Union, and the only one which was, before its admission, an independent state, with powers to make war, peace and treaties, send and receive ambassadors, etc. It was at first a part of New Spain, or Mexico, the American claim upon it having been abandoned by the Florida treaty with Spain in 1819 (see ANNEXATIONS, II.); and it participated in the successful revolt against Spanish authority. Jan. 31, 1824, Mexico framed a federal constitution, which went into force Oct. 4. Its fundamental idea was like that of the United States, except that it established the Roman Catholic as the state church, and forbade the use of any other form of worship. March 11, 1827, the "state of Coahuila and Texas" framed a state constitution, patterned after that of the nation in every respect, except its 13th article, as follows: "In this state no person shall be born a slave after this constitution is published in the capital of each district, and six months thereafter, neither will the introduction of slaves be permitted under any pretext." — American adventurers had already begun to enter the more thinly populated district of Texas, pretending to be good Catholics, and paying little attention to the abolition of slavery. April 1-18, 1833, in convention at San Felipe, they formed a new state constitution, more closely American in design, introducing trial by jury, universal suffrage, and the right of petition; but it was never recognized by the central government. When Santa Anna's new Mexican government, Jan. 31, 1835, undertook to abolish the state governments and transform them into departments, as in France, Texas rebelled. A convention at Austin, Oct. 17 - Nov. 13, 1835, framed a provisional government, and adjourned to Washington, March 1, 1836. On the next day after reassembling, it made a declaration of independence, on the ground that Santa Anna had overthrown the Mexican government and established a military despotism, and that the compact between Texas and Mexico had thus been broken. (See SECESSION, II.) Before its final adjournment, March 17, it had framed a constitution for the republic of Texas. The house of representatives was to be chosen annually, and the senate for three years; and the president was to be chosen by popular vote for three years, but was not immediately re-eligible. "All persons of color, who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude." Congress could pass no laws to free slaves, or prevent immigrants from bringing them into the republic. Free negroes were not to be allowed to become or remain inhabitants; and slaveholders could not free slaves, unless with the consent of congress, and on condition of sending the freedmen out of the republic. Under this constitution Texas maintained her independence, which was recognized by the various commercial nations. The story of her annexation to the United States is elsewhere told. (See ANNEXATIONS, III.) — BOUNDARIES. The eastern and northern boundary of Texas was fixed by the Florida treaty of 1819 with Spain. (The line will be found under ANNEXATIONS, II.) This line was confirmed by treaty of Jan. 12, 1828, with Mexico, and April 25, 1838, with Texas. The southeastern boundary was natural, the gulf of Mexico. The northwestern and western boundary was a matter of far more difficulty. Volumes have been written to prove that Texas, under the French Louisiana claim, to which the United States succeeded in 1803, and which the United States abandoned in 1819, extended westward to the Rio Grande; and that its reannexation, in 1845, should cover the same territory. All this argument seems needless. After the establishment of the republic of Mexico, the western boundary of Texas was entirely a matter of internal decision in Mexico. The "state of Coahuila *and* Texas" extended to the Rio Grande; but the national existence of Texas was as much a secession from Coahuila as from Mexico, and the western boundary of the republic of Texas never extended beyond the Nueces river. It is true that the Texan congress, Dec. 19, 1836, defined the western boundary of the republic as the Rio Grande to its head, and thence due north to latitude 42°, about the latitude of Boston. But such a paper declaration, whether it extended to the Nueces, the Rio Grande or the isthmus of Panama, was evidently of no force unless successfully supported by arms. It was so supported, and the authority of Texas was extended up to the Nueces, but never beyond; and the effort to carry Texas jurisdiction beyond, the Mier expedition, was a pronounced failure. Nevertheless, President Polk, in 1846, assumed authority to order the American forces into the disputed territory, and thus brought on the Mexican war. (See WARS, V.) At the end of the war the federal government was in a most embarrassing position. To acknowledge the full claims of Texas would have been to add to her enormous territory the present territory of Arizona, and a large part of Kansas and Colorado; to deny them would have been a confession that the whole nominal cause of the war was fraudulent. Feb. 11, 1850, Texas formally reaffirmed her boundary of 1836. Sept. 9 (see COMPROMISES, V.), congress proposed the following northern and western boundary for Texas: latitude 36° 30′ from longitude 100° west to longitude 103° west; thence due south to latitude 32°; thence due west to the Rio Grande, and down that river to the gulf of Mexico. Texas was to cede all claims outside of the boundary to the United States, and the United States to pay to Texas $10,000,000 in 5 per cent. bonds, to run fourteen years. Texas accepted the proposition, Nov. 25, and the boundary was settled. — The joint resolution of March 1, 1845, consenting to the annexation of Texas, stipulated that "new states, of convenient size, not exceeding four in number, in addition to the said state of Texas, and having sufficient population, may hereafter, by the consent of said state, be formed out of the territory thereof." Such consent was given by the

convention of 1866, but was not made use of by congress at the time. It is now practically impossible to obtain any such consent from the state; and its size must remain undiminished until the development of separate interests within it shall produce a division naturally. — CONSTITUTIONS. The first constitution of the state was framed by the convention at Austin, July 4 - Aug. 27, 1845, which on its first day accepted the proposition of annexation made by the United States. The senate was to be chosen for four years, by districts; and the representatives, chosen for two years, were apportioned to the counties according to population. The governor was to be chosen by popular vote, to serve two years, but not to be eligible more than two terms in succession. The capital was to be Austin until 1850, and was then to be fixed by popular vote. Judges of the supreme court were to be appointed for six years, removable on address of two-thirds of each house. The slavery provisions of 1835 were retained; but trial by jury was reserved to slaves accused of crimes of a higher grade than petit larceny. The constitution was ratified by popular vote Oct. 13, and the state was admitted by joint resolution of Dec. 29, 1845. The first legislature met Feb. 16, 1846, and the governor was inaugurated three days after. Popular vote in 1850 fixed the capital at Austin, where it has since remained. — A convention at Austin, Feb. 10 - April 2, 1866, amended the constitution by substituting for the slavery provisions an abolition of slavery. "African slavery, as it heretofore existed, having been terminated within this state by the government of the United States by force of arms, and its re-establishment being prohibited by the amendment to the constitution of the United States." By ordinances the rebel war debt was repudiated, and the legislature was forbidden to assume or pay any part of it; the ordinance of secession was declared null and void, and "the right of secession, heretofore claimed by the state of Texas, distinctly renounced"; and consent was given to the division of the state. The action of the convention was ratified by a light popular vote, June 25. — A reconstruction convention at Austin, June 1 - Aug. 31, Dec. 7, 1868 - Feb. 6, 1869, framed a state constitution, which was ratified by popular vote Nov. 30 - Dec. 3, 1869. Its first section declared its purpose to be "that the heresies of nullification and secession, which have brought the country to grief, may be eliminated from future political discussion"; and to this end it declared the constitution of the United States, and laws and treaties made and to be made in pursuance thereof, to be the supreme law. It abolished slavery and forbade the importation of coolies; gave the right of suffrage to males over twenty-one, on one year's residence; made the number of representatives ninety, and of senators thirty, both to be chosen by districts; extended the term of the governor to four years, of supreme court judges to nine years, and of district judges to eight years. Persons disqualified to hold office by the 14th amendment were disfranchised. The ordinance of secession and the rebel war debt were declared null and void from the beginning. The state was readmitted to representation by act of March 30, 1870, on the fundamental condition that the constitution should never be so amended as to deprive any class of citizens of the right of suffrage, of the right to hold office, or of school rights, as there secured. — The present constitution was framed by a convention at Austin, Sept. 6 - Nov. 24, 1875, and ratified by popular vote, Feb. 17, 1876. Its principal changes were the substitution for the first section of a declaration that "Texas is a free and independent state, subject only to the constitution of the United States"; the change of numbers to ninety-three in the house and thirty-one in the senate; the reduction of the governor's term to two years; and the provision of separate schools for white and colored children, but with impartial privileges to both. — GOVERNORS. J. P. Henderson, 1846–7; Geo. T. Wood, 1847–9; P. H. Bell, 1849–53; Edward M. Pease, 1853–7; H. G. Runnels, 1857–9; Sam Houston, 1859–61; Francis B. Lubbock, 1861–3 Pendleton Murray, 1863–5; A. J. Hamilton, military governor, 1865–6; J. W. Throckmorton, 1866–7; Edward M. Pease, 1867–70; Edmund J. Davis, 1870–74; Richard Coke, 1874–6; Richard Hubbard, 1876–9; Oram M. Roberts, 1879–83. — POLITICAL HISTORY. Until the close of the rebellion, there was never any real opposition to the democratic party in the state. All the governors, congressmen, United States senators and state officers were democrats. In 1856 the popular vote for the Fillmore electors reached 33 per cent. of the whole; with this exception the democratic popular vote in presidential elections was always during this period over 70 per cent. of the whole. Even in local politics the extent of the state's territory was an insurmountable obstacle to the rise of any real political interest. Even in 1861 there was very little political contest. The opposition to the dominant secession party was merely a variety of secession feeling. It was represented by the governor, Houston, and desired mainly the return of Texas to the position of an independent republic, and fresh acquisition of territory on the side of Mexico. With this design the governor for some time refused to summon a special session of the legislature for the purpose of calling a convention. The confederate states party then issued a private call for a convention, to meet Jan. 28, 1861; the governor yielded, and summoned the legislature for Jan. 21; and that body legitimatized the convention, stipulating that any ordinance of secession should be submitted to popular vote. The ordinance of secession was passed, Feb. 1, by a vote of 166 to 7, ratified by a popular vote of 34,794 to 11,235, Feb. 23, and went into effect March 2. The convention, March 20, declared the seat of Gov. Houston vacant. March 23, the constitution of the confederate states was ratified. — Until 1863 there was a steady influx of slaves from other southern states; after July 4, 1863, Texas and Louisiana were

isolated from the rest of the confederacy by the opening of the Mississippi. The close of the rebellion found Texas with an increased black and a decreased white population. June 17, 1865, A. J. Hamilton was appointed military governor, and under his control the convention of 1866 was held and the revised constitution adopted. The "conservative," or democratic, party nominated Gov. Throckmorton, who was elected by 48,631 votes to 12,051 for E. M. Pease, republican. The new legislature, almost entirely democratic, refused to ratify the 14th amendment, and requested the withdrawal of federal troops from the state. In 1867 the reconstruction acts took effect. March 19, Maj. Gen. P. H. Sheridan took command of the department. He almost immediately became dissatisfied with the state government, and removed Gov. Throckmorton July 30, and most of the other state officers Aug. 29, replacing them by republicans. Aug. 29, Sheridan was superseded by Gen. Hancock, who soon came into collision with the new governor, Pease. The latter distrusted the state courts, and wished to have criminals tried by military commission, which Hancock declined to allow. July 28, 1868, Gen. J. J. Reynolds took command of the state. — The provisions of the reconstruction acts for registration and voting had reduced the democratic party to a nullity. In the dominant party there were two factions. The radical republicans, headed by E. J. Davis, wished to maintain the disfranchisement of ex-rebels, and to divide the state. The conservative republicans, headed by the former military governor, Hamilton, opposed both of the leading features of the radical programme. The latter naturally received all the support which the democrats could give them. The convention of 1868–9 was stormy throughout, and at its final adjournment Davis and Hamilton became the opposing candidates for governor. Davis was elected, and the radicals also obtained a plurality in the legislature over both the conservatives and the democrats. — The new legislature authorized the governor, under specified conditions, to declare martial law; and organized a state police force. In 1870, during the sitting of the legislature, martial law was accordingly declared in three counties, and on one of them a penalty of $50,000 was imposed and collected. The legislature protested against this action; the democrats and conservatives united to oppose it; and in the autumn elections they secured three of the state's four congressmen. In 1873 the republican party of the state was finally overthrown. For governor, Richard Coke had 85,549 votes, and Davis 42,663, and the democratic majorities for other officers were equally heavy. Jan. 5, 1874, the state supreme court declared the law unconstitutional under which the election had been conducted. Gov. Davis therefore refused to give up his office, and appealed to President Grant for federal troops to support him. They were refused, for the reason that the governor had signed the election law, had run for office under it, and should now submit to the result of the election. He then desisted from opposition. Since that time the state has been overwhelmingly democratic in all elections. In 1880 the vote for governor was 166,308 for Roberts, democrat; 64,372 for Davis, republican; and 33,670 for Hamman, greenbacker. In 1882 there were twenty-nine democrats and two republicans in the state senate, and sixty-eight democrats, seven republicans, six independents, and two greenbackers in the house. One of the state's six congressmen, 1879–83, is a democratic greenbacker. — Among the political leaders of the state have been the following, all democrats unless otherwise specified: Richard Coke, governor 1873–7, United States senator 1877–83; David B. Culberson, congressman 1875–83; Andrew J. Hamilton, congressman 1859–61, military governor in 1862, provisional governor 1865–6; Morgan C. Hamilton (elder brother of the preceding), radical republican United States senator 1870–77; John Hancock, district judge 1851–5, congressman 1872–7; Sam Houston (see his name); David S. Kaufmann, representative and senator 1839–45, congressman 1846–51; S. B. Maxey, confederate major general, and United States senator 1875–87; Roger Q. Mills, congressman 1873–83; John H. Reagan, congressman 1857–61, confederate postmaster general 1861–5, congressman 1875–83; Thos. J. Rusk, secretary of war of the republic 1836–8, chief justice 1838–42, and United States senator 1846–56; Gustave Schleicher, congressman 1875–9; James W. Throckmorton, one of the seven voters against secession in 1861, governor 1866–7, congressman 1875–9; Lewis T. Wigfall, United States senator 1860–61, confederate states senator 1862–5.—See authorities under ANNEXATIONS, III. COMPROMISES, V.; 2 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions;* Kennedy's *Rise and Progress of Texas* (1844); H. S. Foote's *Texas and the Texans* (1841); Rankin's *Texas in* 1850; Olmsted's *Journey through Texas* (1857); De Cordova's *Resources and Public Men of Texas* (1858), 16 *Democratic Review*, 282 (the presidents of Texas); Lester's *Sam Houston and his Republic*, and review of it in 5 *Whig Review*, 566; Yoakum's *History of Texas* (to 1846); Gouge's *Fiscal History of Texas* (1852); Jones' *Official Correspondence relating to the Republic of Texas* (1859); Green's *Expedition against Mier;* Kendall's *Texan Santa Fé Expedition* (1850); Smith's *Reminiscences of the Texas Republic* (1876); *Texas Almanac*, 1873–5. ALEXANDER JOHNSTON.

THIRD ESTATE. The *Tiers État* in French history. Few political pamphlets made so great a noise as that published by the Abbé Siéyès in 1789, at the moment when France had elected the constituent assembly, and which can be summed up in the following terms: "What is the third estate? Everything. What has it been in the political order up to the present moment? Nothing. What does it ask? To be something." *

* The third edition of this pamphlet has this note: "This work, written during *les Notables* of 1788, was published in the first days of January, 1789.

There are three grave errors in these words. In the France of 1789, the third estate was not everything. In the political order previous to 1789, the third estate, far from being nothing, was daily becoming greater and more powerful. What M. Siéyès and his friends asked for it in 1789 was not that it should become something, but that it should be everything. That the third estate was not everything is proved by the revolution of 1789, which was its victory. Whatever may have been the weaknesses and faults of its opponents, it had to struggle greatly to overcome them, and the struggle was so violent that the third estate was decomposed in the struggle, and paid dearly for the triumph which it won. Let the reader compare to-day the pamphlet of the Abbé Siéyès with the work of Léonce de Lavergne on the provincial assemblies under Louis XIV. (*Assemblées provinciales sous Louis XIV.*), and he will see in the light of contemporary documents, that if the third estate was not everything in 1789, it was much, enough indeed to become free and preponderant without destroying everything that was not the third estate. Excessive pretension arouses intractable resistance. The Abbé Siéyès did not tell all that the third estate was in 1789, nor what its flatterers wished it might be. What his words contain is not the truth of things, but a revolutionary lie. — To take French history in its totality and through all its phases, the third estate was the most active and most decisive element in French civilization. Considered from the social point of view, and in its relations with the various classes which have lived together on French soil, what has been called the third estate progressively extended and raised itself, and first greatly modified and then decidedly rose above the others. If we look from the political point of view, and follow the third estate in its relations with the general government of France, we shall find it at first an ally during six centuries of royalty, laboring incessantly for the ruin of the feudal aristocracy, and putting in its place a single power, a pure monarchy, very near, in principle at least, to absolute monarchy. But as soon as it gained this victory and accomplished this revolution, the third estate sought a new one; it attacked the single power which it had so much contributed to establish, and it undertook to change the pure monarchy into a constitutional one. Under whatever aspect we may consider it, whether we study the progressive formation of French society, or that of its governments, the third estate is the most persistent and most powerful of the forces which presided over French civilization. — This fact is unique in the history of the world. We recognize in the destinies of the principal nations of Asia and of ancient Europe, nearly all the great facts which have agitated that of France; we find the mingling of various races, the conquest of one people by another, profound inequalities between classes, and frequent changes in the forms of government and the extent of power. But nowhere do we see a class appear which, beginning in a very low estate, weak, despised, almost imperceptible at its origin, rising by a continual movement and laboring without interruption, gaining strength from time to time, acquiring successively all that it lacked, wealth, enlightenment, influence, power; changes the nature of society, the nature of the government, and at last becomes dominant to such a degree that one may venture to call it the country itself. More than once in the history of the world the external phenomena of this or that political society have been the same as these mentioned here, but the similarity is merely apparent. In India, for example, foreign invasions, the passage and settlement of various races on the same soil, were frequently repeated; what was the result? The permanence of castes was not affected thereby; society remained divided into distinct and almost immovable classes—no invasion of one caste by another, no general abolition of the rule of castes by the triumph of one of them. After India take China: there also history shows many conquests similar to those of Europe by the Germans; there also, more than once, barbarous conquerors settled in the midst of a conquered people. What was the result? The conquered almost absorbed the conquerors, and immobility remained the ruling characteristic of the social condition. In western Asia, since the invasion of the Turks, the gulf between the victors and the vanquished could not be bridged over; no class of society, no event of history, had the power to abolish this first effect of the conquest. In Persia similar events have taken place; different races have struggled and mingled; they attained nothing but invincible anarchy, which lasts for centuries without change in the social condition of the country and without a prospect of developing a civilization. — Leaving Asia, we turn to Grecian and Roman Europe. At the first glance, we seem to find some analogy between the progress of these brilliant societies and that of our own; but the analogy is merely apparent; there also we find nothing resembling the third estate and its history. The only fact which has appeared, to ingenious minds, somewhat similar to the struggle of the bourgeoisie of the middle ages against the feudal aristocracy, is the struggle between the plebeians and patricians of Rome; they have been sometimes compared. The comparison is altogether false. The struggle between the plebeians and patricians of Rome commenced in the infancy of the republic; it was not, as in France in the middle ages, the result of a slow, difficult and incomplete development of a class for a long period, very much inferior in power, in wealth and in credit, which gradually grows in extent and prominence, and at last engages in a real struggle with the highest class in the state. Niebuhr has proved, in his "History of Rome," that the struggle of the plebeians against the patricians was a consequence, and, as it were, a prolongation, of the war of conquest, the effort of the aristocracy of the cities conquered by Rome to share in the rights of the conquering aristocracy. The plebeian families

were the principal families of the conquered populations; placed, by defeat, in an inferior position, they were none the less aristocratic families, formerly powerful in their city, surrounded by clients, and capable, from the first moment, of disputing power with their conquerors. There is nothing in this like that slow, obscure, painful labor of the modern bourgeoisie emancipating itself with great labor from the bonds of servitude, or a condition bordering on servitude, and employing centuries, not to dispute political power, but to win a civil existence. The more we examine the more we see that the French third estate is a new fact in the history of the world, and one which belongs exclusively to the civilization of modern Europe. — Not only is this fact new, but it has an altogether special interest for France. Nowhere has the bourgeoisie, the third estate, had a destiny so great, so fruitful, as that which fell to it in France. There were communes in all Europe, in Italy, in Spain, in Germany, in England, just as in France. Not only were these communes everywhere to be found, but the communes of France were not those which, as communes, played the greatest rôle in history under that designation and in the middle ages. The Italian communes gave birth to glorious republics; the German communes became free sovereign cities, which have had their own history, and exercised much influence on the general history of Germany. The communes of England allied themselves to a part of the feudal aristocracy, and formed, together with it, the ruling house in the British parliament; and in this way played, at an early period, a powerful part in the history of their country. The French communes, in their period of activity under this name, were very far from rising through such political importance to this historical rank. And still it is in France that the population, the communes, the bourgeoisie, were developed most completely, most efficiently, and ended by acquiring, in general society, the most decided preponderance. There have been communes in all Europe; there was really a third estate only in France; and the revolution of 1789, surely the greatest of European revolutions, was the work of the third estate. — Since the outbreak and through all the vicissitudes, liberal or illiberal, of that mighty event, it is a commonplace unceasingly repeated, that there are no longer any classes in French society, but simply a nation of thirty-seven millions of persons. If it is meant by this that there are no longer privileges in France, that is to say, special laws or particular rights for certain families, certain estates, or certain occupations, and that legislation is the same, and movement perfectly free for all through all the degrees of the social scale, it is true; unity of legislation and similarity of rights are the essential and characteristic feature of civil society in France; an immense and excellent fact, new in the history of human societies. But under the rule of this fact, within this national unity and civil equality, there exist evident diversities, numerous and considerable inequalities, which the unity of legislation and the similarity of civil rights neither prevent nor destroy. Among owners of real or movable property, land or capital, there are rich and poor; there are large, medium and small landowners. The great landowners may be less numerous and less wealthy, the medium and small may be more numerous and more powerful than formerly; that does not prevent the difference from being real, and great enough to create, in the social order, conditions profoundly different and unequal. In the professions called liberal, which live by their science and intelligence; among lawyers, physicians, scholars and literary men of every kind; some rise to the first rank, attract business and success, acquire fame, wealth and influence; others satisfy the wants of their families and the demands of their position with difficulty; others yet vegetate obscurely in distress, almost without employment. In other walks of life, in which labor is chiefly material and manual, there are also varieties and inequalities of condition: some, by intelligence and good conduct, accumulate capital and enter into paths of ease and advancement; others, either unintelligent or indolent or disorderly, remain in the narrow and precarious conditions of existence depending on wages alone. In all the extent of French civil society, in the midst of labor as well as property, the diversity and inequality of conditions appear, or continue, and co-exist with the unity of legislation and the similarity of rights. — How could it be otherwise? Let all human societies be examined, in all places and times: whatever be the variety of their origin, of their organization, of their government, of their extent, of their duration, of the kinds or degrees of their civilization, three types of social condition will be found in them all, always the same in essence: 1, men living from the income of their landed or movable property, from land or capital, without seeking to increase it by their own assiduous labor; 2, men occupied in working and increasing by their own assiduous labor, real or personal property, land or capital, which they possess; 3, men living by their daily labor, without income from land or capital. And these diversities, these inequalities in the social condition of men, are not accidental facts, or peculiar to a given age or country; they are universal facts produced naturally in every human society, under circumstances and under laws differing most widely from one another. — These facts exist in our time and among the French, as they have in other times and places. Modern society in France includes, and will not cease to include, social situations profoundly different and unequal, whether they be termed classes or not. What redounds to its honor is this, that privilege and immobility are no longer attached to this diversity of conditions; that there are no longer, among Frenchmen, special advantages legally granted to some, and inaccessible to others; that all paths to advancement are open and free to all; that personal merit and labor have, in the career

of men, an infinitely greater part than was theirs formerly. The third estate of the old régime exists no longer; it has disappeared in its victory over privilege and absolute power; its heirs in modern society are the *middle classes*, as they are called to-day; but these classes, inheriting the conquests of the third estate, hold them on new conditions as natural as they are imperative. To protect their own interest, as well as to perform their public duty, they must be both conservative and liberal; they must, on the one hand, attract and rally to their standard the remnants of the upper social circles which have survived the fall of the old régime, and, on the other, accept fully the upward movement which the whole people are taking. Nothing could be more natural than that the third estate of the ancient régime in its intercourse with the aristocratic classes was, and long remained, uneasy, suspicious, jealous, even envious; it had rights to obtain and conquests to make; to-day the conquests are made, the rights are recognized, proclaimed, exercised; the middle classes have no longer a motive for disquiet or envy; they may rely on their dignity and their power. With respect to the lower classes, their situation is not less happy; no barrier separates them from the higher; who can say where the middle classes begin, and where they end? They were formed in the name of the principles of common rights and general liberty; they are recruited, and draw new forces continually from the sources whence they came. To maintain the common rights and liberty of all, against the retrograde follies of absolute power and privilege, on the one hand, and, on the other, against the mad pretensions of leveling and anarchy, is now the two-fold mission of the middle classes, and is for them the sure means of retaining preponderance in the state, in the name of the interests of all, of which they are the truest and most efficient representatives. (Compare BOURGEOISIE, SOCIALISM.) GUIZOT.

TIE. (See PARLIAMENTARY LAW.)

TILDEN, Samuel Jones, was born in New Lebanon, Columbia county, N. Y., Feb. 9, 1814. He spent a year at Yale, was graduated at New York university in 1838, was admitted to the bar in 1841, and in 1845 was elected to the assembly. There he took sides with the radical wing of the democratic party, the barnburners (see that title); but when they were forced into national politics as the free-soil party, he retired to the practice of the law. He was little heard of in politics until after the rebellion was suppressed, when he became chairman of the democratic state committee. In this position he came into flat antagonism with the Tweed ring of New York city in 1869–70, and took a leading part in the ring's overthrow in 1871. In 1874 he was elected governor by the democrats, and in this position attacked and overthrew the canal ring of western New York in 1875. He had now become so widely and favorably known that in 1876 his party nominated him for president. It was finally decided (see ELECTORAL COMMISSION) that he had received but 184 out of 369 electoral votes, and was not elected. His supporters have never accepted this decision as morally binding, and have always insisted, that, if Hayes was president *de facto*, Tilden was president *de jure;* that the commission's conclusion was reached by so applying legal rules as to exclude necessary testimony; and that the action of the returning boards was so confessedly corrupt that the commission did not dare to examine it. Some one, during the pendency of the case, seems to have concluded that the returning boards were so corrupt that there would be no moral wrong in bribing them to act correctly; and the congressional committee, the so-called "Potter committee," which afterward investigated the election, discovered a great mass of cipher telegrams, which, when deciphered, proved to be negotiations for the purchase of the returning boards. Mr. Tilden denied all knowledge of any such negotiations; but, though none of the telegrams were traced directly to him, all of them were fathered upon persons so nearly connected with him, by marriage or close political confidence, that the whole affair has proved an insuperable barrier to Mr. Tiden's further career. To the standing democratic charge that he had been defrauded of his election, it enabled the republicans to reply that he had only failed in the effort to defraud Hayes of his election. Both parties were thus content to argue from their own premises; and neither ventured to bring the counter-charges to a direct issue in 1880 by renominating the candidates of 1876. See Cook's *Life of Tilden; Proceedings of the Electoral Commission;* 125 *North American Review*, 1, 193 (Black's and Stoughton's articles); 27 *Nation*, 217, 250. ALEXANDER JOHNSTON.

TIMES-SPIRIT, The. (See ZEITGEIST.)

TOMPKINS, Daniel D., vice-president of the United States 1817–25, was born at Scarsdale, N. Y., June 21, 1774, and died on Staten Island, N. Y., June 11, 1825. He was graduated at Columbia in 1795, was admitted to the bar in 1797, was state supreme court justice 1804–7, and democratic governor of the state 1807–17. His service as governor was marked by great sacrifices of his personal credit in maintaining the federal government during the war of 1812. He thus became so deeply involved in debt that the latter part of his life was passed most unhappily. See 1, 2 Hammond's *Political History of New York* (index); Jenkins' *Lives of the Governors of New York*, 159. A. J.

TON-KIN. (See TONQUIN.)

TONQUIN (TONG-KING or TUN-KIN). This northern province of the empire of Annam, in the Indo-Chinese peninsula, occupying the lower basin of the Hong-kiang (Red river) derives its geo-

graphical and commercial importance from its easy access into the rich Chinese province of Yunnan. The Hong-kiang is practically a navigable stream, and the three southern provinces of China, Kwang-tung, Kwang-si and Yunnan border on Tonquin, which has a coast sufficiently accessible. Added to these advantages, its salubrity, and its resources of grain, timber and the precious metals, make it a most desirable acquisition for a European power anxious to extend its possessions in the east, or to magnify abroad prestige lost at home. The most valuable part of Tonquin is the delta near the sea formed by the four mouths of the Red river, near or in which are situated the chief towns of the province. These are Ha-noi, the capital, Nin-hai, Hai-phong, Bac-nin, Nam-bin and Min-bin. The climate is much healthier than in the two lower provinces of Annam, Cochin China or Saigon, the thermometer in December falling to 41°. The season from April to August is intensely hot, and the heavy rains are accompanied by storms and typhoons, when the Red river overflows its banks, and spreads a fertilizing flood over the country, which afterward produces heavy crops of rice and other cereals. The delta is intersected by a multitude of watercourses both natural and artificial. The chief exports are rice, sugar, cotton, spices and varied tropical products, but the manufactures are restricted mainly to gongs and articles inlaid with mother-of-pearl. In religion, the mass of the natives are devotees to a form of Buddhism much corrupted by local superstitions; the literati are Confucianists. Their language, reduced to writing by the French missionaries, is a dialect of archaic Chinese, purely monosyllabic, and with a very limited range of articulation, depending for its variety upon tones, which modify and multiply the meanings of each vocable. In ethnology, the Tonquinese are descendants of tribes of southern China, that are mentioned in the ancient chronicles as people with the big toe noticeably large. They have a well-marked physiognomy and anatomical structure, in which personal beauty or grace of movement is not conspicuous. Until about the tenth century of our era, Tonquin (Chinese, *tong*, east, and *king*, capital, eastern capital; the name of the chief city, in distinction from Si-king, or western capital of Cochin China) was ruled by princes or governors of Chinese origin, but since 960 A. D. the country has been practically independent, though ever acknowledging China as suzerain, and regularly paying tribute. Tonquin, until near the close of the eighteenth century, was the dominant state of the Annamese empire, but since that time, it has formed one of its three great political divisions, and the dynasty founded in 1803 A. D. by Gya-long by French assistance reigns still at Hué, in Cochin China, the central state. — Christianity was first introduced by refugees from Japan as early as 1615, and in 1624 the French Jesuit priests began proselyting labors, which, with assistance later from Spanish Dominicans and French Lazarists, have, in spite of numerous bloody persecutions resulted in a roll of converts numbering, in 1854, 500,000. Severe persecutions since that time have greatly reduced these figures. The murder of several French priests and a Spanish bishop led to the Franco-Spanish intervention of 1858. During the century of intercourse with France, these various "revolts" of the Annamese and subsequent negotiations have usually resulted in the gain of fresh slices of land and new commercial privileges. France sends her Jesuits, or secular priests, first, and the brandy and "civilization" follow at the cannon's mouth. The treaty of 1874 gained her the six southern provinces of Cochin China, opened the port of Ha-noi, in Tonquin, to foreign trade, and guaranteed free transit from the sea to Yunnan. As usual with European powers in dealing with Asiatic nations, the French compelled the acceptance of their tariff; and custom house officers were duly installed at Haiphong and Ha-noi (called also Ke-cho, or the market). Owing to the unsettled state of the interior, caused by the ravages of the "Black Flags"—whether allies, invaders, or paid mercenaries of Annam, does not clearly appear—the Red river was not opened even in 1882, seven years after the treaty, and even the French settlement at Ha-noi was in danger. As a precautionary measure, the Saigon authorities dispatched re-enforcements to their nationals at the capital of Tonquin. The local mandarins, interpreting this as a menace, closed the Ha-noi citadel, and concentrated their forces. The French, taking alarm, resolved to precipitate the crisis, and on April 23, 1882, began to bombard the citadel (which, nearly a hundred years before, had been laid out by French engineers), and carried it on the 26th by assault. They then proceeded to administer the custom house for the benefit of the French treasury. Meanwhile China had not been an indifferent spectator of French aggression carried on under cover of protecting her citizens. When the treaty of 1874 was communicated to China and the other powers, the government of Peking protested against its provisions as an invasion of her suzerain rights, and formally gave notice that Annam was still her vassal, and whatever affected her international relations was of deep concern to the Chinese government. Since her reconquest of Ili, or Chinese Turkestan, which secured its formal retrocession from Russia, China has reaffirmed and in some cases enforced her ancient claim of suzerainty upon her vassals. That over Corea and Riu Kiu as against Japan, and perhaps the United States, in the case of Corea, is still unsettled. But her interest in Annam, both as neighbor and tributary, as manifested by military preparations, was so great, that the French evacuated the citadel at Ha-noi, though they fortified their settlement. In making a sortie May 24, 1883, the French commander, Riviere, and a number of his men were killed. The government at Paris at once resolved that France would "revenge her glorious children," and on May 26 declared war against China's

vassal. (See also RIU KIU, and COCHIN CHINA.) — LITERATURE. Crawfurd's *Embassy to the Courts of Siam and Cochin China*, 1828; Garnier's *Voyage d'Exploration en Indo-Chine*, etc., Paris, 1873; Luro's *Pays d'Annam*, Paris, 1878; Deveria's *Histoire des Relations de la Chine avec Annam-Vietnam*, Paris, 1880; *The French in Tong-king*, The Contemporary Review, Nov., 1882; *England and France in Indo-China*, The National Review, June, 1883; Colquhoun's *Across Chrysé*, London and New York, 1883, etc.

WM. ELLIOT GRIFFIS.

TRANSPORTATION, Means of. 1. *History.* The Romans had an admirable system of roads, and a highway legislation not unlike that now prevailing in France. But in the middle ages both the roads and the law were suffered to decay. Such ways as there were formed part of the property through which they ran; and when the ownership passed into the hands of a feudal lord, he obtained property rights over the road. But as the central government grew in power in various states of Europe, from the sixteenth to the eighteenth century, it also laid claims to rights over the roads; first in the form of a right to levy tolls; much later in undertaking to build roads, and maintain them under its own control. Throughout the continent the road taxes were oppressive and the highways extremely bad; in this last respect there was some slight improvement in the eighteenth century. A thorough reform was instituted in France by the revolutionary legislation, culminating in the decree of 1811, and further systematized in 1836, providing for public roads free from tolls, and supported by the nation, department or commune, according to the sphere of their importance. Similar legislation was carried out during the same period in other parts of the continent. In England the course of events had been different. The roads had always been recognized as the king's highways. They were maintained by the parishes under parliamentary legislation. (For details see "Edinburgh Review," April, 1864.) The experiment of tolls was cautiously tried; turnpike trusts were introduced at the beginning of the last century with tolerable success. The important acts of parliament in the present century have been those of 1835 and 1862; by the latter the care of roads has been in many cases taken out of the hands of individual parishes and made the subject of the united action of much larger districts. The early American system was modeled upon that of England—especially so in New England; in other parts of the country the county controlled the roads, even when they were maintained by separate communities. Turnpikes were first organized about the end of the last century. They had much more the character of private enterprises than in England, although public bodies often subscribed to the stock. This system was developed throughout the north; south of the Potomac it took no root. (For a variety of details see American State Papers, xx., 866–915.) National appropriations for roads date from the beginning of the century. The chief work of this kind was the Cumberland road; for the expenditures on this and other projects see Am. State Papers, xxi., and House Committee Report, 1835–6, III., 850. The crisis of 1837 put a stop to most of this work; and the subsequent development of railways caused it to be forgotten. — For a detailed history of canals and railways, see the articles under those headings. In a system of internal navigation — canals, combined with river improvements—France took the lead. The development of the canal system in England and America was almost simultaneous with that of turnpike roads. In England the most important canals were built toward the close of the last century; they were the result of private enterprise far more than were the turnpikes. The period of canal building in America was a generation later, the first third of the present century. In railroad building England, of course, took the lead, followed by Belgium and Germany. Most of the continental governments would have preferred to develop their railways as state concerns, after the analogy of their roads; but from the financial burdens which this would involve they shrank either at the outset (Prussia), or before the system was carried through (Austria and many others). Only in France was the analogy tolerably well maintained, at least as regards the matter of railroad construction. England and America were of course hampered by no such precedents. — We have thus far spoken of means of transportation only in the narrower sense of ways or roads over which the goods must pass. The transportation agencies yet remain to be considered. As long as these were but the individual cart and ship, their consideration might be neglected; but in their modern organization as express company, steamship company, postoffice, telegraph company, or, above all, railroad company in its relation as carrier, they form the all-important part of our subject. Most of these have been treated under separate headings, so that we need not enter into their origin and history. The railway appears under a double aspect as road and as agency. Many mistakes of public policy were at first made by treating it after the analogy of a highway pure and simple. It may be considered either as a road operated solely by a particular company, or as a company having sole right to operate a particular road. The same distinction may be made with the telegraph; but it is in that case obviously of less importance. — 2. *Economic Results of Improvement in means of Transportation.* The direct results have been at once increase in rapidity and decrease in expense. In the history of each separate means of transportation these two changes have gone hand in hand. Take, in the matter of roads, the French statistics, which are in more available form than those of other countries. If we compare the returns of the swiftest public means of conveyance on the main French roads in 1782, 1832 and 1848, respectively, we find

that the average speed had more than doubled in the first interval, and had increased by one-third in the second interval; while the prices per kilometre were, at the respective dates, 4 cts., 3¾ cts., 3½ cts. of our money. And this reduction is the more remarkable because of the increase of general prices going on at the same time. Even where the tolls seemed to increase, as with the English turnpike system, the amount saved by diminished wear and tear, increased loads, etc., really produced the same result of lowering the cost of carriage. So in the canal system of different countries; as the facilities were improved, not merely was there a diminution of the traction expenses on that ground, but there was also usually a gradual abandonment of the attempt to make the tolls pay interest on what the canals had originally cost. In the case of the transportation agencies, the facts are still more striking. To take an instance from the history of shipping: By the study of the prevailing winds, systematized by Maury about the middle of this century, the speed of sailing vessels on many frequented routes was nearly doubled, and the expense of carriage thereby greatly diminished. Fifty years of constant improvement in postal facilities have been marked by a reduction of postal charges to less than one-fifth what they were at the beginning. There has been the same kind of improvement and reduction in the steamship and railway service. — When it comes to the substitution of one means of transportation for another—steam instead of sail, railways instead of waterways—the progress is less direct. We generally find in the first instance increased rapidity secured at an advanced price; then the price begins to diminish, and ultimately may fall below that of the more primitive means of conveyance. When ocean steamships were first introduced, it was not supposed that they could ever compete with sail for the carriage of ordinary freight, even on the most frequented routes. The first indications of real competition being felt in this respect were the unsuccessful efforts to employ sailing vessels with the auxiliary screw. Then came the gradual withdrawal of sail from the business on shorter routes with the most regular communication, to ply on the longer and less frequented ones. But each improvement in ocean steamers gives an additional advantage in competition and diminution in the cost of carriage. The substitution of the screw for the side-wheel, the use of compound engines, are sources of unmixed saving; the enormous increase in the size of the steamers, even when they are run in a manner that seems to involve extravagant waste of coal, increases the net carrying capacity yet more; so that the amount of coal burned per ton carried is under favorable circumstances least on the new boats. The excess of freight rates by steamers, as compared with those by sail, varies from 100 per cent. down to almost nothing: essentially the same relation as subsists between railroads and directly competing canals. — Railroads, soon after their first introduction, proved themselves more than a match for any competition from wagon roads; and things have now gone on so far, that, according to the census returns of 1880, the five to ten mills which it generally costs the farmer to haul a *bushel* of wheat a mile by wagon, is a higher rate than he has to pay per *ton* per mile by railroad. Or, to put the same results in another way: in most of the wheat regions it would not pay to grow grain which had to be hauled twenty miles by wagon; in some regions the limit of wagon hauling is as low as ten miles. But the competition between railroads and canals has taken shape more slowly. It was at first thought to be impossible on any terms; and great was the indignation of the New York legislature when the Central railroad first attempted it as against the Erie canal. Then came the gradual abandonment of the attempt to make canals pay interest on their construction expense; and this seemed constantly to keep them beyond the reach of railway competition on those terms. But the successive railroad improvements, both in engineering and in management, culminating in the wonderful substitution of steel rails for iron, and the enormously increased loads thus rendered possible, have produced such astonishing results in the past fifteen years, that no one would venture to predict what might come in fifteen years more. Since 1870, along with the great improvements in efficiency of service, freight rates have fallen as much as 50 per cent., and the end of the movement does not seem to be yet reached. — The indirect results of these changes are so far-reaching that we can do little more than enumerate them. The most immediate effect of cheapened transportation is to increase the distance at which it is possible for producer and consumer to deal with one another. To the producer it offers a wider market, and to the consumer more varied sources of supply. Which party obtains the chief benefit of the change is determined by the special conditions of each particular case. On the whole, its operation is more uniformly beneficial to the consumers, as a class, because its temporary advantage for the producers so often leads to over-production. But, in any event, it results in doing away with a large part of the variations in price between different localities. The price is made, not in a local market, but in the world's markets. In the case of less bulky manufactured products, these differences almost disappear, except as they are due to artificial obstructions. In agricultural products, they are on a vastly smaller scale than ever before. And not the least important point where this leveling effect is felt, is in the rent of agricultural land in England, and similarly organized countries. Nearness to market was not long ago a main advantage of high-priced land; now it has to contend on tolerably equal terms with competing land five thousand miles away. — To comprehend the full meaning of this change, we have only to look at books on industrial organization, published in the early part of this century. The limits from which a

large city could draw its various supplies were closely defined by distance. Fresh vegetables and fruits could only be produced for it within the narrowest circle; and successive circles of ground were almost necessarily devoted to different products, according to their different availability for transportation. Now, any improvement by which products could be profitably transported to a greater distance, led to a redistribution. It was no longer location which determined the business to be carried on in a particular spot, but natural advantages more or less independent of location. The market garden might be placed at a greater distance from the city, if by so doing a more fertile spot was secured. The factory might be located far away from the raw material, if other business inducements made it desirable. In short, the whole system of division of labor advanced to a new stage. Not only was each man employed for what he could do best, but he was given a chance to work in the place where he could do it best. And this change made itself strongly felt in international relations. Even the barriers raised by high protective tariffs hardly avail to counteract the effect of reduced freights. It is perfectly possible that a country with a high tariff to-day should be less isolated by this than it would have been a few years ago by the mere cost of transportation with no tariff at all. It is the railroad and the steamship that determine where a new business shall be developed, quite as often as the government policy. The grant of special rates and privileges to shippers is nowadays the most efficient kind of protection. It is this quickening and cheapening of transportation that have given such stimulus in the present day to the growth of large cities. It enables them to draw cheap food from a far larger territory, and it causes business to locate where the widest business connection is to be had, rather than where the goods or raw materials are most easily procured. And the perfection of the means of communication, the postoffice and the telegraph, intensifies the same result. With this growth of city life, and partly in consequence of it, comes the increased gain of large producers at the expense of small producers. With it comes organized speculation, and its attendant results, good and evil; with it comes the development of enormous wealth in the hands of a few individuals, not to speak of the less distinctively economic results which attend the life of a great city. — 8. *State Control.* It is just because these indirect results are so far-reaching that the question of government control of transportation agencies has attained its present importance. In the earlier systems, all this settled itself. The parishes, towns or counties took up the matter of roads, because it had become a pressing want, and there was no other power to supply it. If a private company was ready to build a turnpike, its help was welcome, and there was no fear of its becoming too great a power in the community. Again, in the very different case of the postoffice, the matter was taken up by the state, partly as a source of revenue, partly as a means of making its presence and authority felt; not on broader grounds of public policy, as a protection to the citizen against the imposition of less responsible agencies. The navigation act of 1651, whatever its defects, has the merit of being the first systematic attempt to control a branch of transportation on grounds of public policy, looking toward its indirect economic and social effects. For some time it remained almost the only one; the systems of roads and canals formed but local or partial exceptions. But, about the year 1840, the simultaneous development of the postal service, the telegraph and the railroad, made it necessary for the state to assume some definite attitude upon the question of management or control of these agencies. The postoffice presented the fewest difficulties. The machinery was in the hands of the government, the people were accustomed to its working; it was only in a subordinate section of the business, the parcels post, that there was really any doubt, and there it was settled on grounds of convenience, or left to settle itself for the time being with the liability of change afterward. The matter was not so clear in the case of the telegraph; state management would require new expenditure, and a new organization, involving many officials. But it was decided affirmatively throughout the continent of Europe; and England, after trying private telegraphy for a long time, changed to a system of government ownership in 1869; so that the United States has for fifteen years stood almost alone in this matter. It was the question of state railroads that involved the most doubt; and it is the harder to trace its exact history from the fact that so many states had no thoroughly fixed policy on the subject. The general course of events in continental Europe may be summarized as follows: In the first instance, the governments were in favor of state railroads, and proposed to develop such a system; afterward they felt the financial difficulties of the undertaking, and turned their attention to the encouragement of private enterprise in this field by various forms of subsidy; then, thirdly, as the railroad power became established, they found it no longer a question of supporting, but of controlling, it; and, finally, they came to look upon state railroads as a source of financial strength, rather than weakness, and to return to their original plan of state ownership. In the United States we have felt only the second and third of these periods; and in neither case has our general policy been so fixed as in Europe. We had a time of indiscriminate encouragement of railroads by land grants and municipal subscription; we are having a time of indiscriminate attempts at control by special legislation in various states. England alone has been free from these strong changes of public policy; whatever encouragement or control there has been was confined within the narrowest limits. — Any attempt to do justice to the arguments on either side is quite beyond the scope of an article like this; and we conclude

THE UNIVERSITY OF

this part of the subject by quoting from two writers, representing quite different views, their opinions as to when state ownership of transportation agencies is desirable. — The first is from Ad. Wagner, of Berlin, a decided advocate of state management; he considers that there are strong reasons for it, 1, when the efficiency of the service requires wide and uniform extension over the whole country and international communications (postoffice, telegraph; somewhat less so in the case of railroads); 2, when the service involves anything like a monopoly, legal or actual (railroads, telegraphs); 3, when it requires constant repetition of the same services, according to fixed schedules, in such numbers as to involve the existence of a large body of officials; 4, when the cost may be lessened by combining a variety of services at small stations (letter and parcels post, railroad stations and telegraph offices); 5, when the service in private management can only be secured by subsidies on a large scale; 6, when it is necessary on grounds of public policy that the service should inure uniformly to the benefit of the whole people. These principles, he concludes, enable us to speak decisively in favor of state management in the case of letter post and telegraph, more reservedly in the case of parcels post and railways; in the matter of navigation they justify it only in exceptional cases. On the other hand, W. Stanley Jevons, writing an impartial opinion, but as an Englishman, averse to great extension of government activity, states the conditions favorable to state management as follows ("Meth. of Soc. Reform," p. 279): "1, when numberless wide-spread operations can only be efficiently connected, united and co-ordinated in a single, all-extensive government system; 2, when the operations possess an invariable routine-like character; 3, when they are performed under the public eye or for the service of individuals who will immediately detect or expose any failure or laxity; 4, where there is but little capital expenditure, so that each year's revenue and expense account shall represent, with sufficient accuracy, the real commercial conditions of the department." Of these principles the fourth is one of the highest practical importance, which must be considered in discussing any schemes of state management; and one which under a government like that of the United States at present, must generally be decisive. — 4. *Principles of Management; Rates.* Transportation agencies in private hands will of course be managed on business principles, that is, they will charge all the traffic will bear. It seems at first sight as if non-competitive points were thus left entirely at the mercy of railroad managers. Practically, however, this danger is checked by two important limitations. In the first place, the competition of different localities in the same market is such that if one railroad charges rates arbitrarily higher than its competitors, it renders it impossible for the localities along its route to ship goods at a profit, and will quickly destroy its own traffic; secondly, exorbitant rates may induce the building of a parallel railroad; and however ineffective such roads generally prove after they are built, the prospect of one in the future has the tendency to keep rates down. Moreover—though this is but an indirect consideration—such local rates are almost entirely paid out of rent, and show their chief effect in the value of real estate. The dangerous kind of discrimination, and one which can not be too strongly reprehended, is that which makes special rates for different individuals, doing the same kind of business in nearly the same place. Such discrimination furnishes the most effective argument in favor of some kind of state control. At points where a railroad competes with a water route or with another railroad, through rates may fall as low as the actual cost of hauling, apart from any fixed charges, or, in the case of a war with rates, may temporarily go even lower. But wars of rates do not give shippers the advantage which might seem likely to accrue. They lead to what has been described as the worst form of discrimination, that between different individuals in the same place. They cripple the efficiency of the service, and the possibility of healthy competition. Take as an extreme case of a similar effect, the routes from California to Nevada, where the railways came in competition with wagon roads. They lowered their rates until the teams were driven out of the service, and then raised them to a monopoly figure. The ordinary railroad war does not go so far as this, but it works in the same direction. The history of the different attempts to control this matter by enforced publicity of management, direct provisions concerning, or limitations of dividends, with their varying success, does not come within the scope of this article. The principles here applied to railroads of course hold good of other transportation agencies. — But in the case of state management, the rates need not be thus arranged on purely business principles. The state has the choice of four systems: 1, gratuitous service; 2, payment of expenses, partial or complete; 3, business profits; 4, monopoly rates as a source of special revenue. The fourth of these was the prevailing view up to the end of the last century; it has since been abandoned. The first is now mainly exemplified in the case of roads, and some few waterways, where the want and use are so general, and the expense comparatively so slight, that there is no injustice in taxing the community to defray the cost of the service. Cases may also arise where the collection of tolls produces so slight a revenue that the advantage of free service to the community quite outweighs it. Most of the free canal arguments come under this head. But for the great majority of instances the choice is between the second and third principles; it is a question of tolls *vs.* profits. Canals and letter post have been managed under the former principle; the telegraph stands on the border line; while parcels post, railroads and shipping, in so far as they have been owned by the state, have been mainly managed as business

enterprises. The theoretical principle would seem to be, that such agencies under state management should just pay expenses. If they do more than this, it may constitute an especially undesirable tax. But the whole question is so complicated with the problem of remunerating invested capital on the one hand, and of freeing the community from the exactions of individuals on the other, that we can make little use of this principle. Practically it may be said that the state undertakes certain services, in transportation as well as elsewhere, in which it would be impossible to obtain a business profit at any rates (thus postal service on unfrequented routes); and it undertakes others where the main charges are so fixed that additional use of the facilities is all but unattended with additional cost (canals; letter carriage). In both of these cases the principle of tolls has great advantages. On the other hand, there are certain services which the government performs in more or less direct competition with private individuals, as the parcels post or the railways of Belgium and Germany; there are yet others whose acquisition has loaded the state with a special bonded debt, or other fixed obligations. It is doubtful policy for the state to assume ownership on these conditions, especially the latter. But if matters are in this condition the attempt to obtain profits from the business seems to be generally the wisest course, and often the only admissible one. — E. Sax, *Verkehrsmittel;* Wagner, *Finanzwissenschaft;* Foville, *La Transformation des Moyens de Transport.* ARTHUR T. HADLEY.

TREASON (IN U. S. HISTORY). Under the confederation there was no such legal offense as treason against the United States, since there was no such thing as allegiance to the United States. (See ALLEGIANCE, I.) Treason and allegiance had reference only to the state. A remnant of this feeling made the definition of treason, when it was first introduced into the convention of 1787, Aug. 6, consist in "levying war against the United States, *or any of them*, and in adhering to the enemies of the United States, *or any of them.*" The clause was fully debated, Aug. 20, and changed to its present form. (See CONSTITUTION, Art. III., § 3.) But all the debaters professed themselves dissatisfied with it. Gouverneur Morris acutely pointed out the fact, that "in case of a contest between the United States and a particular state, the people of the latter must be traitors to one or the other authority." But a motion to give congress the "sole" power to define the punishment of treason was lost, five states voting for it, and six against it. Seldom has the omission of a single word had more momentous effects. In this case it left to congress and the states, as almost all the speakers acknowledged, a concurrent power to punish for treason; and so it enabled a seceding state to offer to its minority a choice between treason against the state and treason against the United States. Had the vote been six states to five for the insertion of the word, the state sovereignty and secession arguments would hardly have been worth the trouble of refuting. — Had the constitution given to congress the "sole" power to define the punishment of treason, the states would have been remitted, for protection against such domestic disturbances as Dorr's rebellion (see that title), to a simple law against seditious assemblages; and the protection would have been efficient. As it is, most of the states have inserted in their constitutions a provision that "treason against the state of —— shall consist only in levying war, etc.," following the constitution of the United States. These provisions have always been practically *in nubibus:* there has hardly been a case of indictment for treason against a state, excepting the action of Rhode Island in the Dorr case, and that came to nothing. But they fostered the idea of allegiance to a state, and thus carried into secession the multitude who disliked secession, but dreaded to commit treason against the state. — At the end of the rebellion there were no prosecutions for treason. It has been roundly asserted that the reason for this was the consciousness of the government of the United States that it had been illegally suppressing a misnamed rebellion, that treason could only hold against a state, and that Jefferson Davis and his associates had committed no crime and engaged in no treason, in any sense known to the constitution or its framers. Those who so argue forget that Mr. Davis, at least, was no prisoner of war; that his surrender was unconditional and in a territory under military occupation; and that, if there had been any such impotent spite against him as this theory assigns to the government, a drum head court martial and a file of men would quickly have made it patent, treason or no treason. The fact seems to be that his escape was due entirely to lack of spite. The collapse of the rebellion had been too complete to allow of spite. The nation stood aghast as it realized the thoroughness of its work; and its controlling impulse was to efface as rapidly as possible all evidences of the conflict. Treason trials would have been a festering sore in the body politic, and they were avoided. — There can be no doubt that this policy was just, as well as wise. For seventy years before 1860, men who did not realize the full force of what they said had been boasting of the "voluntary" nature of the union, in contrast with the effete despotisms of Europe. (See NATION.) The nation's long *laches* in asserting its paramount authority in the last resort gave Jefferson Davis and his associates an exemption from the animus of treason which can never be claimed again. All men have now had fair warning, as Jefferson Davis had not in 1860, that the Union is not "voluntary," so long as the nation is determined to maintain it; and that any attempt to break it up is treason to the United States, even if it is obedience to a state. It might be that a future rebellion would be suppressed with a similar generous forbearance from ultimate vengeance; but the chance is an uncommonly small one. — The act of April 30,

1790, made death the penalty for treason, as defined in the constitution, on conviction by "confession in open court, or on the testimony of two witnesses to the same overt act." It also made fine and imprisonment the punishment of misprision of treason, the concealment of it. For seventy years this act was sufficient. There were few trials under it, the principal one being that of Burr (see his name); and these were practically failures. In 1861 an act was passed making conspiracy to oppose the laws or seize the property of the United States a high crime, but this was punishable only by fine and imprisonment. The act of July 17, 1862, provided, that, if any person should thereafter commit the crime of treason against the United States, his slaves, if any, should be declared free, and he himself should suffer death, or fine and imprisonment, at the discretion of the court; that any one convicted should forever be incapable of holding office under the United States; and that it should be the duty of the president to seize and apply to the use of the army the property of six classes of leaders of the rebellion, who seem to have been considered *prima facie* guilty of treason. There were, finally, no southern prosecutions under it. Davis and others were indicted, but never brought to trial. The few prosecutions were in northern states. — See Story's *Commentaries*, §§ 1290, 1790; *ib.*, § 1795 (for law cases); Whiting's *War Powers* (10th ed.), 95; the state sovereignty view of treason is in Bledsoe's *Is Jefferson Davis a Traitor?* and "Centz"'s *Republic of Republics*, 418 foll., (see also index under *Treason*); *Indianapolis Treason Trials;* for the indictment against Davis see Schuckers' *Life of Chase*, 584; the act of April 30, 1790, is in 1 *Stat. at Large*, 112; the act of July 17, 1862, is in 12 *Stat. at Large*, 589.

ALEXANDER JOHNSTON.

TREASURY DEPARTMENT. This is the most extensive and complex of all the departments of the United States government. Established by act of Sept. 2, 1789 (1 Stat. at Large, p. 65), the department of the treasury has grown from a little office with a few clerks, to a vast establishment employing no less than 3,400 officers at Washington, with numerous bureaus, and with branches, fiscal, marine and miscellaneous, all over the country. The secretary of the treasury is head of the department, and is one of the seven cabinet officers (salary $8,000). The law requires that he shall be a person not interested in the business of trade or commerce. He is required to digest and prepare plans for the revenue and public credit; to prescribe forms of keeping public accounts; to make reports annually, and specially, when called upon, to congress, as to all matters pertaining to his office; to superintend the collection of the revenue; to grant all warrants for moneys issued from the treasury in pursuance of appropriations made by law; and to perform all such duties connected with the finances of the United States as are required by law. The multifarious business transacted under control of the treasury department has been greatly expanded within the past twenty years. It embraces the management of the national debt, the national currency and coinage, the supervision of the national banks, the internal revenue system, the customs revenue, the commercial marine of the United States, the light house system of the country, the survey of the coast and the interior triangulation of the United States, the inspection of steam vessels, the life-saving service, and the marine hospitals. There are two assistant secretaries of the treasury (salary, $4,500 each), either of whom may be designated as acting secretary in the absence or inability of their chief, and between whom is divided the responsibility for the great variety of current business and correspondence which does not by law require the signature of the secretary. The routine work of the secretary's office is distributed among eight divisions (each under a chief at $2,500 salary, and employing about 400 clerks in all). The accounts for all receipts and disbursements by the United States, or any of its officers, are by law examined in the office of some one of the six auditors of the treasury (salary $3,600 each). The first auditor (58 clerks, etc.) has charge of all accounts in the civil service, custom houses, judiciary, public debt, etc. The second auditor (157 clerks, etc.) settles all accounts connected with the army (except as follows, under the third auditor), bounties and Indian affairs. The third auditor (171 clerks, etc.) adjusts accounts of the quartermaster general, engineer corps, commissary general, unpaid pensions, war claims, etc. The fourth auditor (48 clerks, etc.) adjusts all accounts connected with the navy. The fifth auditor (30 clerks, etc.) has charge of the internal revenue accounts, diplomatic and consular, and state department accounts, the census, etc. The sixth auditor (295 clerks, etc.) settles all accounts relating to the postal service. All the above accounts, when audited, go to the first or second comptroller of the treasury (salary $5,000 each) for re-examination. The first comptroller (58 clerks, etc.) must countersign all warrants issued by the secretary, revise the accounts of the first and fifth auditors, examine drafts and requisitions for salaries, etc. The second comptroller (70 clerks, etc.) examines and certifies accounts received from the second, third and fourth auditors. The commissioner of customs (salary $4,000, 31 clerks, etc.) revises and certifies the revenue accounts, and all matters connected with the marine. The register of the treasury (salary $4,000, 148 clerks, etc.) has charge of the account books of the United States, showing every receipt and disbursement: he registers all warrants drawn by the secretary upon the treasurer, signs and issues all bonds, United States notes, and other securities, and has charge of the tonnage or shipping accounts, and the entire registry of vessels in the United States. The comptroller of the currency (salary $5,000, 89 clerks, etc.) supervises the entire national bank

system of the country. This important office was created in 1863. The comptroller is charged with the execution of all laws relating to the issue and regulation of national currency secured by United States bonds; he has a seal of office, commissions and employs bank examiners, assumes control of any national banks becoming insolvent, appoints receivers therefor, makes an annual report to congress upon the condition, resources and liabilities of the national banks, and compiles statistics of other banks, banking companies and savings banks. The director of the mint (or, more properly, mints) of the United States (salary $4,500, 14 clerks etc.) is the head of a treasury bureau established in 1873, and has charge of all mints and assay offices, making annual reports to congress on the coinage of the country, the yield of precious metals, and collateral subjects. The commissioner of internal revenue (salary $6,000, 293 clerks, etc.), an office established in 1862, superintends the assessment and collection of all duties and taxes imposed by the laws providing internal revenue. The states and territories were divided into numerous collection districts during the war, for assessing and gathering the excise and stamp duties upon spirits, tobacco, etc., but the collectors of internal revenue were reduced by executive order in 1883, to eighty-two. The solicitor of the treasury (salary $4,500, 15 clerks, etc.), though an officer of the department of justice, has special charge of legal measures to prevent and detect frauds upon the revenue, having charge of all suits involving money in which the United States is interested, except those arising under the internal revenue laws, which are in charge of the solicitor of internal revenue. He also has charge of the secret service employés engaged in detection of counterfeiting and other frauds on the government. The chief of the bureau of statistics (salary $3,000, 36 clerks, etc.) is charged with the annual reports on commerce and navigation, internal commerce, etc., and publishes annual, quarterly, monthly and occasional reports, embodying the latest statistical information as to imports and exports, immigration, shipping, etc. The superintendent of the coast and geodetic survey (salary $6,000, 156 clerks, etc.) has charge of the survey of the coasts and rivers of the United States, publishing annual reports, tide-tables, sailing directions, and maps and charts. The supervising surgeon general (salary $4,000, 17 clerks, etc.) is charged with the marine hospital service and the fund for the relief of sick and disabled seamen. The supervising architect of the treasury department (salary $4,500, 93 clerks, etc.) is charged with preparing designs and plans for all public buildings erected by the United States for custom houses, United States courts and post-offices, and the supervision of the same. The supervising inspector general of steam vessels (salary $3,500, 5 clerks, etc.) administers the steamboat inspection laws, with the aid of a board of inspectors. The superintendent of the life-saving service (salary $4,000, 28 clerks, etc.) supervises the organization and employés of the coast service for the protection of life and property, and prepares the statistics of marine disasters. The chief of the bureau of engraving and printing (salary $4,500) has charge of the engraving and printing of all bonds, treasury notes, national bank notes, certificates, internal revenue stamps, etc., of the United States. This great establishment occupies a separate building constructed especially for its uses, and employs about 1,200 hands. The treasurer of the United States (salary $6,000, 277 clerks, etc.) receives and keeps the moneys of the United States, and disburses them only upon warrants drawn by the secretary of the treasury, and duly recorded. He is also charged with the custody of all public moneys in the sub-treasuries at New York and eight other cities, acts as agent for redemption of national bank notes, is trustee of the bonds of the United States, and custodian of Indian trust funds, besides having entire charge of the payment of interest on the public debt. The immense vaults and strong-boxes of the treasury are all in the custody of this officer. — As will be seen from the above outline, the multifarious business of the fiscal system of the United States is widely and carefully distributed through a series of responsible officers, appointed by the president and senate, who give bonds for the faithful discharge of their duties. The system of keeping and adjusting accounts is very thorough and systematic, and the checks and safeguards for the protection of the public money so thoroughly organized by distribution among many responsible heads, as to render any wrongful disbursement very difficult, if not impossible. — The treasury department occupies a very large freestone and granite edifice, containing 195 rooms, constructed after the Ionic style of architecture, the cost of construction having been $6,000,000. It was in this department that the employment of women as government clerks was first introduced in the year 1863, and several hundred of that sex are now employed in the various departments at Washington. — The following is the complete list of secretaries of the treasury from the beginning of the government, with their terms of office:

1.	Alexander Hamilton	Sept. 11, 1789
2.	Oliver Wolcott	Feb. 2, 1795
3.	Samuel Dexter	Jan. 1, 1801
4.	Albert Gallatin	May 14, 1801
5.	George W. Campbell	Feb. 9, 1814
6.	Alexander J. Dallas	Oct. 6, 1814
7.	William H. Crawford	Oct. 22, 1816
8.	Richard Rush	March 7, 1825
9.	Samuel D. Ingham	March 6, 1829
10.	Louis McLane	Aug. 2, 1831
11.	William J. Duane	May 29, 1833
12.	Roger B. Taney	Sept. 23, 1833
13.	Levi Woodbury	June 27, 1834
14.	Thomas Ewing	March 5, 1841
15.	Walter Forward	Sept. 13, 1841
16.	John C. Spencer	March 3, 1843
17.	George M. Bibb	June 15, 1844
18.	Robert J. Walker	March 6, 1845
19.	William M. Meredith	March 8, 1849
20.	Thomas Corwin	July 23, 1850
21.	James Guthrie	March 7, 1853
22.	Howell Cobb	March 6, 1857

23.	Philip F. Thomas	Dec.	12, 1860
24.	John A. Dix	Jan.	11, 1861
25.	Salmon P. Chase	March	7, 1861
26.	William Pitt Fessenden	July	1, 1864
27.	Hugh McCulloch	March	7, 1865
28.	George S. Boutwell	March	11, 1869
29.	William A. Richardson	March	17, 1873
30.	Benjamin H. Bristow	June	4, 1874
31.	Lot M. Morrill	July	7, 1876
32.	John Sherman	March	8, 1877
33.	William Windom	March	5, 1881
34.	Charles J. Folger	Oct.	27, 1881

A. R. SPOFFORD.

TREATIES. A treaty is an agreement, league or contract between two or more nations or sovereigns, formally signed by commissioners properly authorized, and solemnly ratified by the several sovereigns or the supreme power of each state. — *Historical View.* This is the modern definition; in the ancient world, treaties were not so much contracted as they were dictated. A conqueror with an army at the gate of a capital was perfectly able to settle the terms by himself, and he would stay there until he had satisfactory pledges that the terms would be carried out. The treaty of peace of Antalcidas, B. C. 387, is a good instance. Tiribazus, with the Persian fleet in the Hellespont, summoned deputies from the Greek states, and read terms of peace as follows: "King Artaxerxes thinks it just that the cities in Asia and the islands of Clazomenæ and Cyprus should belong to him. He also thinks it just to leave all the other Grecian cities, both small and great, independent, except Lemnos, Imbros and Scyros, which are to belong to Athens, as of old. Should any parties refuse to accept this peace, I will make war upon them, along with those who are of the same mind, both by land and sea, with ships and with money." No parties refused to accept it. Very often, too, the conquered had to pay down so much gold or so many slaves or ships, by way of earnest; at the treaty made by the Romans, B. C. 190, Antiochus, just defeated at Magnesia, had to cede Asia Minor, to pay 1,500 talents within twelve years, and to give up his elephants, ships of war and even some guests at his court. This was a typical treaty of those days. Occasionally, however, even then, the treaty was more of a contract than this, and settled and defined the relations of states among each other; the peace of Callias, B. C. 371, which settled the independence of the various Grecian states, and the terms on which they were to exist between themselves, was as much a manifestation of international law as many of the modern congresses have produced. Heffter has traced the history and growth of this branch of international law very clearly and briefly, and it may be useful before proceeding with the subject, to insert here his historical view of the matter, from the times we have alluded to until when Talleyrand, Nesselrode, Castlereagh, Bernstadt and Metternich, with other lesser lights, in 1814–15, formed a parliament to balance off the powers of the world against each other with the closest care. — Treaties, together with the negotiations which precede them, are the most fruitful source of international law; they, and the spirit which leads to their enactment, show on what points nations and governments are in accord. — In the ancient world, treaties were almost the only manifestation of any common principle of law. Nevertheless, they present little interest; they rarely go beyond the narrow circle of the needs of the moment. Sometimes they show us the misfortunes of the conquered; sometimes their object is the conclusion of a long or short armistice; occasionally also the establishment of business relations, or even that of a kind of dikéodosie founded on reciprocal rights. The treaties concluded between the states, or rather between the princes, of the middle ages, offer still less of interest. The state itself was then only an agglomeration of private affairs and needs: the prince disposed of peoples and countries as he would of his own fields. The feudal lords and the church alone enjoyed a certain protection which they in their turn accorded to others, and yet that was often insufficient. — From the fifteenth century the turning point comes; a jurisprudence of political treaties begins to be formed, which is closely connected with the first steps of a European state-craft, and reflects in it the general spirit of later times. Innumerable treaties were concluded at that period, which often only wore a temporary mask for the true intentions of the parties, and which were rarely taken seriously. They would break them after a little with the same ease, to replace them by treaties of alliance with the enemies of those who had just been their allies. Wheresoever there might be any spoil to gain or share, each rushed to seize his part (*le système copartageant*, it was called). Marriages and dowries played a minor but very considerable part in the treaties of those days. With the religious struggles of the sixteenth century higher interests began to be considered. At first they were discussed within the states, but the movers of international politics soon began to try to profit by these religious struggles, without any scruples for the interests of any particular religion. In this sixteenth century the politics of commerce obtained a preponderating influence over the general affairs of Europe: especially after the insurrection of the united provinces against the Spanish monarchy, for the sake of colonial interests, the scene of war was changed to the most distant parts of the world. — The first half of the seventeenth century is filled with the bloody slaughters of the holy wars, to which the congress of Westphalia put a final end. This was the congress where the diplomacy of the great powers celebrated a triumph. Its work on this occasion was for a long time a source of pride, but nevertheless, like a new Pandora, there escaped from its casket many gifts which were to be sources of distress. However, the treaty of Westphalia was to form the firm foundation of the *status quo* and of the balance of power of Europe, and at the same time it is the line of demarkation between an ancient and modern system of diplomacy. Up to that

time in treaty negotiations diplomacy had relied on rights which were at least apparent to every one; after the treaties of Munster and Osnabruck its object was much less the re-establishment of rights which had been violated; it regulated matters more according to political rule, and in so doing destroyed many rights which had been established by the older methods. At the conclusion of the peace of Westphalia there comes, as if directly in consequence of it, a restless state of international policy, directed, sometimes to the acquisition of material advantages, sometimes to maintain the political equilibrium which had been re-established at the price of so many sacrifices. The policy of intervention is at its height, and with it the usage of European congresses and combinations. Governments find themselves perfectly free now that the *états généraux* have been suppressed. The Hague becomes the neutral green-room of the diplomatic struggle; it is the place where the cards are dealt, and where each tries to finish the game; a place where adversaries engaged outside in mortal struggles can meet each other freely.— During the eighteenth century, or up to the French revolution, the international jurisprudence of Europe continues to present a system of political combinations, whose chief aim is to prevent as much as possible any threatening preponderance in the general equilibrium, unless the fortune of war or of circumstances throws one of the parties at the mercy of others. This arrangement of political affairs gave rise to a nerveless and colorless diplomacy, which pursues above everything the preservation of the *status quo*. But this conciliatory spirit disappears in its turn after the partition of Poland is effected, and after the revolution's success is assured. The victorious revolution dictates its treaties. the conquered are obliged to submit on account of their momentary needs. *Senatus consulti*, or simple manifestoes, announce to Europe what alterations are taking place in their midst. Then the Napoleonic policy arises, and treaties from the beginning of our century up to 1814 circle around it, either to strengthen it or to prepare that secret coalition which, when transformed into open resistance, created the political web of 1815. The preservation, and, when it is necessary, the alteration, of this web, was for a time the end of monarchical congresses and of ministerial conferences with their declarations and protocols, until the pentarchy was broken up by the energy of peoples and of governments jealous of their independence. The great business of European diplomacy, which only affected, sometimes in an indirect way, the public questions of the day, were in the second half of the last century the maritime rights of neutrals, and in our century at first the Napoleonic system on the continent, then the suppression of the slave trade, and finally, the commercial union of Germany, the international emancipation of trade, navigation, arts, literature and labor. — The rough division may, therefore, be made, that, in the ancient world, treaties were usually for peace after a war, and were dictated rather than contracted; in the middle ages, treaties were often ostensibly contracted for statesmanlike objects, but were never meant to be kept. "Each treaty plants the seeds of a new war." As Machiavelli says (*Del Principe*, 1532), "A prudent prince will not and ought not to observe his engagements when it would operate to his disadvantage, and the causes no longer exist which induced him to make them." Spinoza, another later writer, whose words, like those of Machiavelli, apply to the period we are speaking of, says very much the same. (*Tract. Theol. Polit.*, cap. iii.) Of course these words apply to very modern times also, but in a less marked degree. Ever since the publication of the works of the early jurists, Gentilis and Grotius, the current has been setting in the other direction, and now the question rather is, how to enforce a treaty, than how to break it. The growth of the popularity of the principle of arbitration in the last ten or twenty years perhaps marks the commencement of a fourth period. (See ARBITRATION.)— *Theoretical View.* For the history and discussion of the ideas and theories concerning treaties, we may refer to the works of writers on international law. Most of the questions dealt with even in so late writers as Wheaton and Lawrence are now practically settled as much as the older ones of Grotius and others, such as, whether a Christian nation can make a treaty with an infidel power. We may briefly allude to one or two questions on which different views are still sometimes expressed. Do treaties expire in case of a war or change in government in which either of the contracting parties is interested? To which the text books answer, treaties are of two kinds: 1. Transitory conventions, which are perpetual in their nature, so that, being once carried into effect, they subsist independent of any change in the sovereignty and form of government, and, although their operation may in some cases be suspended during war, they revive on the return of peace without any express stipulation. Such are cases of cession, boundary or extension of territory, or those creating a permanent servitude in favor of one nation within the territory of another. Exceptions to the latter class are such cases as a telegraph treaty, in which special war provisions are always inserted, which bind neutrals as well as belligerents, though perhaps in a different way. (Fischer's *Die Telegraphie und das Völkerrecht*, Leipzig, 1876.) 2. Treaties so called, or fœdera, of friendship, commerce, etc., expire of course when, first, either party loses existence as a perpetual state; second, the internal constitution is so changed as to render the treaty inapplicable, as concluded in view of a particular constitution, as when, by the French revolution, the French form of government was changed; third, war arises between the contracting parties; and fourth, by limitation of the treaty itself. — But under whichever of these two heads the treaty falls, if, while a treaty is in force, a right vests under it, the expiration of the treaty can not extinguish that right. "The treaty had its full

tion or continuance afterward was unimportant." (U. S. Supreme Court, in reference to the treaty of 1800 with France.) — Treaties are, in general, subject to very many of the rules to which contracts are subject. When a question arose between England and the United States as to the boundary line between this country and Canada, the question turning on the interpretation of certain treaties that had been entered into, England submitted to the emperor of Germany, the arbitrator, the following rules of interpretation for treaties, which are very similar to the rules of interpretation that might have been submitted in the case of a contract: 1. The words of a treaty are to be taken to be used in the sense in which they were commonly used at the time when the treaty was entered into. 2. In interpreting any expressions in a treaty, regard must be had to the context and spirit of the whole treaty. 3. The interpretation should be drawn from the connection and relation of the different parts. 4. The interpretation should be suitable to the reason of the treaty. 5. Treaties are to be interpreted in a favorable rather than an odious sense. 6. Whatever interpretation tends to change the existing state of things at the time the treaty was made, is to be ranked in the class of odious things. — The antecedent conditions on which the validity of a treaty depends are also very much the same as in the case of a contract: the parties must be capable of contracting, the agents must be duly empowered, the object must be lawful and possible, there must be a mutual consent, etc. Another condition is often inserted in the text books, that the parties must give their consent freely, or must be so situated that the consent of both may be regarded as freely given, but it is difficult to see how this can be so. — Another question arose especially concerning the declaration of the treaty of Paris, with respect to the effect of the flag on enemy's goods. Are, for instance, the United States bound by it? All other countries of importance have adhered to the rule there laid down, except the United States, and some foreign writers have considered the United States bound by this general uniformity of opinion. But we do not see any good reason for this view, and probably a foreign court would hesitate before applying the doctrine where an American was a party before it. — Treaties are classified in a good many different ways. A note in Mr. Hall's book on international law (Oxford, 1880), sums up this matter briefly: "Most writers devote considerable space to a classification of treaties. Vattel, for example, divides them into equal treaties, by which 'equal, equivalent or equitably proportioned' promises are made; unequal treaties, in which the promises do not so correspond; personal treaties, which expire with the sovereign who contracts them; and real treaties, which bind the state permanently. De Martens arranges them under the heads of personal and real treaties, of equal and unequal alli- the first kind, being carried out once for all, is perpetual in its effects; the duration of the second, which stipulates for the performance of successive acts, is dependent on the continued life of the state and other contingencies; and the third partakes of both characters. Heffter divides them into, 1, constitutive conventions, which have for their object either the constitution of a real right over another's property, or some obligation to give or to do or not to do something (*e. g.*, treaties of cession, establishment of servitudes, treaties of succession); 2, regulating conventions for the political or social affairs of nations and of their governments (*e. g.*, treaties of commerce); 3, treaties of alliance. Calvo distinguishes treaties, with reference to their form, into transitory and permanent; with reference to their nature, into personal and real; with reference to their effects, into equal and unequal, and simple and conditional; finally, with reference to their objects, into treaties of guarantee, neutrality, alliance, etc. It is not very evident in what way these and like classifications are of either theoretical or practical use." "Treaties included among those which have been supposed to express principles of law, appear to be susceptible of division into three classes: 1, those which are declaratory of law as understood by the contracting parties; 2, those which stipulate for practices which the contracting parties wish to incorporate into the usages of the law, but which they know to be outside the actual law; 3, those which are, in fact, mere bargains, in which, without any reference to legal considerations, something is bought by one party at the price of an equivalent given to the other." (Hall.) — It has now been practically settled, that, whatever powers an agent may have been given, a treaty must be ratified by the sovereign or proper authority before it can be considered as binding. Usually the crown or supreme power of the land is the treaty-making and treaty-ratifying power, but in England especially, and to a certain extent in some other countries, any treaty involving money matters has to be passed upon by the popular assembly, and, as a general rule, where any decided step is about to be taken by treaty, the opinion of parliament is first obtained, though, perhaps, informally. — In Sweden the king makes peace in conjunction with the senate. — In Germany the executive has power to make war, but, when offensive, only with the consent of the bundesrath; it has power to make peace in all cases. By article 11 of the constitution (*reichs-verfassung*), the executive has the power to make treaties with the limitation that the consent of the legislature is necessary when the provisions refer to subjects under the power of the legislature. These are as follows: Article 4. Foreign commerce and intercourse, colonization and emigration, financial system, weights and measures, patents and copyrights, rights of assembly, post and telegraph, sanitary police, laws of contract and private law, commercial law, railroads, settlement, residence and citi-

zenship of different states, military system. These are the powers which the different German states reserve to themselves the right to deal with, and, therefore, no treaty can be made concerning any of them without permission from the legislature. — In France, by article 9 of the constitution (*Lois Constitutionelles*, July 16, 1875), the president may declare offensive war with the consent of the legislature. By article 8, the president is to negotiate and ratify treaties alone, unless they involve questions of peace, commerce, finance, status of persons and rights of property of Frenchmen in foreign countries, cession of territory by or to France; in these cases the consent of the legislature is necessary. — In the United States the makers of the constitution tried a new method of enforcing a treaty by enacting, that all treaties should be considered as the supreme law of the land, and providing for their ratification by the senate. But another clause gives the house of representatives control over all foreign commerce and other matters often dealt with in treaties. By section 8 of article 1, of the constitution, "The congress shall have power—1. To lay and collect taxes, duties, imposts and excises * * *; 3. To regulate commerce with foreign nations, and among the several states and with the Indian tribes; 4. To establish a uniform rule of naturalization * * *; 10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations." Now, these are all of them matters also dealt with in treaties which are to be entered into and ratified (by section 2 of article 2) by the president, "by and with the advice and consent of the senate, provided two-thirds of the senators present concur." And such treaties are also, by the constitution, to have the same force and effect as if they were the supreme law of the land. The treaties on the above and other subjects often, therefore, in their provisions, come into conflict with the laws of congress, especially with those in connection with commercial subjects, which usually spring from the house of representatives, and an interesting series of questions has in consequence been brought before our courts. To take one recent case out of many. By article 4 of a treaty between the United States of America and his majesty the king of Denmark, concluded at Washington, April 26, 1826, and thereafter duly ratified and proclaimed, and renewed by article 5 of the treaty entitled "Convention between the United States of America and his Majesty the King of Denmark, for the discontinuance of the Sound Dues," concluded at Washington, April 11, 1857, and thereafter duly ratified by the *senate*, and proclaimed, and which is still in full force and effect, it is provided that: "No higher or other duties shall be imposed on the importation into the United States of any article, the produce or manufacture of the dominions of his majesty the king of Denmark, * * than are or shall be payable on the like articles, being the produce or manufacture of any other foreign country." By article 1 of the treaty entitled "Convention between the United States of America and his Majesty the King of the Hawaiian Islands," concluded at Washington, Jan. 30, 1875, and thereafter duly ratified and proclaimed on the part of the United States, and to carry which into effect the necessary law has been duly passed (Aug. 15, 1876) by the *congress* of the United States, and which is still in full force and effect, it is provided as follows: "The United States of America hereby agree to admit all the articles named in the following schedule, the same being the growth and manufacture, or produce, of the Hawaiian islands, into all the ports of the United States, free of duty." The schedule following said article includes: "Muscovado, brown and all other unrefined sugars," of grades therein mentioned, and all "syrups of sugar-cane, melado and molasses." Certain merchants having imported such goods from Denmark, claimed that the aforesaid articles imported were, under and by virtue of the aforesaid treaty with Denmark, entitled to be admitted into this port free from the payment of any duty whatsoever, for the reason that "like articles, being the produce or manufacture of (any) a foreign country," to wit, the Hawaiian islands, are, pursuant to the treaty with that country, admitted into all the ports of the United States free of duty. The collector of New York collected duties on the goods, and the merchants, having paid under protest, brought suit against the collector to recover the money. Judge Wallace, in the United States circuit court, decided in favor of the collector, chiefly on the ground, apparently, that congress may annul or repeal a treaty, as far as it is municipal law, provided its subject matter be, under the constitution, within the legislative jurisdiction of congress, and that in this case there had been such a repeal of the clause in question by implication, by the tariff legislation of congress. As Judge Curtis says, "If an act of congress should levy a duty upon imports, which an existing commercial treaty declares shall not be levied, so that this treaty is in conflict with the act," the later act of congress "gives the rule of decision in a judicial tribunal of the United States, in a case to which one rule or the other must be applied." This rule is well established, now, in our courts. See other cases, such as, Ropes *vs.* Clinch, 8 Blatchford, 304; Cherokee Tobacco, 11 Wall, 616; Gray *vs.* Clinton Bridge, Woolworth, 150. — Take another case, one analogous to which has recently arisen: Suppose the United States, by treaty with another country, takes away from its own residents or citizens, in certain cases, some constitutional right, such as trial by jury; are the American courts in those cases estopped by the treaty from seeing that such right is not withheld from those under its jurisdiction? The other country would probably expect us to fulfill our treaty, but the courts would probably hold that even the supreme law of the land was to be governed by our constitution. These considerations lead us to the last division of our subject, the enforcement of treaties and the growth of the powers of courts of justice in that

regard. — *Enforcement of Treaties.* The following distinctions may perhaps be usefully made in connection with this part of the subject. After the sovereign or supreme power of a state has entered into a treaty obligation, its fulfillment or enforcement usually comes under the jurisdiction and control of the sovereign or head of the nation himself, by or with the aid of one of three powers of the land: 1, the legislature or council of state; 2, the army and navy department; or, 3, the law and courts of justice of the country. Consequently, while the different obligations of treaties are theoretically enforceable by the nation itself, they may for practical purposes be said to be under the control of one of the above mentioned departments. The executive and legislative branches have control of such clauses in treaties as deal with peace or war, cession of territory or of money, of guarantee, neutrality or intercourse. The head of the army or navy in action is almost wholly in charge of the humane and moral clauses of modern treaties, such as those which deal with aid to the wounded, etc.; and of truces and cartels, and other laws of war, and of railroad and telegraph or cable treaties, so far as the war clauses are concerned. The judicial power is responsible for the carrying out of naturalization and extradition treaties, commercial engagements, the laws of prizes, some of the effects of treaties concerning war and peace, such as the rights of seizure, embargo, blockade, etc., and the clauses of treaties which affect the rights of citizens and foreigners in their individual and private capacity.—The distinction as to what classes of treaties come before the courts, is pointed out by the late Chief Justice Marshall, in the case of Foster *vs.* Neilson (2 Peters, 314): "Our constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the legislature, whenever it operates of itself, without the aid of any legislative provision. But when the terms of stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial department, and the legislature must execute the contract before it can become a rule for the court. * * This seems to be the language of contracts, and if it is, the ratification and confirmation which are promised must be the act of the legislature. Until such act shall be passed, the court is not at liberty to disregard the existing laws on the subject." That is, a treaty is a contract, and before the courts can accept a treaty as the supreme law of the land, for them to enforce, it must, by the action of congress, be changed from a contract into a law, unless, as another judge says, "the treaty itself gives a rule of law in respect to private rights, capable of execution without the aid of further legislation, and operating directly upon the interest which is the subject of the judicial inquiry." And if the treaty does not come within either of these rules, that must be decided by the courts, too; therefore, especially in this country, the power of the courts, whether used positively or negatively, in the enforcement of treaties and their obligations, is very great. — In Ware *vs.* Hylton, 3 Dallas, 199, certain Virginians owed money to some Englishmen in 1774. In 1777 the legislature passed a law to sequester British property, providing that Virginian citizens owing money to English subjects might pay the same to the Virginian government and get a discharge for their debt. The debtors in this case took advantage of this act. In 1783 a treaty was entered into between the United States and Great Britain, by the fourth clause of which it was agreed "that creditors on either side shall meet with no legal impediment to the recovery of the full value, in sterling money, of all *bona fide* debts heretofore contracted." The supreme court held, reversing the decision of the lower court, that the treaty of the United States annulled the law of Virginia, and gave the right to the Englishmen to recover their debt. — In the case of the United States *vs.* The Schooner Peggy, 1 Cranch, 103, a French ship had been captured and condemned as a prize by the United States circuit court of Connecticut in 1800. A writ of error was prosecuted to the supreme court, and before the hearing a treaty was entered into between the United States and France, one of the clauses of which was to the effect that property captured and not yet definitely condemned should be mutually restored. The court held that the sentence of the circuit court was not definitive, and ordered the prize to be restored. The court said: "In mere private cases between individuals a court will and ought to struggle hard against a construction which will, by a retrospective operation, affect the rights of parties; but in great national concerns, where individual rights acquired by war are sacrificed for national purposes, the contract making the sacrifice ought always to receive a construction conforming to its manifest import." — Chirac *vs.* Chirac, 2 Wheaton, 112, is a decision as to the effect of treaties on the title to real property, and decided, among other points, what we have already seen, that a treaty providing for the rights of subjects of one country, claiming lands by inheritance in another, is perpetual in its effect. If it expires by lapse of time, any right that has previously arisen in consequence of its existence is not extinguished by its expiration. "The treaty had its full effect the instant a right was acquired under it; it had nothing further to perform; and its expiration or continuance afterward was unimportant." — The United States *vs.* Watts, 14 Federal Reporter, 130, is an extradition case, where the United States had extradited the defendant for having committed one offense, tried him for it, and then proceeded to try him for another. The court discharged the prisoner, after examining both the executive and legal authorities on the question. Mr. Hamilton Fish, the secretary of state, had contended that the receiving power has the right, if so inclined, after having tried the extradited person on the charge on

which he had been surrendered, with a *bona fide* intent and effort to convict him on that one charge, to try him for any other offense of which he may have been guilty. (Messages and Documents, Dep. of State, May, 1876.) Lord Derby denied this, and the United States court in this case agreed with Lord Derby, saying: "It results as a necessary consequence of the duty imposed on the courts to respect and obey the stipulations of a treaty as the supreme law of the land, that they are also charged with the duty of determining its meaning and effect, and this duty they must conscientiously and fairly perform, even though the construction they feel compelled to give to it should differ from that given to it by the political branch of the government."—The cases we have mentioned are typical instances from our reports as to how our courts have enforced various provisions of treaties, even against the apparent interests of their own country and countrymen, and many other similar cases might be cited, both from our own and from the European law reports.—From the times of Sir Leoline Jenkins (1625–84) the English admiralty courts have been very determined, in prize cases, in seeing that justice was done in all cases where foreigners were concerned, even where the foreigners were allies of a hostile country. Sir William Scott, in maintaining, later, this tradition of his court, gave a great impetus to the enforcement of international law, especially in following and observing the treaty rights of neutral or other foreigners. We may note one instance, taken at random from the English reports, the case of The Fama, 5 Robinson, 106, which was as follows: In 1803 some goods in a ship sailing from New Orleans to Havre de Grace were seized by an English vessel, England then being at war with France. By the treaty of Idelfonso, 1796, Louisiana had been ceded to France. The New Orleans merchant claimed that the treaty was a secret treaty, and had not yet been carried into effect by the handing over of Louisiana to the French, wherefore it still remained a Spanish possession, and he should have restitution. Sir William Scott agreed to this view of the matter, and decided that the national character of a place agreed to be surrendered by treaty, but not actually transferred, continues as it was under the character of the ceding country, and ordered restitution by the English captors to the New Orleans merchant. All of which shows that the courts of law in civilized nations are the most effective enforcing agencies for treaties between nations, as for contracts between individuals, and that their jurisdiction is rapidly growing, and trenching on our next class. The next class of sanctions for treaties are those of the executive. They are to be employed where, as Livy says, "they are made by the command of the supreme power, and whereby the whole nation is made liable to the wrath of God if they infringe it." And the wrath of God or the fear of man is still about all that causes their fulfillment when either country would rather break them. The jurists of all ages have tried to find some way in which these national treaties could be enforced, and they have appealed, to a great extent in vain, to the better feelings and aspirations of monarchs and popular assemblies. The methods, other than physical force, employed by nations to enforce a treaty obligation, have been: 1. The performance, by way of ratification, of religious rites and ceremonies, or the use of threats or influence by officers of different religions. In ancient times all treaties were entered into with the most sacred religious rites, and if these or any other formalities were left out, the treaty was not considered binding. But this kind of sanction only caused an obedience to the letter of the treaty, as, to use an extreme instance, when Antiochus stipulated in a treaty to give up half his fleet to the Romans, and Labeo carried that clause into effect by sawing every ship belonging to the monarch into two. The power of religious threats in the enforcement of treaties has been best exemplified in the case of the Roman church. By the use of excommunications and interdicts that church often was able to cause international agreements to be carried into effect, when one side of those who had entered into the agreement endeavored to draw back; but the selfishness with which the church used this power, and the power it also claimed and exercised of releasing princes from treaty obligations, neutralized all the good effect on international morality it might otherwise have caused. The ratification of a treaty was a very solemn affair, transacted in some great cathedral, in the presence of all the pomp and power of the church and of the nations involved. The ambassadors who had drawn up the treaty would there in due form solemnly touch the cross, the holy evangels, and the holy letters, and swear by their honor to observe and carry out fully, really and in good faith all the articles that were contained in the treaty. (Peace of Munster, 1648.) The most modern example is perhaps the alliance between France and Switzerland in 1777, which was solemnly confirmed by the oath of the contracting parties in public in the cathedral of Soleure. The emperor of Germany was addressed always as semper Augustus; the king of France, as most Christian; the king of Spain, as most Catholic; the king of England, as defender of the faith; the king of Portugal, as most faithful; and the king of Hungary as his apostolic majesty. 2. The handing over of territory, money or hostages, as a pledge for the fulfillment of a treaty, was also a means much used in ancient times, and it was successful so far as it went. It has gradually fallen into disuse, except as regards the occupation of territory. The last occasion on which hostages were given, was at the treaty of Aix-la-Chapelle, in 1748. 3. There remain the methods by which third parties are made or become responsible for the carrying out of a treaty; such as armed intervention, mediation, arbitration or guarantee. These methods, leaving arbitration out of consideration, are found to be of little use at the

present time. The third country, on the one side, is likely to have the weight of any interference neutralized by a third power interfering on the other side. There are probably no countries with which the great powers of Europe have not at some time or other in their history entered into a treaty of guarantee, and most of these treaties have not expired. Lastly, we come to those conventions between nations and clauses in treaties which practically have to be left to the enforcement, if at all, of the commanders and officers of any conflicting forces. The "modern rules of war," as they are called, as relating to the treatment of the wounded and of prisoners, as to the use of railroads or telegraphs, as to truces or neutrals, and blockades or searches, must be left, in the nature of things, to the discretion and judgment of the officers who are in command at the time, and they are not only responsible to their own country but to many other countries both in indirect and direct ways. At the Brussels conference of 1874 the project of an international convention on these matters was proposed, but was not effected. The conference expressed some general views on the rules which should govern occupation of a hostile country by a military force, the treatment of prisoners, aid to the sick and wounded, etc. The presence of foreign military and press representatives with a modern army, must be noted as one of the greatest influences in matters falling under this head. There are certain treaties, however, which neither the efforts of law courts nor the commands of authorities, which are, as we have seen, the only two sanctions of treaties, can ever hope to enforce. These are treaties made by a nation with some alien and weaker nation living in its midst. From the treaties of Rome with Latium, Spain with the Moors, and Germany with the Bohemians, down to the treaties of England with Ireland or India, and the United States with the Chinese and Indians, treaties have only been used as one means of extermination and violence. Perhaps there never was a series of treaties between two peoples so systematically entered into for the purpose of breaking as those between the United States and the Indian tribes of North America. They were considered at first as independent nations capable of entering into treaties, but in 1871 congress passed an act to the effect that they were not nations capable of contracting with the United States by treaty; since then, the term convention has been used, but the name has made very little difference. The contracts have been uniformly broken. The law courts, where appealed to, have almost invariably, as far as possible, endeavored to enforce the rights of the Indians, but the jurisdiction necessary has usually in these cases been given by law to officers of the army or agents of the executive who have usually sided, either openly or through lack of positive action, with the immigrating violators of the public faith. — A recent writer, Mr. Hall, (in his "Rights and Duties of Neutrals," p. 7), says he "does not discover any ground for the claim (of treaties) to exceptional reverence. They differ only from other evidences of national opinion in that their true character can generally be better appreciated," and he proceeds to attack them from the point of view of international law, as misleading and useless. On the other hand, other writers on international law have almost universally considered treaties as the principal "constituent part" of their subject. Possibly, as Napoleon the Great said, they are very often "Forms which, however necessary to disguise the dependence of weak states, prove, in the case of strong ones, only a desire to deceive," especially in the case of those which we have called national treaties. Whichever of these views may be correct, we have seen that treaties have always played an important part in the history of the world, and that their usefulness to the general progress of mankind has always increased more when enforced and fulfilled than when broken. — *Authorities.* The works on INTERNATIONAL LAW are also authorities on our subject. Besides the authorities given under that head in volume II. of this work, we may add the works on *International Law* of Twiss, Westlake, Ward, Hall, Woolsey and Sheldon Amos. The last edition of Heffter, 1881; the *Rights and Duties of Neutrals*, Hall, London, 1874; the *International Law* article (Prof. E. Robertson) in the Encyclopædia Britannica; Mrs. Jackson's *Century of Dishonor*, New York, 1882; and the congressional and departmental reports of various Indian commissions on that branch of the subject; Fischer's *Die Telegraphie und das Völkerrecht*, Leipzig, 1876, on that branch. The following is a list of the collections of treaties which have been made: *The Argument and Proceedings at the Geneva Arbitration*, 1873; Manning's *Law of Nations*, edition Sheldon Amos, London, 1875; *International Commercial Law*, Leone Levi, London, 1863. Also the following compilations of treaties and matters relating thereto: Calvo, *Recueil des Traités;* Moreuil, *Recueil des Traités diplomatiques*, 1853; Jean Dumont et T. Rousset, *Corps Universel Diplomatique du Droit des Gens ou Recueils des Traités de Paix, d'Alliance, etc.;* Barbeyrac (Jean), *Histoire des anciens Traités jusqu'à Charlemagne;* Saint Prest (J. Y.), *Histoire des Traités de Paix du 17e Siècle; Negociation secrètes touchant la Paix de Munster et d'Osnaburg;* Martens (George Frederic de) *Recueil de Traités d'Alliance, de Paix, de Treue, de Neutralité, de Commerce*, etc., 1761–1808; also a supplement; M. le Comte de Garden, *Histoire générale des Traités de Paix;* Koch, *Histoire Abrégée des Traités de Paix depuis la Paix de Westphalia;* Rousset, *Supplement to the Corps Universel of Dumont;* Wenk (F. A. G.), *Codex Juris Gentium Recentissimi*, Leipzig, 1781; Robinet, *Dictionnaire Universel*, 82 vols., 1787; Schmauss (J. J.), *Corpus Juris Gentium*, 1730.

EUSTACE CONWAY.

TREATIES, Fishery. At the close of the revolutionary war, in the negotiations which preceded the treaty of Sept. 3, 1783, one of the most

important questions discussed had reference to a definition of the privileges of fishermen, citizens of the United States, in the waters of British North America. Their right to fish on the Grand Banks or in the gulf of St. Lawrence, or elsewhere in the open sea, could not, of course, be denied, but it was claimed that they should not fish in British waters, or land in British territory to dry or cure their catch. At that time the methods of our fishermen were different from those now in use. The resources of our own coast were little understood, and the greater part of the New England fishing fleet resorted every summer to Labrador, Newfoundland, and the gulf of St. Lawrence, where they fished near the shores, making a harbor usually every night, always in threatening weather, and curing their fish upon the rocky shores, before loading them into the vessels for final home transportation. It was therefore important that they should retain as many as possible of the privileges enjoyed by them before the outbreak of the revolution. A compromise was finally agreed upon, and by the terms of article III. of the treaty of Paris (Sept. 3, 1783), it was arranged that the people of the United States should have liberty to fish on such parts of the coast of Newfoundland as British fishermen could, and also on the coasts, bays and creeks of all other of their Britannic majesties' dominions in America; and to dry and cure fish in the bays, harbors and creeks of Nova Scotia, the Magdalen islands and Labrador, so long as they were unsettled, or after their settlement if they could secure permission from the inhabitants or proprietors. By this treaty they were excluded simply from their former privilege of drying fish on the coasts of Newfoundland, Prince Edward island and Cape Breton. — The war of 1812 suspended for a second time the privileges of our fishermen in British waters; and when the question of their readjustment was brought up, strong petitions were made by the British colonists against a renewal of the privileges of 1783. — At the first meeting of the commissioners assembled at Ghent to draw up the articles of peace, it was announced "that the British government did not intend to grant to the United States gratuitously the privileges formerly granted * * for purposes connected with the fisheries." They argued that the claim of an immemorial and prescriptive right to these privileges was untenable, and that the rights which the inhabitants of the United States had possessed when British subjects, could not be continued to them after they had become citizens of an independent state. After much discussion the subject was dropped, and the treaty of Ghent (Dec. 24, 1814) contained no reference to the fishery question. The governors of the British colonies were now instructed to exclude our fishing vessels from their harbors and coasts, and the naval officers stationed in that district received orders to resist all encroachments. The result was the capture of several of our fishing vessels on the charge of trespassing in British waters. — In 1818 commissioners from the two countries met in London to settle amicably disputed points in connection with the fisheries, and their deliberations resulted in the signing of the convention of Oct. 20, 1818. By the terms of the first article of the convention it was provided that subjects of the United States should have forever the right to take fish of every kind on the southern, western and northern coasts of Newfoundland, on the shores of the Magdalen islands, and on that of Labrador, from Cape Jolly northward, and to dry and cure fish in any of the bays, harbors and creeks of these regions, except the Magdalens, so long as they should remain unsettled. The United States renounced any claim of right to take, dry or cure fish on or within three marine miles of any British territory not mentioned in the specifications above. American fishermen were, however, to be admitted to all harbors for shelter, repair of damages, purchasing wood or obtaining water. In order to secure the observance of this treaty our government issued to its fishermen a notice warning them against violation of the provisions of the first article of the above mentioned convention, a copy of which was annexed to the circular. — In 1847, in consequence of a petition addressed to the queen by the Canadian parliament, negotiations were opened for the establishment of reciprocal free trade between the United States and Canada. In exchange for reciprocity in trade with the United States in all natural productions, such as fish, wheat, timber, etc., access was offered to the fisheries of all the colonies, except Newfoundland, which refused consent. Some years were consumed in fruitless effort, and it was not until June 5, 1854, that the reciprocity treaty was signed, the senate of the United States confirming it August 3. By this treaty the fishermen of the United States gained a right to fish on all the coasts of British North America, while British fishermen gained access to the waters of the United States north of Cape May (latitude 38°); the salmon and shad fisheries were reserved for the exclusive uses of the subjects of each country; certain rivers and mouths of rivers, to be determined by a commission to be appointed for that purpose, were also reserved. The treaty also contained numerous provisions to secure and regulate free trade in certain articles of commerce. The treaty was to remain in force for ten years, after which it could be terminated upon a year's notice by either party. The commission to designate the places reserved to each country occupied years in deliberations, the results of which were so insignificant that they do not deserve discussion in this connection. — The reciprocity treaty terminated March 17, 1866, in consequence of notice given by the United States, notwithstanding efforts on the part of Great Britain to secure its renewal. The provisions of the treaty of 1818 were now revived, and continued in force until 1871, a period of fifteen years, during which there were constant clashing and uncertainty. American fishermen were at once warned that their right to fish in British

1866. It was subsequently decided, however, that during 1866 vessels from the United States should be allowed to fish in all provincial waters upon the payment of a nominal license fee to be exacted as a formal recognition of right. This privilege was continued for four years. In 1870 it was, however, discontinued, owing, it is claimed by the British government, to the failure of our fishermen to provide themselves with licenses, a claim which was to a certain extent, I have no doubt, a true one. During the year 1870 a considerable number of American fishing vessels were seized by British and provincial vessels, and forfeited. — It now became necessary for the two governments again to meet the question squarely, and to this end was appointed the joint high commission, which met in Washington, Feb. 27–May 8, 1871, and from whose deliberations resulted the treaty of Washington. Articles XVIII. to XXV. inclusive, and XXXII. and XXXIII. of the treaty of Washington appertain to the fisheries. By the provisions of these articles citizens of the United States are allowed to take fish of every kind except shell fish along the shores of Canada, and British subjects have equal rights on the coast of the United States north of latitude 39° north, the shad, salmon and other river fisheries being excluded, and some trifling local exceptions in the treaty of 1854 being confirmed. Article XXI. provided for free trade between Canada and the United States in all fishery products save fish of inland lakes and rivers, and fish preserved in oil. It was the theory of the makers of this treaty that the United States was in all particulars the chief beneficiary, and it was consequently provided in articles XXII. and XXIII. that "inasmuch as it is asserted by the government of her Britannic majesty that the privileges accorded to the citizens of the United States are of greater value than those accorded to the subjects of her Britannic majesty," a commission should be appointed to decide upon the amount of compensation which should be paid by the government of the United States for the privileges to them accorded. The commission referred to met in accordance with the provisions of the treaty, at Halifax, N. S., and was in session from June 15 to Nov. 23, 1877. Its members were Mr. Maurice Delfosse, at that time Belgian minister at Washington, Sir Alexander T. Galt for Great Britain, and Hon. Ensign H. Kellogg for the United States. The record of its sessions may be found in 3495 printed pages of the "Documents and Proceedings of the Halifax Commission," vols. i. – iii., Washington, 1878. The entire lack of reliable statistics of the fisheries was of course fatal to the cause of the United States, the great mass of irrelevant and contradictory testimony given by fishermen and others summoned before the commission being nearly equally unconvincing and confusing on each side. Canada presented the so-called "official statistics" of its fisheries printed for ten years or more in the reports of the appeared valid and valuable, though the charges since published by Prof. H. Y. Hind show that their accuracy is far from being unimpeachable.* The decision of the case rested entirely with the neutral member of the commission, Mr. Delfosse, who without doubt based his action not upon the testimony presented, nor the facts otherwise accessible to him at the time, but upon certain considerations of diplomatic expediency, based upon the previous treaty relations of Great Britain and the United States. He adjudged to Great Britain the sum of $5,500,000, to be paid by the United States in exchange for alleged privileges granted to its fishermen in British waters. This sum was paid in 1878, and the terms of the treaty having been thus fully complied with, the fishermen of the two countries entered upon a mutual participation of fishing territory for a period of twelve years. — The only important difficulty occurring under this treaty was in January, 1878, when several Gloucester vessels, taking in cargoes of frozen herring at Fortune Bay, N. F., were attacked by the people of the vicinity, their nets cut up, and the crews driven away from the shore. This proceeding was manifestly an interference with American rights under the treaty, and the claim that local laws were being transgressed was quite untenable, such laws being annulled by the treaty. Such was the view taken by the British government, and damages to the amount of £15,000 were awarded, to be divided among the injured herring vessels, the total amount of claims being $105,305. — The present treaty terminated July 4, 1881, and notice having been given by the United States, its provisions will be invalid after the same date in 1883, when, unless some new arrangement be made, our privileges in British waters will be limited as before, and Canadian fish will no longer pass into our markets free of duty. — It is impossible in this place to discuss at length the advantages and disadvantages of the existing treaty. They may, however, receive passing allusion. The advantages to the United States were supposed to be twofold: 1, the right to buy bait in provincial ports; 2 participation in the inshore mackerel fishery of the gulf. The first is scarcely worth considering by treaty makers. The advantage to the bait seller is equally as great as to the buyer. Many provincial ports are dependent for livelihood upon trade with American fishing vessels, and only the most short sighted policy on the part of Canada and Newfoundland can exclude the only purchasers from their markets, for every vessel visiting one of their ports expends from $50 to $200. The second "advantage" strangely enough lost its value simultaneously with its acquisition. For half a century previous to the past decade the

* Prof. Hind's charges of intentional falsification of fishery statistics by the British authorities so widely published, are not sustained by evidence, and should not be entertained for a moment. The hundreds of errors which he has pointed out are evidently the result of inattention on the part of the responsible persons, and of childish incompetency on that of the clerks employed in their preparation.

mackerel fleet of New England was engaged for at least half the season in fishing in the gulf of St. Lawrence, and sometimes several hundred sails at one time were in close proximity to, if not within, the three-mile line. The general adoption of the purse seine resulted in a complete revolution in the mackerel fishery, as is shown in the following table, kindly furnished by Major D. W. Low, of Gloucester:

YEARS.	No. of Vessels in Gulf.	Catch in sea-packed Barrels.	Shrinkage in same, one-eighth.	Packed Barrels.	Value when sold in U. S., per Barrel; packing off.	Total value in U. S. of whole catch when sold.	No. of Barrels caught inside 3-mile limit; liberal est.	Value in U. S. of Mackerel caught within 3-mile limit; liberal est.
1873	254	88,012	11,001	77,011	$10.46	$805,535	25,670	$268,508
1874	164	63,078	7,885	55,193	6.25	344,956	18,398	114,987
1875	95	13,006	1,626	11,380	14.18	161,368	3,793	53,785
1876	64	5,495	687	4,808	11.60	55,773	1,603	18,594
1877	60	8,365	1,046	7,319	11.10	81,241	2,439	27,073
1878	273	.....	.....	61,923	4.15	256,980	20,641	85,660
1879	44	.....	.....	10,796	2.50	26,990	3,599	8,997
1880	34	.....	.....	7,301	7.73	56,364	2,433	18,783
1881	3	.....	.....	470	8.50	3,995	156	1,326
1882	1	.....	.....	275	8.50	2,125	95	717
Total	992	.....	.....	236,476	$7.50*	$1,795,327	78,827	$598,429

Yearly average catch per vessel ..... 238 barrels. * Average price per barrel.

The number of vessels and their catch in sea-packed barrels, up to 1880, is from British sources, with exception of catch of 1878 and 1879, which is from reports of Boston fish bureau; 1880 and 1881 was from United States fish commission. The vessel in the gulf in 1882 was the schooner Yankee Lass, of Boston. The market value of some of the mackerel was increased by scraping and messing them by the labor of the crews, *extra labor*. The cost of catching the mackerel was much greater than the price obtained, making an aggregate loss to those engaged in it. G. BROWN GOODE.

TREATIES OF THE UNITED STATES. Nov. 29, 1775, the continental congress appointed a committee of secret correspondence, charged with the duty of corresponding with the friends of the colonies in other parts of the world. March 3, 1776, this committee instructed Silas Deane to go to France, and ascertain from M. de Vergennes "whether, if the colonies should be forced to form themselves into an independent state, France would enter into any treaty or alliance with them for commerce, or defense, or both." Sept. 17, 1776, congress adopted a plan of a treaty to be proposed to the King of France. This plan embraced the following political ideas: 1. Equality with natives in the payment of duties or imposts, and the enjoyment of privileges, immunities, and exemptions in trade, navigation and commerce. This was not incorporated in any treaty actually concluded by the United States until after the peace of 1814. 2. Equality between France and the United States in colonial export duties. 3. Exemption from the *droit d'aubaine*. 4. That on the surrender of contraband of war by the commander of a vessel taken on the high seas in time of war, the vessel shall be allowed to proceed on its voyage. 5. That each party may capture goods the property of citizens of the other when found in enemy's ships in time of war. 6. That vessels and property rescued from pirates shall be restored. 7. That the ports of each shall be open to the prizes of the other without payment of duties, but shall not be open to the prizes of the enemies of the other. 8. That if a war breaks out, citizens of one power, residing as merchants in the dominions of the other, may have time to close their business and remove their properties. 9. The citizens of neither power can take out letters of marque against the other in time of war. 10. Citizens of each may trade with enemies of the other in time of war in articles not contraband, and free ships shall make free goods except as to articles contraband. 11. Vessels of either coming into ports of the other, and not wishing to break bulk, shall not be obliged to do so, in the absence of cause for suspicion. 12. Merchant vessels of one power on the high seas may be visited by vessels of war of the other for the purpose of examining their sea letters and passports. If these are found correct the cargoes can not be examined. The draft also contained several provisions respecting the contemplated alliance with France. — On Feb. 6, 1778, two treaties were concluded in Paris with France: a treaty of alliance, and a treaty of amity and commerce. The treaty of alliance contained the usual provisions in regard to mutual action in time of war and in making peace, and, in article xi., a mutual territorial guarantee, which afterward became a subject of contention. France guaranteed to the United States the whole of their possessions: the United States, in return, guaranteed to France its then present possessions in America, and such as it might acquire by a treaty of peace. The treaty of amity and commerce was somewhat less liberal than that proposed by congress, and contained the most favored nation clause. — Oct. 8, 1782, a treaty of amity and commerce was concluded with the Netherlands; April 3, 1783, a similar treaty with Sweden; Jan. 20, 1783, an armistice with Great Britain, followed on Sept. 3, 1783, by a definitive treaty of peace with that power; Dec. 10, 1785, a treaty of amity and commerce with Prussia; January, 1787, a treaty of peace and friendship with Morocco; and, Nov. 14, 1788, a consular convention with France. — These several treaties, con-

cluded prior to the adoption of the constitution, are remarkable for the directness and freedom from doubt with which they assume sovereign powers to be in the central government: as in 1, the restraints upon duties, charges and fees in the ports of the several states; 2, the prohibition of the exaction of the *droit d'aubaine* in the states; 3, the permission to aliens to own and dispose of real estate anywhere in the United States; 4, their right to reside and do business in the states on an equality with natives; 5, their right to worship after their own faith; 6, the right of foreign consuls to exercise judicial functions in the several states over the estates of their countrymen deceased; 7, their right to exercise police over vessels of their nationality in American ports, to arrest the officers and crews of the vessels, and to try and determine all disputes between them. They are also remarkable for humane provisions respecting the treatment of prisoners of war, and the exemption of women, children and non-combatants from the hardships of war, which have not yet been universally accepted. — The treaty of peace with Great Britain recognized valuable fishing rights on the Grand Banks, in the gulf of St. Lawrence, and in the bays, harbors and creeks of Nova Scotia, the Magdalen islands and Labrador, as belonging to the citizens of the United States in common with subjects of Great Britain. — When Washington became president, he found the northern frontier of the United States occupied by British military posts: at Detroit, at Mackinaw, at Buffalo, at Niagara, at Oswego, at Point au fer, at Dutchman's point, and even in the interior of Ohio. On the south, Spain had established a station at Natchez, and was pushing forward to Vicksburg under pretense of a treaty with Indians claimed to be independent. Both were intriguing with the Indians, evidently believing that the United States must disintegrate, and desiring, as nearest neighbors, if not next of kin, to obtain in the dissolution as much as possible. In this state of things the French revolution broke out; England took up arms against France; and Spain, on May 25, 1793, joined England. Meanwhile France, through an injudicious and irritating envoy, was making trouble for Washington, by attempting to fit out privateers for French use, and to rekindle the dormant feeling of hostility to England. In addition to a hostile occupation of our frontiers, England was seizing and confiscating our nascent commerce under pretenses that had no right but that of force. Washington was pressed to cast the fortunes of the United States on the one side or the other of the great struggle. In this emergency he sent John Jay, the chief justice of the United States, to London, as a special envoy. Nov. 19, 1794, Jay concluded the treaty which has since borne his name. It provided for the withdrawal of the British garrisons; for the settlement of some disputed points in the boundaries; for a joint commission to determine what payments should be made by the United States to Great Britain on account of the claims of British creditors; and for another joint commission to determine what payments should be made by Great Britain to the United States on account of illegal captures. It reasserted the power of the federal government over the subject of land titles in the states, made provision for consulates, contained a provision (the first one) as to the extradition of persons charged with crime, and provisions for regulating commercial intercourse. It contained no disavowal of the arbitrary principles which Great Britain had asserted, no provisions that free ships should make free goods, and it granted to Great Britain the privileges for her vessels of war and prizes which France enjoyed under the treaty of 1778. This treaty was disclosed by a senator. Its publication created an intense excitement, which lasted until the appropriations for carrying it into effect had passed a subsequent congress. I think it is the judgment of history, that, with all its shortcomings, it was a wise measure. We came out of the war of independence poor, with a great debt, with a depreciated paper currency emitted by the states and emitted by authority of Congress, with a paralyzed business, and with a narrow ribbon of population along the shores of the Atlantic, of uncongenial pursuits, with great difficulties of communication, and with no common historical traditions prior to the war. With the greatest difficulty the aversion to a stronger central government was overcome. The constitution started its operation in time of peace, among a people a large minority of whom, if not an actual majority, was averse to it. Jay's treaty secured a certainty of a longer time of peace for it to take root and grow. If we had not concluded that treaty, we might have been bound in honor to go to war with England at that time. I can not see what the result of such a war would have been: but I can see that by putting off taking part in the great struggle for eighteen years, we secured precious time for the people to become accustomed and attached to the new form of government: and on this I found my opinion that the measure, however intrinsically defective, was a wise turning point in our history. — Partly in consequence of the conduct of Genet, partly in consequence of our refusal to abide by the guarantees of the treaty of 1778, and partly in consequence of the conclusion of Jay's treaty, a diplomatic rupture took place with France, accompanied by acts of hostility on the high seas. Congress, on July 7, 1798, enacted that the treaties and consular convention with France were no longer regarded as obligatory. This state, neither of war nor of peace, was terminated by a treaty in 1800, which was followed, in 1803, by three conventions: one for the cession of Louisiana, with a provision putting the commerce of France on the footing of the most favored nation in the ceded ports; one providing for the mode of payment of 60,000,000 francs to France by the United States; and one providing for the further payment by the United States of 20,000,000 francs to citizens of the United States who had

claims against France. The claims excluded from participating in the division of this sum, constitute what are known as the French spoliation claims.—These treaties were assailed at the time of their conclusion, both on account of the acquisition of Louisiana, and of their not providing for the payment of the spoliation claims. Without expressing an opinion on the latter point, on the broader question I may say that history fully justifies the wisdom of a measure acquiring for us the mouth of the Mississippi. Jay's treaty and these treaties had a marked influence on the political history of the country. They mainly contributed to wrest the federal government from the hands of those who favored the adoption of the constitution, and place it in the hands of those who opposed it. They thus converted a jealous and astute oligarchy in the south from opponents into supporters of the new form of government, and made it their interest to preserve it during the long years that they held power. When the day of change at last came, the constitution had ceased to be an experiment. It had traditions in the national heart deep enough to protect it.—One other treaty of this period, the treaty of Oct. 27, 1795, with Spain, has survived to this time, and proved serviceable in recent political history. It contained agreements not to embargo the vessels or effects of citizens of either power in the territories of the other, and that, when arrested, persons should be prosecuted according to the ordinary forms of law, and have the right to employ agents and attorneys, and to have access to them. In the recent insurrection in Cuba, the insurgents had on their side everything to appeal to our sympathies. They were colonists, contending for self-government; humane men, contending against brute force; abolitionists, struggling against the re-establishment of slavery. Persons, said to be citizens of the United States, were seized and imprisoned without law, and denied access to counsel. Their properties were embargoed, and their incomes sequestrated. The treaty of 1795 gave us means of relief without resort to force; and afforded the government of the peninsula an opportunity of yielding to our demands without risk of revolution or of being upset. It requires but little imagination to conceive the evil effects upon the United States of a war resulting in the conquest of Cuba, and its admission into the Union subject to the conditions of the constitution as affected by article XV. of the amendments.—The Napoleonic wars swept away all our commercial treaties, except the treaty of 1795 with Spain. The Dutch subsequently contended that the treaty of 1782 with the Netherlands survived, but the American government contended otherwise successfully. Peace was concluded with Great Britain by the treaty signed at Ghent, Dec. 24, 1814. This treaty contained provisions for settling some parts of the boundaries that were in dispute, and a declaration against the slave trade; but it was silent on the subject of impressment and change of allegiance, and of the rights in the fisheries. On the latter point, a correspondence between John Quincy Adams and Lord Bathurst ensued. The former contended that the United States received their interest in the fisheries on the division of the British empire at the peace of 1783, and, therefore, could not be deprived of it by the abrogation of all treaties caused by a war. The latter maintained that the rights of the United States depended upon the existence of the treaty, and fell with its abrogation. This view was practically maintained. The treaty was criticised because it did not contain an abandonment of the right of impressment. This could not have been obtained from Great Britain; but the right has never been enforced since the maritime successes of that war, and is now practically as dead as if it had been abandoned in the treaty. The same commissioners concluded a commercial treaty with Great Britain, which was in force four years by its terms, and was subsequently extended ten years, and then expired of its own limitation. In that treaty, it was for the first time agreed that no higher or other duties or charges should be imposed in any of the ports of the United States on vessels of another power, than those payable in the same ports by vessels of the United States; that the same duties should be paid on the importation into the United States of any articles, the growth, produce or manufacture of a foreign power, whether such importation should be made in vessels of the United States, or in vessels of that power, and that in all cases where drawbacks were or might be allowed upon the re-exportation of any goods, the growth, produce or manufacture of either country respectively, the amount of the drawback should be the same, whether the goods should have been imported in American vessels, or in vessels of the foreign power. These provisions have often since been inserted in treaties.—In 1818, a convention was concluded at London for the definition and regulation of the fisheries, and also for the further settlement of disputed boundaries; and a joint occupation of the country west of the Rocky mountains was agreed to. The rights conceded to the United States fishermen by this convention are decidedly less than those conceded by the treaty of 1783, and are expressed in language which has given rise to much contention, the United States contending that it gives the right to fish within the waters of the bay of Fundy and other similar waters, and Great Britain contending otherwise. The treaty was negotiated, on the part of the United States, by two eminent diplomatists, but can not be regarded as a satisfactory solution of a question which is, in fact, difficult of solution. I shall refer later to modifications that have been made in it. The third article, which provided for the joint occupation of the territory west of the Rocky mountains, was, in 1827, extended indefinitely, with a privilege to each to give twelve months' notice of a purpose to abrogate and annul it. The United States gave this notice during President Polk's term. The two powers then concluded the treaty of June 15, 1846, adopting the 49th parallel

ing the continent from Vancouver's island. It is to be regretted that the Oregon boundary question became entangled in party politics. The great Irish emigration began soon after the settlement of 1846; and the discovery of gold in California carried the stream of population to the shores of the Pacific. We had everything to gain by delaying the settlement, if it was to be done by compromise, as it actually was. But while slavery existed, there was a strong interest to prevent the extension of free territory, and a settlement was forced which can not be called far-seeing or statesmanlike. — The treaty with Spain of Feb. 22, 1819, closed a long series of diplomatic discussions relating to the boundaries between Louisiana and Florida, to condemnations of American vessels by French consuls within Spanish territories, to the suspension of the right of deposit at New Orleans prior to the acquisition of Louisiana, and to the fitting out, within the United States, of expeditions against Spain in aid of the revolutionary colonists. By the treaty the United States adjusted its southern boundary by the acquisition of Florida, and by an agreement as to the line from the gulf of Mexico to the Pacific; and each party made a general renunciation of claims against the other. As there was little population in Florida, and no settled institutions and form of civilization differing in spirit and in language from that prevailing in the United States, the measure was statesmanlike. It also tended to prolong the rule of the south, which eventually operated, as already explained, to increase the chances for the permanency of our institutions. — The congress of Panama, convened on the suggestion of Bolivar, aimed to secure military, political and commercial alliances. It failed in all, partly for reasons which make all such attempts quixotic, and partly in consequence of the existence of slavery in some and not in others of the powers. An account of the treaties of the United States would be incomplete without an allusion to the failure of this the most ambitious attempt at negotiations. We did, however, conclude separate treaties of amity and commerce with most of the American states of Spanish or Portuguese origin. — In 1817 congress framed for the first time a general navigation law, restricting importations to vessels of the United States, or to vessels of the country of the origin of the goods. We find the marks of this legislation in subsequent commercial treaties, in the provision that whatever kind of produce, manufacture or merchandise of any foreign country could be, from time to time, lawfully imported into the United States in their own vessels, might also be imported in the vessels of the other power. — The extending commerce of the United States also induced the revival of some of the powers respecting our vessels in foreign ports, and foreign vessels in our ports, and disputes of seamen and deserters, which had been conferred upon consuls by Jefferson's convention of 1788 with France. These important provisions were for many years inserted in treaties

tary or state, negotiated a purely consular convention with France; and, since then, the custom has been to treat of these subjects in special conventions.—During the administration of Gen. Jackson, great progress was made in adjusting private claims growing out of the French revolution. Claims conventions were made with Denmark, the Two Sicilies and France. This policy of solving private international questions by arbitration is well settled in the United States; and was the subject of comment in the French chamber of peers as early as 1831, when the Baron de Barante, discussing the French claims convention of 1831, said of the United States, "Lorsqu' on viole à leur égard les règles de la neutralité, ils ne font pas la guerre. * * Faire rendre justice à leurs citoyens est donc un de leurs premier devoirs; et en cela, ils sont plus à imiter qu' à blâmer. De sorte que, sans éclater en hostilités, ils se plaignent, produisent patiemment leurs réclamations; et quand le jour arrive ou l' on a besoin de leur bienveillance, ou leur amitié pourrait être à rechercher, ils profitent de l'occasion, et font solder les créances privées, dont on contestait ou retardait paiement." — During the administration of President Tyler the northeastern boundary, about which there had for many years been a dispute with Great Britain, which more than once threatened to come to blows, was finally settled by yielding to Great Britain a considerable part of the territory of the state of Maine. The same treaty introduced the policy of joint efforts for the suppression of the slave trade, and contained the only agreement which had then been made, since Jay's treaty, with any power for the surrender of persons charged with the commission of crime. Since then, extradition treaties have been made with most of the powers with which we have diplomatic relations, and the catalogue of crimes upon which the treaties operate has been much extended, as will be seen by comparing the list of crimes in article II. of the treaty of June 13, 1882, with Belgium, with that contained in article X. of the Webster-Ashburton treaty. — During the administration of Mr. Polk two important political treaties were made. The first placed our commercial relations with China on a treaty basis, and gave us the right of exterritorial jurisdiction within defined limits. The second terminated the war with Mexico by a treaty which annexed California to the United States. The influence of the latter upon the fortunes of the country was instant and decisive. The influence of the former upon the destinies of China is beginning to be apparent. — During the same administration the first international postal convention was concluded. As early as 1787 France invited the United States to make such a convention. In the reorganization of the government the scheme fell through, and sixty years elapsed before a postal treaty was made. In the course of another thirty years the system was vastly improved, and has become universal. — The same administration concluded with New Grenada a treaty whereby

the United States agreed to guarantee the neutrality of the isthmus of Panama, and the rights of sovereignty and property of New Grenada therein. The United States invited Great Britain in 1849 to join in this guarantee. No answer was given to the invitation; but in April of that year the treaty known as the Clayton-Bulwer treaty was concluded. This treaty has given rise to more questions than it contains articles. Before ratifications were exchanged, a question arose whether it should apply to the Belize. Then discussions were had about the canal to which it should apply, and at the end of two years it was settled that it should apply to the Hise grant. Then Great Britain for some years tried to evade its operation upon the Mosquito Indians. Then it had prolonged negotiations with Nicaragua, Costa Rica and Honduras, in order to dispose of the Indians. By this time the rebellion broke out, and the interest of the United States in the question was suspended. The grant of canal franchises to the French company revived interest in it. Then the United States proposed to abrogate most of the treaty, which Great Britain declined. Then the president, in 1882, informed Great Britain, that the treaty having been made with a view to the construction of a canal under the Hise grant, and the same having become impracticable for causes for which Great Britain alone was responsible, the United States did not regard the treaty as longer binding. The policy of making this treaty has been much questioned; but it certainly dispossessed Great Britain of an important military, naval and political position on the isthmus, at a time when the relative strength of the two powers was very different from what it is now; and, as construed by the United States, it contains no continuing engagements to embarrass us. Judged by these results the measure was wise. When the question was slumbering after a rest of over twenty years, it was revived by the proposition to abrogate the treaty. In spite of the distinguished names supporting that act, I can not but regard it as unwise. The question was not at that moment what is called "a burning question"; it could have rested, perhaps, for many years, before a solution would have been necessary; and meanwhile the relative strength of the two powers was every day changing in our favor. — In President Pierce's time the adhesion of the United States was asked to the declarations of the congress of Paris, and answer was made that the president proposed to add to the first proposition the words "And that the private property of the subjects or citizens of a belligerent on the high seas shall be exempted from seizure by public armed vessels of the other belligerent, unless it be contraband." This was not acceded to. When the Franco-German war broke out, the French minister notified the secretary of state that in the war France would conform to the declaration of Paris; and the German minister notified him that private property on the high seas would be exempted from seizure by vessels of war, without regard to reciprocity. — During the same presidential term a treaty was concluded with Great Britain for reciprocity in the free admission of certain enumerated articles between the United States and what is now known as the Dominion of Canada, and for the common enjoyment of the British inland fisheries by both peoples. I can not but regard this as a wise and statesmanlike treaty, which would have led to a nearer political connection with Canada. The war, however, enabled some Canadians to show a spiteful feeling toward us, to which congress responded by the abrogation of the treaty. Since that day Canada has been drifting away from the United States in legislation and policy. — The United States are founded upon the right of persons at their own election to abandon an old allegiance and acquire a new one. Yet this principle did not receive the formal adhesion of any other power until Feb. 22, 1868, when the naturalization treaty with the North German Union was signed. Since then, similar treaties have been entered into with Bavaria, Mexico, Baden, Würtemberg, Hesse, Belgium, Sweden and Norway, Great Britain, Austria-Hungary, Ecuador and Denmark. The principles recognized in these treaties are, that an agreed term of residence in the new country is necessary before the change of allegiance will be recognized by the old; and that a resumption of residence in the old country without intent to return may be taken to be an abandonment of the acquired citizenship. — The same period saw a series of agreements made for the protection of trade marks. This arrangement has been made with Russia, Belgium, France, Austria-Hungary, Germany, Spain, Great Britain and Brazil. — The close of the war left questions pending with Great Britain growing out of captures by vessels of war fitted out on British territory; and claims by Great Britain against the United States on behalf of British subjects injured in their persons or properties by the forces of the United States. There were also differences growing out of alleged interferences with the fishermen of the United States. There was, too, a difference in the construction of the treaty of 1847 for settling the northwestern boundary. That convention required the line, after leaving the mainland, to proceed to the middle of the channel which separates the continent from Vancouver's island, and thence southerly, through the middle of said channel and of Fuca's strait, to the Pacific ocean. There were three channels: the Rosario to the east, the Douglass in the middle, and the Canal de Haro to the west. Both parties agreed that the Douglass was not the main channel. Great Britain claimed the Rosario as that channel; the United States the Canal de Haro. The treaty concluded at Washington on May 8, 1871, was intended to determine all these questions. It provided for a tribunal of arbitration at Geneva for the settlement of the Alabama claims, and laid down three rules for the government of the tribunal, which the two powers agreed to communicate to other powers. It arranged for a claims commission to sit at Washington and de-

cide upon the British claims. It agreed to restore the fishermen of the United States to the rights enjoyed under the abrogated reciprocity treaty, for a term of years for a limited reciprocal commercial arrangement, and the payment of a sum of money to be determined by a joint commission, to sit at Halifax. It provided for common enjoyment of the waters of the lakes and canals; and it referred the settlement of the boundary dispute to the arbitration of the emperor of Germany. In due time these questions were disposed of in the manner provided by the treaty. The decisions, so far as they were adverse to the United States, have been the subject of criticism here; and so far as they were adverse to Great Britain, of criticism there. My own judgment is, that, without dwelling upon details, the prestige and influence of the United States, and the respect in which it was held in other parts of the world, were decidedly increased by this treaty, and by the proceedings which took place under it. — During President Hayes' term the treaty with China was modified so as to allow the United States to regulate, limit or suspend the coming of Chinese to the United States or their residence here, but not to absolutely prohibit it. Congress exercised this power to the extreme limit allowed by a liberal construction of the treaty. During the same term a convention was proclaimed which had been concluded during the presidency of Gen. Grant, providing for the establishment of an international bureau of weights and measures; and a convention was concluded with the emperor of Morocco and the principal powers of Europe for the purpose of better defining the right of protection of Christian powers in that Mussulman kingdom. — In President Arthur's time the United States have acceded to the international convention for the amelioration of the wounded in armies in the field; and a general treaty of friendship and commerce has been concluded with Madagascar. — The collection of treaties made in 1873, and revised in 1876, contains, in all, 255 instruments. Twenty-nine have since been added to it. Of the whole 284 some have become entirely obsolete, others in part so, either through their own limitation, by agreement of parties, by notice given by one party to terminate, by absorption of the contracting party into another nationality, by effect of war, or by act of congress. A reference to the notes to that collection will give information in detail on these points. — A treaty made under authority of the United States is, under the constitution, in common with laws made in pursuance of the constitution, the supreme law of the land. It is subject to the constitution, and is inoperative when conflicting with it. It overrides all state laws in conflict with it. It overrides all laws of the United States in conflict with it and anterior to it; but, within the territory of the United States, and in its operation upon officers of the United States, it is controlled by laws enacted by congress after its conclusion. For municipal purposes it ceases to be law; internationally the duty of observing it is not weakened by municipal law. — One thing more is to be remarked. Our treaties in two languages, with powers not using the English language, have rarely been the subject of contention as to construction. On the other hand, we have made few treaties with Great Britain, with which we use the English language in common, the construction of which has not been more or less in dispute. — During the revolution, and up to the adoption of the constitution, it was the custom to make the agreements of the United States with Indian tribes in the form of treaties. This practice was continued under the new form of government. The constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and consequently admits their rank among the powers which are capable of making treaties. Nevertheless, such treaties are not the treaties which form the subject of this article.

J. C. Bancroft Davis.

TRENT AFFAIR, The (in U. S. History). In the autumn of 1861 the government of the confederate states (see that title) sent J. M. Mason and John Slidell as commissioners to Great Britain and France respectively. They ran the blockade to Havana, and there embarked on an English merchant steamer, the "Trent," for St. Thomas, on their way to England. About noon of Nov. 8 the vessel was stopped in the old Bahama channel by the United States steamer "San Jacinto," Capt. Wilkes, and the commissioners were taken out of her and transferred to Fort Warren, in Boston harbor, as prisoners. — Capt. Wilkes' act was warmly approved by the people of the United States; but he had nevertheless transgressed the neutral rights for which the United States had always contended, and he had undertaken to put in force the right of visitation and search which the United States had found insufferable when it was claimed by Great Britain. (See Embargo.) The United States government therefore disavowed his action, and surrendered the prisoners to Great Britain. There was, however, a residuum of American ill-feeling toward Great Britain because of the British government's officious preparations for an improbable war. Before giving the United States any opportunity for explanation or disavowal, the British ministry prepared troops and transportation for Canada, forbade by proclamation the exportation of arms and munitions of war, and instructed Lord Lyons, its minister at Washington, to withdraw from the United States unless the prisoners were set at liberty and an apology tendered within a time "not exceeding seven days."— See *Diplomatic Correspondence* for 1861–2, and authorities under Rebellion, as 2 Draper's *Civil War*, 540.

Alexander Johnston.

TUNGUSIC RACES. (See Tartar.)

TURKEY. (Turkish, *Dowlet el Othmanié*, or Ottoman Rule, also *Othmanié vilayeti*, or Ottoman provinces. Ottoman Empire and Sublime Porte —*sublimine portæ*—are the two phrases used in treaties. Through Asia and in most Mohammedan communities, as well as through Moslem history, the Turkish dominion is *El Roum* and its head *Sultan el Roum*, in allusion to his succession to the lower Roman empire.) The term Turkey is in general limited to the territory directly occupied by the Turkish empire, a territory in which Turks constitute probably less than one-twentieth of the population, and the term Turkish empire is in general confined to the government carried on by this small fraction of the population. Under this government, a number of races preserve a distinct organization, tribal, ecclesiastical or territorial, and the territory recognized in treaties as the Turkish empire, the government carried on by the Turks and the races inhabiting Turkey, must be carefully distinguished in the study and discussion of this subject. The territory of the Turkish empire consists of the four provinces in Europe immediately subject to the porte; the organized province of eastern Roumelia, the autonomous but tributary state of Bulgaria; the two provinces of Bosnia and Herzegovina, "occupied and administered" by Austria; the Asiatic provinces, including two in Arabia, directly subject to the Turkish government; the tributary principality of Samos; the autonomous administration of Crete; Cyprus, occupied, subject to fixed charges, by Great Britain; Egypt, whose relations are discussed elsewhere under that title; and the single African province directly subject to the porte, Tripoli. The extent of this territory and its population is, from the lack of statistics, extremely indefinite. The following statement can not be considered more than approximate:

	Kil. Car.	Pop.
Turkey in Europe:		
Immediate possessions	165,438	4,490,000
Eastern Roumelia	35,901	815,946
Bosnia and Herzegovina (occupied by Austria)	61,065	1,158,440
Sandjak of Novi Bazar		168,000
Bulgaria (tributary)	63,972	1,998,983
	326,376	8,631,400
Turkey in Asia:		
Immediate possessions, including Arabian provinces	1,889,055	16,132,900
Samos	468	40,089
	1,889,523	16,152,989
Turkey in Africa:		
Tripoli (province)	1,033,350	1,010,000
Egypt (dependency)	2,987,000	17,577,000
	4,020,350	18,587,000
Turkish empire	6,236,250	43,391,000
Immediate possessions	3,087,850	21,633,000
Dependencies	3,148,400	21,758,000

In Europe the area, undetermined, of the sandjak of Novi Bazar, with a population of 168,000, is still under Turkish administration, although a part of Herzegovina. In Asia the only portions of Arabia under the organized control of the Turkish government are the two vilayets of Habesh, or Hedjaz and Yemen, and the Haram (sacred) containing Mecca. These contain a population of 1,296,845. In Egypt the figures given above exclude Kordofan, Darfur and several provinces in the Soudan having a territory of 1,000,000 square miles, and a population of 10,800-000, whose successful revolt in 1883 renders their distant connection with the empire doubtful. Servia (48,950 kil. car.; and 700,211 pop.) and Montenegro (9,030 kil. car.; 236,000 pop.) were dependencies up to the treaty of Berlin. — The boundaries of Turkish territory, exclusive of appanages, are the product neither of geographical lines nor ethnical divisions; but of a long series of treaties, of which the last and most important is the treaty of Berlin, signed July 13, 1878. Under this treaty the northern boundary of European Turkey still includes Bosnia and Herzegovina, which, with the exception of the sandjak of Novi Bazar, are for all practical purposes Austrian. Serbia next bounds Turkey to the Danube, and the space between this river and the Balkans is occupied by the tributary state of Bulgaria, with the exception of the Dobrudja and the additional territory lying north of a line drawn from Silestria on the Danube to the Black sea, south of Mangolia. The Black sea, the Bosphorus, the sea of Marmora, and the Hellespont and the Ægean, constitute the remaining boundaries of Turkey in Europe until Greece is reached. The present boundary between the two countries was determined by an international boundary commission acting under the Berlin treaty, but following the line determined upon at the Constantinople conference in 1881. Instead of the original line from the mouth of the Kalamas to that of the Salymbria river, the new boundary, which ceded 265 geographical miles, or two-thirds the area under the original award, starts from Kara Derwent, on the gulf of Salonica, follows the southern ridge of the Olympus, passes south of Messova, and reaches the Adriatic by crossing the valley of the Arta, of which Greece receives two-thirds. The Adriatic forms the western boundary of Turkey, except where the Berlin treaty gave Montenegro (Czernagora) an approach to the sea by ceding Antivari. The 1,814 square miles constituting the previous area of Montenegro were also enlarged by adding from Herzegovina the districts of Banzani, Rudine, Nicsic, Duga, Piva, Drobuzak, Yezera, Kolashin and Saranci, 1,167 square miles, and from Albania, Spuz, Podgoritza, Zablyak, Plava Gusigne, Antivari and Krazina, 661 square miles; in all, 1,828. Turkey in Asia has natural sea boundaries on the north and west, while Arabia in a sense bounds it on the south. Its eastern boundary begins, under the Berlin treaty, at Makialos, on the Black sea, and, running southeast in an irregular line, rejoins the old boundary just beyond Kaghizemann. This cession to Russia included Batoum, Kars and Arda-

han, of which the last is the only place with a population of 5,000. An additional tract one-third as large, including Bajazet, ceded by the treaty of San Stefano, was retained by Turkey, its possession greatly improving its strategic line about the headwaters of the Euphrates. At the same time the new boundary between Turkey and Persia, by ceding to the former the town of Kotovi, gave a Russian ally control of the headwaters of the Araxes. The Turkish sovereignty over Arabia is practically limited to Mecca, Medina, their port Jiddah and Yemen, a large tract in the interior extending to the Persian gulf being under independent control, while the desert region between Arabia proper, Syria and Mesopotamia, maintains a precarious independence. Turkish authority is also limited in Armenia, where the powers have a treaty right of interference; in the pashalic of Lebanon, a tract eighty-seven miles long, which can only be governed by the porte through a Christian pasha, satisfactory to the powers supporting the French occupation in 1861; in eastern Roumelia an autonomous province south of the Balkans, also governed by a Christian pasha; in Samos, an independent tributary principality; in Crete, an autonomous province; in Cyprus, under British control; and, as already mentioned, in Bosnia and Herzegovina. These limitations sufficiently indicate the intricate nature of the sovereignty enjoyed by the sultan, whose character is more clearly conveyed by the indefinite native term "Ottoman Rule" than by any exact term. — The ethnical character of the Turkish empire is the result of successive conquests, which have associated widely different races without uniting them in a common political society, or amalgamating them by ties of blood and intermarriage; a circumstance which explains much in the arrested development of Turkey. The European territory of the empire is inhabited by Indo-Europeans, Slaves and Greeks, with (probable) remnants of aboriginal tribes in Albania. The islands of the Ægean, Asia Minor, and the mountains which connect its central plateau with the Caucasus, are, in the main, inhabited by Indo-European races, Greek, Armenian and Kourdish succeeding each other from west to east. Syria and the great plain to the east is, in general, inhabited by races Semitic in origin, whose blood grows purer toward the south. The one notable exception is in Irak-Arabia, the borderland between Persia and the southeastern extremity of Mesopotamia, where a strong Indo-European element appears. Scattered over this entire area, but growing infrequent in the south and rarely occurring in European Turkey, are nomadic Tatar tribes still living in the black tents of the steppes. The government of the realm is in the hands of a comparatively small body of "Turks," the descendants of the original Tatar invaders, of prominent and leading families, which adopted the religion of, and were incorporated with, the conquerors, at varying intervals during the 700 years ending with the eighteenth century, and of the constant accessions to this ruling class from captives in war, or the steady draft made for 500 years (1300–1800) on the male children of subject races. The Moslem and Christian creeds have maintained one great division in the empire, language has done more, and the great difficulties of communication have maintained separate and distinct some populations almost pure in race and blood. But these influences have all been so modified by time and conquest, the great solvents of race, that a complete change in character without an alteration in form has often taken place, not unlike that occurring in a pseudomorphic crystal. A "Turk" may be one or two generations removed from a pure Hellenic descent, a "Greek" have none but Slave blood in his veins, and a "Bulgarian" be the descendant of a peasant proprietor of the Roman period. — Statistics in regard to racial and religious divisions in the empire are mere estimates. It is probable that about one-third of the population of European Turkey is Mohammedan, most estimates agreeing at this point. In Asiatic Turkey the Mohammedan population constitutes the larger portion; but the usual estimate which gives it seven-eighths of the total is an exaggeration. Over thirty years ago Ubicini, who placed the total population 50 per cent. too high, gave the number of Armenians at 2,400,000, Greeks 2,000,000, Kurds 1,000,000, Slaves 6,500,000, and Arabs 900,000; while frequently quoted, these figures are mere approximations. If the term Ottoman or Turk is limited to the ruling class, the Turks constitute an extremely small fraction of the whole. If it is extended to the large Turkish-speaking population of Asia Minor and Armenia, and the smaller fraction using the same language in European Turkey, it includes nearly all the Moslem population in these divisions of the empire. But, while Turkish came to be the Mohammedan tongue in the region long occupied by the Seljuks, and first conquered by the Turkish sultans, the line of the caliphate dominion can still be traced by the prevalence of Arabic as the Moslem tongue among the races, chiefly Semitic, south of the Taurus, which checked the Arab advance. Greek is the familiar tongue of the seacoast of Asia Minor, which remained in Byzantine hands long after the interior was occupied by Turkish. In European Turkey, Greek and Greeks are superseded in the interior by Bulgarian. Eastern Roumelia, lying south of the Balkans, has 573,560 Bulgarians, 174,700 Türks, 42,659 Greeks, 19,549 Gypsies, 4,177 Armenians and 1,306 Jews. In Thrace and Macedonia this proportion would be reversed. The Armenians and Kurds, comparatively recent Turkish conquests, indicate the purity of their stock by the use of their own language. The empire contains, besides the races already named, in Europe, Albanians (Skipetars), Zingari, a mixed Slave-Greek race, and small settlements of Ukraine Tatars and Circassians. In Asia, besides the leading races of Ottomans, Arabs, Armenians, Greeks and Kurds, there are Druses and Maronites

in Mount Lebanon, Yezidis, the fire-worshipers of Mesopotamia, and large wandering Turkoman tribes on the plateau of Asia Minor, to which the Circassian immigration of recent years has added a new element. While modern Turkish law affects to regard all these races as Ottoman subjects, each has retained its individuality, the larger divisions manage their own internal affairs, and scattered communities and districts maintain a separate existence of their own. — Over this diversified territory and these still more heterogeneous races, the Turkish government is superimposed, obtaining its original authority by conquest and the high administrative ability of early sultans. This power has been retained in the lack of any subject peoples equal alone to rebellion, and through the early policy which early incorporated the natural leaders of the local races among the conquerors. Historically the successor of the Parthian empire, like it the result of an invasion from central Asia, and more successful in organizing an army than in civil sway, the Turkish rule leaves behind it no civil monuments but buildings constructed by Greek and Semitic architects. The circumstance that the Turkish invaders adopted the Mohammedan religion has profoundly influenced the policy of the empire; but it has no more changed the character of its rule than the like adoption of the local cult of China has altered the essential character of the Machu conquest, or left it other than an invasion encamped in a palace. Politically the empire of the sultan is divided, in part by geographical conditions, and in part by race and language, into certain grand divisions, accepted in discussions of the eastern question, and familiar in its diplomatic correspondence; but these divisions are undefined and have no administrative significance. Turkey in Europe is divided in its eastern half by the Balkans into Bulgaria and Roumelia, the latter having an eastern and western division, and covering, in the extension given it by Turkey and the treaty of San Stefano, Thrace and Macedonia. Albania occupies the remainder of European Turkey. Asiatic Turkey is divided, after the same loose fashion, into Anatolia, or Asia Minor, Armenia, Kurdistan, Mesopotamia, Syria, and the triangular plain between, usually assigned to Arabia on maps, but in all senses part of the empire. These divisions, used much more frequently in foreign discussion of the empire than its actual divisions, correspond very closely in use to the "north," "south," "Pacific slope," "west," "northwest," as employed in the United States; convenient but by no means exclusive, and often misleading, divisions. The only territorial divisions having a political and administrative significance, are vilayets, provinces or governments general, closely analogous to the French department, and governed by a wali; sandjaks, *arrondissements* governed by mutessarifs; kayas, cantons, governed by karmakaurs; nahiés, townships, towns or communes, governed by mudirs; and lastly villages, which in European Turkey have as their head a kodja bashi, and in Asiatic Turkey a kahya, usually of local selection. — Of these divisions the vilayet is the successor of the Byzantine thema, whose boundaries many existing vilayets follow, and the sandjak is generally the representative of one of the ancient military fiefs, which, under the earlier sultans, were ruled by a semi-independent and hereditary bey, who furnished a contingent of troops, generally horse. Shortly after the conquest of Constantinople, the Byzantine province was adopted as the new unit of administration, the sandjaks being grouped for this purpose under the government of a wali, or prefect, as the word is used in Arabic history. The practical result of this difference between the origin of these two divisions, is, that the vilayet is often bounded by an artificial or official line, while the sandjak, particularly in European Turkey and in the mountainous regions of Asiatic Turkey, represents a natural and historical division of territory. The sandjaks of European Turkey, whose arrangement in vilayets has not been permanent since the treaty of Berlin, are Monastir Korytya, Prisrend, Urhkul and Debra in the vilayet of Monastir, Jannina, Prevesa, Argyro Kastro Berat and Trikala, the vilayet of Jannina; Salonica Seres and Drama, vilayet of Salonica, Adrianople, Rodosto and Gallipoli, vilayet of Adrianople. The old sandjaks of Phillipopolis and Slivno constitute eastern Roumelia and Rutschuk, Tultiha, Varna, Tirnova and Widdin, Bulgaria. Novi Bazar and Scutari are sandjaks under a separate administration. The vilayets of Asiatic Turkey, nineteen in number, have remained unchanged through a long period. Constantinople, rather a metropolitan district than a vilayet; Brusa; Aidin; Kastamuni (Paphlagonia); Angora (Bozok); Konieh (Iconium), or Karamania; Adana (Cilicia); Sivas (Cappadocia); and Trebizond (Pontus and Colchis); make up Asia Minor. Erzerum and Kharput cover Armenia and part of Kurdistan. Part of the latter is to be found in the vilayets of Diarbekir and Mosul. Mosul also extends into Mesopotamia, whose southern portion is the vilayet of Baghdad. Syria is divided into Aleppo and Syria proper, with its capital at Damascus. The islands of the Ægean and Rhodes make a separate vilayet, as did Cyprus. Crete ranks as a European vilayet. The two Arabian vilayets are Hedjaz and Yemen, or Habesh, and Hedjer, or the Haram. Tripoli is also a vilayet. In the above summary, the classical division corresponding most closely to the vilayet is given. These administrative divisions originated, however, like the entire framework of Turkish administration, in the Byzantine empire. The Byzantine thema and vilayet are substantially the same unit, and their respective boundaries closely correspond. Asiatic Constantinople corresponds to thema Optimaton, with its eastern end curtailed by early Turkish conquest; thema Opsikion is Brusa; Aidin, thema Thrakesian, the Turkish administration still preserving the division which consigned a part of the seacoast to the same government as the adjacent islands. Themata Anatolikon and Ki-

byrrhaioton are substantially Konieh, Seljuk conquests having extended the original coast line of the southern province and including Lake Tchölli on the northeast. Adana differs little from thema Seleukeias. Various causes have united to modify the Euxine provinces, and their relation to the Byzantine divisions is less apparent. The short-lived empire of Trebizond determined the littoral vilayet of that name, and Kastamumi, Angora and Sivas are the survivals of independent sultanates, as are in all probability Kharput, Erzerum and Diarbekir. South of this point the administrative divisions of the caliphate exercise their influence on the political geography of Turkey. — *Government.* The Turkish government is an absolute despotism, tempered by the democratic equality of Moslem law. A standing army, a most unusual resource in oriental history, has supported it from an early period. Its administration has followed Byzantine models, and the loose character of its conquest led to the large grant and exercise of local government and administration among subject races. Only within a recent period has an organized bureaucracy been attempted, and with but partial success. The adoption by a Tartar conquest of the forms of a Semitic caliphate, modified by European (Roman and modern) administration, fills the political forms of the Turkish rule with contradictions which render a coherent statement difficult. — The three strands of Turkish administration, civil (legislative, judicial and administrative), military and religious, all run back to the sultan, whose titles sufficiently express his relation to each. As "Caliph of the Prophet of God" and "Emir el Moumenien," (Commander of the Faithful), he is the spiritual head and military commander of Moslems. In one capacity he has the right to interpret the Koran and Moslem traditions, and is hence at the head of Moslem law. In the other he has a claim upon the military service of Moslems, two capacities further supported by the fact that he is "Guardian of the Sacred Places," not *de jure* but *de facto*, and is hence employing his spiritual and temporal powers in protecting Moslem rites. This control in addition gives him a predominant influence over the three chief sources of Moslem doctrine, in the sheriff of Mecca; the sheikh-ul-islam at Constantinople, his spiritual deputy; and the mosque of Akkbar at Cairo. The reigning prince of the house of Othman is, in addition, in his own right, "Khan," that is, prince of his tribe; "Sultan of Sultans," and "Ruler of the Two seas and Two lands which make up the Ottoman realm, by the right of the sword." In theory, therefore, the sultan is the prescriptive head of his Moslem subjects under Moslem law, and the absolute ruler and conqueror of other races in his dominions. Nor, however modified by treaties or obscured by European administration, does this distinction ever altogether disappear. —Legislative authority vests absolutely in the sovereign as caliph and sultan, spiritual and temporal prince. Turkish law itself is divided into two great divisions, the *sheriaàt*, or spiritual law, and the *kanouni* (rules), or temporal law. The former is derived from the Koran, the traditions of the prophet, and the decisions of his immediate successors. In theory, this law is fixed and immutable; but, as the only supreme authority in its interpretation is the spiritual deputy of the sultan, and ten centuries have accumulated in addition contradictory rescripts, or *fetvahs*, the sheriaàt can be accommodated in practice to any exigency. *Stare decisis* is, however, imbedded in Turkish law in the phrase "The gates are here closed," and Turkish, like all Moslem jurisprudence, is full of instances of judicial resistance to an absolute monarch. The kanouni is the act of the prince *proprio motu*, like the constitutions of civil law, after which it is modeled, and from which it is directly derived. Codified by Ibrahim Halebi (of Aleppo), under the reign of Solyman I., the *multequa* bears at every turn the influence of the Justinian code, and is a laborious attempt to unite in one the civil legislation and judicial decisions of the Moslem law. It remains the final authority in Turkish courts, but has been modified by the Hatti Sherif of Gulhaneh (Nov. 3, 1839), in which the Sultan Abdul Medjid declared equal rights; Hatti Humazoun, 1856, in which religious liberty was enacted; a penal code, 1840; a commercial code, copied from the French, 1840, etc. In the contradictory progress of recent years, these have been greatly multiplied by a maze of decrees. Besides the Moslem law, the subject races are, for many purposes—marriage, divorce, legacies, larcenies, lesser offenses, and cases relating to ecclesiastical benefices and succession—under their own canon law. The principle of exterritoriality extends over foreigners resident in Turkey, the jurisdiction of consular courts; each administering the municipal law of its origin. — The sheikh-ul-islam is the ultimate judicial authority of the empire, his fetvah, in the form of an answer to a case stated, deciding all administrative and judicial issues. The ancient courts of the empire (sheri courts) consist of the high court of appeal (aryodaci), divided into two chambers (soudours), presided over by the cadi-asker of Roumelia, or European Turkey, and the cadi-asker of Anatolia, or Asiatic Turkey, each having the jurisdiction indicated. Subordinate courts exist for each of the mevlievets, or grand judicial districts, which include several kayas. These judicial divisions do not correspond with the vilayet and sandjak, being less in number and differently arranged. Constantinople and Mecca are the first two, and the other divisions of the empire are arranged in three classes. The organization of the three series of courts is the same, consisting of a cadi, judge, varying in rank, but always a mollah who pronounces the decision; a mufti, who expounds the law; naibs, or deputies; and kiatibs, or notaries. Appointments to all judicial positions are annual, revocable, and divided according to rank between the sultan, sheikh-ul-islam, cadi-askers and lower judges. The distinction between civil and criminal law is

not observed in the courts; corruption exists in all, and the practice is of the loosest description. Judicial positions are filled from the ulema, or learned men, graduates of schools (medrerrehs) connected with the mosques. Judicial salaries are paid out of a tax on suits. "Mixed" civil and penal tribunals for the trial of cases between Ottoman subjects and foreigners, and between Moslems and Christians, exist in the capital and seaports on the French model, with a court of cassation (Mekhemèh e Temyzi) at Constantinople. — In the civil administration of the empire the sultan is the final source of authority and appointment, acting through his personal representative, the grand vizier, an office abolished during the brief period of constitutional reform under Midhat Pasha, but restored, with some loss of position, on the abolition of the paper constitution of 1878. An elaborate administrative organization on European models, succeeding in some instances to analogous departments under the old régime, furnishes ministries of foreign affairs, war, marine, artillery, interior affairs, justice, finances, commerce and agriculture, public instruction, religious tenets, public works. Of these, the foreign affairs corresponds to the reis effendi of earlier history, the subordinate title indicating the superior position in all foreign relations claimed by the sublime porte up to a very recent period, while the circumstance that the "dragoman," or interpreter of the ministry, fills as important a position in practical negotiations as the minister, in its way illustrates the long period in which the Turkish government refused the use of any language but its own in diplomatic negotiations. The minister of war is the successor of the seraskier, whose office, while distinct, in warlike reigns was always held by the grand vizier. The minister of marine succeeds the capitan pasha, a title by a familiar blunder often appearing in European history as a name. The minister of artillery remains the solitary survival of the ancient superiority of Turkey in this weapon. The other ministries are of European origin, with the exception of the religious tenets, organized as one of the reforms of Mahmoud II. The ministries holding these portfolios are organized on the French model in a council of state, or "divan," under the presidency of the sultan, or of a special minister appointed for the purpose. There is, besides, a privy council and a "senate," the successor of the old imperial "Medjliss," in which the subject races were and are represented, membership in which it would be difficult to define; but both the vizier, the sheikh-ul-islam and the leading pashas, with the heads of the six nations, sit in it. The remaining organization of the government needs no remark save that the polyglot character of the empire has given a disproportionate importance to the bureau of rescripts and translation, the calamizeh, and it has for fifty years furnished the ablest Ottoman administrators the few among their number enjoying special training. High appointments have, from time immemorial, been made from among the personal attendants of the sultan and the pashas, caprice governing the selection. — Provincial administration in vilayets is committed to the wali, assisted by a defterdar, book-keeper, who has charge of the finances, a mektoubji, secretary, and subordinate officers. A local medjliss (council), including these officers, local dignitaries, the heads of the local Christian communities, and others, sits in each vilayet, and constitutes a popular body, whose influence varies with the vigor of the imperial administrator. The sandjak and kaya are each similarly organized. The governor of a vilayet is always, and the head of a sandjak is generally, known as a pasha. Down to mudirs, administrative officers are nonresidents, and always Moslems, save where treaty regulations require Christian appointees in Lebanon and eastern Roumelia. Remnants of local self-government exist everywhere in the medjliss, the organization of villages, the management of internal affairs by particular wards or districts, many of the latter having enjoyed a rude autonomy from immemorial times. Trade-guilds, esnafs, in every city settle disputes and regulate trade customs, practically administering a very considerable body of commercial law. — Autonomous institutions, civil and ecclesiastical, are allowed to each Christian sect, and the Israelites. Turkish administration recognizes seven "nations" (milleti) or communities: the Greek, Armenian, Uniate Armenians, Latin (Catholic), Protestant, Bulgarian and Israelite. The first of these communities was organized by the berat, or writ of investiture, granted the Greek patriarch of Constantinople by Mahmoud II., in 1453. In 1875 the Bulgarian church, previously a part of the Greek church, was organized under an exarch. The Greek, Bulgarian and Armenian are national churches. The Uniate Armenians are a small body united in faith to the Roman Catholic church. The Latin church, besides lesser bodies, includes the Maronites of Lebanon and the Chaldeans of Gebel Tour and Mesopotamia. The Jacobite or Syrian church in the latter region has also of late years received civil recognition. Besides being ecclesiastical bodies, these sects all constitute civil corporations whose head is the spiritual primate only in the case of the Greek church and Uniate Armenians. The Protestants have a civil head, the Jews are represented by a chief rabbi, and the civil representative of the rest is the archbishop, resident at the metropolis, who in the Armenian church is also a patriarch. Each of these sects is organized for civil purposes, with a synod at the capital, and is divided into dioceses and parishes. Its authorities collect the capitation or military exemption tax (kharadj), and certain traditional dues for their own maintenance. Their courts regulate subjects usually under the jurisdiction of canon law, inflict punishments for petty offenses, and once settled all civil cases to which suitors of the same faith were parties. Where a village or town is composed of a single sect, the larger share of internal administration falls to the hands of its

authorities. The Protestant communities scattered over Turkey, the fruit of American missionary labor, are organized as democracies, with annual meetings for the election of officers. — Independent of all other branches of the government stands the seraglio, a state, not a domestic, institution, not merely the residence or the family of the sultan, for the Turkish empire has had no ruling family in the European sense, but the imperial household. Unlike most Moslem sovereigns, the early Turkish sultans recognized no distinction as wives and concubines between the women of their harem. The harem thus formed, probably a survival of ancient tribal practice, was reorganized after the conquest of Constantinople, under Byzantine influence. Its body-guard was uniformed in a dress copied from the Varangar garb, its chief posts were given to eunuchs, who first become conspicuous in Turkish affairs after this date, and the sacrosanct character of the Moslem harem received the protection of an elaborate and minute organization and ceremonial foreign to oriental ideas, but which has had an extraordinary power in consolidating and rendering permanent in influence palace intrigue. In the seraglio, the mother of the sultan, validè sultana, has taken the place of the empress in Byzantine history. Its chief functionary is the kislar agha, chief of eunuchs, an officer whose personal relations with the sultan give him a rank next after the grand vizier, and an influence often transcending his. The commander of the household troops is generally the commander-in-chief of the army. Moslem succession and inheritance passing the oldest male of the family, collateral branches were in the earlier history of the reigning family carefully eliminated, thus keeping the succession in the direct line. During the last fifty years, this practice has been abandoned, and the succession has passed from brother to brother and uncle to nephew, while collateral lines begin to appear. The khans of Crimean Tartary, now the Russian Crimea, claim a descent from Othman, and are the only cadet branch of the royal family. The women of the seraglio during the last three centuries have been recruited from Circassian tribes, which have furnished the other leading harems of the capital. This circumstance has united the seraglio and the other great households in a web of feminine kindred, acquaintance and intrigue, often overlooked by the foreign observer, but deeply influencing the daily current of affairs. — *Finance.* The Turkish fisc has never lost the stamp of conquest. An oppressive octroi, imposed on all the traffic of walled cities, supports the charges of local government. Its rates vary, its amount is unknown; and while it is collected by imperial officers, the receipts are absorbed and expended in each province. The imperial government levies a kharadj, the capitation tax, on all Christian males for exemption from military service; tithes on all produce; the verghi, a tribute or tax on produce or receipts, a quasi income tax; sheep tax; a tobacco segie, salt, stamp, excise, fisheries, registration, forests, with a large number of lesser taxes. Of these taxes the first three are early Moslem taxes, and the sheep tax is probably the survival of a tax levied by the khan in the pastoral stage of the tribes by which the empire was founded. It is still levied in theory, not as a tax on the sheep, but as rental for pasturage. The kharadj existed unchanged in name and character under the caliphate. Its average in 1883 was twenty-eight piasters, the levy per head varying from fifteen to sixty piasters. Collected at times by Turkish officers, koldjis, and again by the heads of subject communities, in 1834 and 1850 the duty of collecting this tax was, after a rude census, definitely made over to the authorities of each "nation." The verghi appears to be derived from the inscribed tribute levied on conquered provinces by the caliphs, and is a tax on the income from real and personal property, varying greatly in amount in different provinces, and often falls upon property from which tithes are also collected. The tithes are a tenth in kind of all produce, collectible before a sale can be effected by the peasant or proprietor. By a privilege conferred by Constantine, confirmed by Mahmoud II., but in recent times modified, the inhabitants of the capital are free from taxation. Imperial taxes were farmed under the Byzantine government, and the practice was continued by the Turkish conquerors. In 1695, Mustafa II. extended the annual leases of the revenue to life grants. In the last fifty years the Turkish government has repeatedly assumed the immediate collection of its revenues, and as regularly let them again to meet present necessities, past extravagance, or to secure loans. — Expenditure, receipts and indebtedness are alike vague in Turkish finance. The unit of account is the piaster (4.4 cents, or 22½ centimes), a coin originally of the value of the Spanish dollar, which 200 years of depreciation have reduced to its present value. The Turkish lira, or pound (£T—100 piasters) is the usual unit in debt statements. At the opening of the Crimean war, the revenue of the empire, for a number of years, had fluctuated from £T6,500,000 to £T7,500,000. The expenditure, from this period until the financial collapse of the empire in 1874–5, was all of the revenue and as much more as could be raised by loans and the issue of a paper currency. At this time the nominal receipts were £T22,552,200, and the expenditure £T23,143,276, deficit £T591,076. The actual average receipts, 1872–6, were £T18,190,000. The paper budgets for 1880–81 (1295–6, H.) give the receipts as 1,615,584,000 piasters; expenditures, 1,914,876,859; deficit, 299,292,859 piasters. The items are as follows:

RECEIPTS.	Piasters.
Land revenue tax	225,000,000
Exemptions from military service	46,000,000
Tithes	500,000,000
Customs	180,000,000
Sheep tax	165,000,000
Tobacco	100,000,000
Various receipts	96,998,000

Receipts—*Continued.*	Piasters.
Real estate	5,200,000
Forests	6,070,000
Salt works and mines	72,309,000
Post	6,300,000
Telegraphs	15,700,000
Receipts from ministry of marine	36,505,000
Receipts from ministry of war	28,500,000
Ordnance	4,009,000
Sanitary administration	5,135,000
Tribute from Egypt	76,500,000
Tribute from Eastern Roumelia	24,000,000
Other tributes	12,372,000
Various products	8,991,000
Total Receipts	1,615,584,000

EXPENDITURES.	Piasters.
Foreign debt	209,647,961
Domestic debt	39,812,441
Floating debt	241,863,946
Civil list appanage	86,497,324
Senate	2,406,019
Chamber of deputies	6,593,961
Council of state	1,880,400
Audit office	1,066,640
Prime minister and his personal accounts	2,291,364
Judicial	15,081,848
Restitutions	575,000
Administration	52,704,152
Prisons	8,780,680
Post and Telegraphs	24,959,098
Various expenses	619,300
Ministry of foreign affairs	19,810,232
Ministry of justice	32,809,850
Ministry of public instruction	8,100,098
Ministry of public works	10,330,004
Ministry of commerce and agriculture	15,163,720
Administration	25,212,359
Indirect contributions	36,631,640
Verghi	21,718,702
Sheep tithes and taxes	49,638,016
Ministry of war	536,304,944
Ministry of marine	81,154,650
Grand master of artillery	86,144,487
Religious endowments	33,573,414
Pensions and reliefs	52,552,851
	1,703,915,116
Extraordinary expenses	210,961,243
Total Expenditures	1,914,876,359

Turkish budgets are, however, the vaguest approximations. The territory ceded in 1878 and 1881 returned 18 per cent. of the revenue of the empire. The rest has been greatly disorganized, and its revenue can not be placed at over £T16,813,006. Of this the tributes return (omitting Bulgaria) £T1,143,720, the six revenues ceded the bondholders, tobacco, salt, stamps, excise, fisheries and silk, £T1,983,416; and customs, £T1,992,800. The other leading items are: tithes, £T5,000,000; verghi, £T2,250,000; sheep, £T1,650,000; kharadj, £T460,000. Of the expenditures one-third has for some years gone to the army, the only branch of the government whose claims receive even partial attention. The "civil list," which is little more than the sultan's personal expenditure through the seraglio and other channels, has for years been from $3,000,000 to $4,000,000. — The Turkish debt shares the uncertainties of all Turkish finance. The standing army, organized by Mahmoud II. at the opening of the century, enabled the government to collect taxes in all parts of the empire, and greatly increased the revenues. This met the enlarged expense of European reforms in the army; but at the opening of the Crimean war foreign loans began, and by 1875 these had reached a nominal capital of £240,000,000. Fourteen issues were made in this period, beginning at 80 and ending at 43½. One of £5,000,000 in 1855 was secured by the guarantee of France and England, and the tribute from Cyprus has been sequestered for its benefit by Great Britain, while the first, for £3,000,000, was secured by the Egyptian tribute, whose balance went to the loan of 1855. During the thirty years in which Turkey paid its interest, every conceivable expenditure was met by issuing current obligations; these were regularly consolidated, a foreign loan obtained at usurious rates, and the old process resumed. At home, forced loans in the shape of irredeemable paper money (caimés) were also raised. In 1875 the empire announced that for five years the interest would be paid, half in cash and half in 5 per cent. bonds. Interest ceased altogether before this period was over, and Turkey remained among the defaulting states until the iradé of Dec. 20, 1881, reduced the debt from a nominal capital of £252,801,885 to £106,437,234, and the interest to 4 per cent. Up to August, 1883, £63,149,663 of the consolidated debt had been reissued. The Turkish government proved reasonably faithful to its share of the agreement, but Servia, Bulgaria, Montenegro and Greece have failed to contribute to the share of the debt allotted to them. The revenues set apart to meet debt obligations yielded £T2,283,624 during the first fourteen months, Jan. 1, 1882 – Feb. 28, 1883. Meanwhile the Turkish government has continued to add to its floating obligations, which, in August, 1883, were £T28,000,000. This is certain to precipitate another collapse, as the annual deficit is not less than £T7,000,000. — *Land Tenure.* The fee under Moslem law vests in the state. Upon conquest, believers, *i. e.*, converts to Islam, are allowed to retain occupancy of their lands (known as tithable) upon payment of a tenth of the produce; non-believers pay a tribute tax levied either on the soil or on the produce, and when originally inscribed varying from one-half to one-eighth. Lands held under these tenures have steadily diminished in amount, and constitute the only freehold estates known. They are divided into two classes, according to the character of the fee, whether complete (mulk) or charged with various burdens (memluk), and pay a tax on transfer or succession. Besides city freeholds, large estates of agricultural lands granted for special services or held by descent from local overlords belong to this class. A third class of freehold (mehkemé) arose apparently from judicial sequestration. This can be mortgaged by two witnesses, the other freehold only by registry. Waste lands revert to the state, and lands belonging to religious foundations, or devoted to civil uses, aqueducts, bridges, etc., pay no tithes. The first circumstance has resulted in the ownership of

large tracts by the state, and the second in the extensive transfer of realty to religious trusts, constituting vakouf lands. Estimates make three-fourths of the land in the empire of this character. While probably true of city realty, this is not true of agricultural lands, which are held in village ownership in all parts of the empire. The vakouf lands arise from two sources: state grants (sarai), and the transfers of private persons (kasamain). State grants are, in general, absolute and perpetual. Private transfers are of two classes: customary or stated (aadet), and legal (sheriah). The one is a nominal transfer, occupancy remaining in the grantor, the grantee receiving a ground rent, calculated, by a legal fiction, as interest on the purchase money, often also nominal. Upon the failure of male heirs in the direct male line, these grants revert to the mosque. The administration of vakouf property was assumed by Mahmoud II., but without obtaining the revenue anticipated. Repeated propositions to sequester the vakoufs have been made; but the government has never ventured further than plans. State lands consist chiefly of miri and waste (adiyet) lands. There are besides the private domain of the sultan, fiefs attached to particular offices, military fiefs, etc., most of which have reverted to the state and been added to the miri. This, which figures in all Turkish land schemes, is land whose revenue belongs to the public treasury. Large tracts of this land have been let from time to time, and much of it is held on perpetual leases, which are open to sale or inheritance, reverting to the state on the suspension of cultivation. Local customs greatly modify land tenure, and few definite statements are true of the entire empire. Land in Bulgaria and Roumelia is in small holdings, in Thrace and Macedonia in large estates. Village ownership obtains in southern Turkey in agricultural lands, as well as in many parts of Asia Minor and Armenia, where, however, the ownership of tracts by beys still extends over large areas. —*Trade, Tariff and Products.* Commerce with Christian nations was conducted in the sixteenth century under a 5 per cent. impost tax, which was reduced to 3 per cent. in behalf of England, and this capitulation was confirmed and extended in 1675 and in 1831. In 1861, commercial treaties with Great Britain and France, obtained by other nations, including the United States, placed export duties at 8 per cent., raised import duties from 5 to 8 per cent., and reduced the transit duties from 3 to 1 per cent. These treaties were denounced in 1883, the porte proposing to substitute specific for ad valorem duties—in no case higher than 20 per cent.—suppress transit duties, provide a warehouse system, and require all duties to be paid in gold. About one-fourth of the commerce of Turkey is with Great Britain. Turkish exports consist chiefly of grain, wool, opium and native manufactures. The exports and imports for a series of years are given in the following table:

YEARS.	Exports.	Imports.
	Piasters.	Piasters.
1873–74	267,621,881	445,576,303
1874–75	215,698,001	416,653,563
1875–76	241,129,046	390,824,124
1877	----------	324,899,618
1878–79	1,969,498,742	838,586,490
1879–80	1,931,403,524	863,209,246

At Smyrna, the second seaport of the empire, one-third of the imports consist of domestics, of which two-thirds come from Great Britain. The remainder of the imports consist of miscellaneous manufactures. Of the exports, figs, opium, valonia, (acorns), black and red, and raisins, in nearly equal shares, make up one-half of the exports from year to year. Silk cocoons, sponges, wool and rugs constitute from 15 to 20 per cent. of the exports. — In 1876 the wheat crop of Turkey was placed at 80,000,000 bushels, and the total cereal crop at 100,000,000. The tobacco crop in 1875 was estimated at 77,880,000 pounds, and valued at $5,985,600; and in 1881 the crop was placed at 82,500,000 pounds. One-half of this is grown in European Turkey, and by far the most valuable in Roumelia, in and about Cavala, Macedonia; nearly a fifth being in the latter district. The average production of attar of roses, nearly all of which is produced on the southern slope of the Balkans, is 3,470 pounds, the crop varying from 6,000 pounds in 1866, to 1,700 in 1872. The mohair (tiftik) clip in Angora was 35,000 bags in 1880 and 30,000 in 1881, about 6,000,000 pounds. The herds producing it are estimated at 600,000 head. The importance of Turkish products rests rather upon their possibilities, than their accomplishment. In grain, in wool, and in cotton, as well as in coal and copper, it is capable of adding heavily enough to the world product to make it a serious rival. — The mineral resources of Turkey are known to be large, but are practically untouched—the solitary exception being the copper mines of Arghana. By Turkish law all mines and mineral deposits are the property of the state, to which all land reverts on the discovery of mineral treasures. All grants of mines for working require their surrender to the state after a certain period, with plant and working tools complete. Work can be resumed only upon the purchase of the equipment from the government at a valuation fixed by the administration of mines, whose engineers add to the oppressive legal restrictions of the government the vexatious interference of half-educated men. The most important mineral deposits of Turkey are the coal fields of the Heraclea basin, on the Euxine coast of Asia Minor, 150 miles from the Bosphorus. They are 450 square miles in extent, estimated to contain 60,000,000 tons, and are probably much larger, as the Kooslov vein is from three to eighteen feet thickness, and worked with ease in horizontal runs. During the Crimean war this region supplied the allied fleet. Tests showed the coal bituminous, to be equal to Newcastle, free from

slag, and firing rapidly. At present 33,000 tons are raised annually, and delivered at Constantinople at $4.08 per ton. Constantinople, in the six years 1875–80, imported 1,205,935 tons of coal from England. An extremely rich deposit of carbonate of copper at Kebban Maaden, in the Arghana district, north of Diarbekir, has been worked for centuries, and is still mined under government supervision, supplying interior Turkey with the copper universally used for domestic utensils. Chrome is mined at Dag Ardi, Brusa vilayet, and near Salonia, the average output in each place being 3,000 tons. Emery is mined near Smyrna, manganese near Trebizond, argentiferous lead near Erzeroum, Akdar Maaden, in Castamuni, and near Kaiserizeh. Antimony is shipped in small quantities from Chios. Many other mineral deposits are known to exist, some of which were worked in ancient times, but none are now utilized. — *Transportation.* The roads of the empire are in a primitive state, but are in better condition in European than in Asiatic Turkey. In the latter a wheeled vehicle is rarely seen away from the coast, and the roads are tracks worn by caravans. The mail is carried on horseback by relays of horses after a system which has come down unchanged from the *cursus publica* of the Roman and Byzantine empire, and the *tezkereh*, or official permit to use these relays for private travel is analogous to the *diploma* issued under the Roman empire for the same purpose. During the French occupation a road was built from Beirut to Damascus, and a diligence line is run on it. Telegraph lines, 17,048 miles in length, connect the larger cities and the capital under government management. By special convention, the Anglo-Indian government leases for its own purposes a line connected with the land line and cable in the Persian gulf. — European Turkey contained, in 1881, 988 miles of railroad, built by the Oriental Railways company, at $57,600 per mile, the capital of the company being $158,400,000 nominal, the actual money value of the shares as allotted being 45 per cent. of their par value. The lines built and open for traffic since 1875, with the exception of the Banialuka and Doberlin, are as follows:

	Miles.
Constantinople & Bellova	351
Adrianople & Dedeagatch	92
Salonica & Mitrovitza	226
Adrianople & Zamboli	115
Banialuka & Doberlin	64
Varna & Rutschuk	140
Total	988

Asiatic Turkey has 250½ miles of railroad, in three lines, of which the first and most important was built by an English company at a cost of $10,665,675. It is (1883) being extended to Sevdikini, 38 miles. These lines are as follows, the last being government property:

	Miles.
Smyrna & Aidin, and branches	83
Smyrna & Cassaba, and branches	108
Scutari & Ismidt, and branches	59½
Total	250½

Constantinople contains 13½ miles of tramways (city horse railroads), and they are to be found in Smyrna, Sidon, Jaffa and other cities. — *History.* The Turkish empire arose in western Asia Minor, and had nearly reached the western limits of its European conquest before it moved eastward. The first signs of the empire appeared in the ebb of the invasions of Genghis Khan and his sons, whose advance seems to have received a check on the plateau of Asia Minor, after having swept away the minor Seljuk sultanats which divided between them what is now Asiatic Turkey. It is still doubtful whether Ertogul, the father of Othman, founder of the line, is more than a tribal hero, and the legends which assign Othman a Commenian ancestor in Byzantine story, and trace his descent from the tribal progenitor in central Asia, Kara Koum, probably express the historic fact that a rule of Tartar origin, arising in a tribe which for at least 200 years had been familiar with the civilization of Asia Minor, took its earliest form under Byzantine influence. In Turkish history Ertogul is the tribal hero, Othman (1299–1326) the founder, and Orkhan (1326–60) the organizer of the new monarchy. His tent-door became the sublime porte, his army was made up of a disciplined infantry and an enrolled cavalry, not a feudal militia. Orkhan crossed the Bosphorus, and the Turkish rule was established in its present European limits by the battle of Kassova (1356), when the defeat of Bajazet I. (1389–1402), on his eastern frontier, midway in Asia Minor, by Tamerlane, would have destroyed the Turkish empire had it been an Asiatic power. In the next three reigns, the power of the empire was further extended in Europe, and crowned by the conquest of Constantinople (1453) by Mohammed II. (1451–81).—The oriental conquests of Selim I. (1512–20) and the assumption of the title of caliph carried the empire to its present Asiatic limits, and worked a profound change in its character. The next of the line, Suleiman I. (1520–66), the lawgiver of the dynasty, showed this at every turn. His mosques were Arab mosques, his code was drawn by an Aleppan, and the reorganization of the empire showed like influences. The Turkish rule was now at its widest, extended and stretched from northern Hungary to central Persia, from southern Russia to Egypt. The Turkish infantry remained the best in Europe; but Lepanto (1571) showed that its fleet was weak, and it never regained full mastery of the sea, although it still acquired one island after another, Murad IV. (1623–40) falling between weak and brutal sultans (1574–1623), and a drunkard, Ibrahim (1640–49), gave Turkey its last eastern conquests, reaching Tabreez. The fortunes of the empire were again retrieved in Europe by the able succession of Köprili viziers (1646–90), but no personal ability could prevent the consequences of a disaster like the siege of Vienna (1683), and the peace of Carlowitz (1703) definitely closed the era of Turkish conquest.— Through the middle of the eighteenth century, Mahmoud I. (1730–54) deferred the ad-

diction. Perhaps the poet's dream of "the parliament of man, the federation of the world," is not an impossibility; and that with it will come the era of universal peace and universal free trade.

ALEXANDER JOHNSTON.

UNION PARTY. (See REPUBLICAN PARTY.)

UNITED STATES NOTES. A brief sketch in reference to the bills of credit or treasury notes, issued by the government, by the colonies, and of the circulating notes issued by the banks previous to the adoption of the constitution, is given in the article on "Banking in the United States," in the first volume of this Cyclopædia. The committee appointed by the federal convention held in Philadelphia on May 14, 1787, reported, on Aug. 6, a draft of the constitution, which contained, in article thirteen, a clause giving qualified authority to the states to issue paper money, as follows: "No state without the consent of the legislature of the United States shall emit bills of credit, or make anything but specie a tender in payment of debt." This clause, after discussion, was finally so amended as to read as follows: "No state shall coin money; emit bills of credit, make anything but gold and silver coin a tender in payment of debts." — The eighth clause of the first section of the seventh article of the constitution as presented for the consideration of the convention, provided that "the legislature of the United States shall have power to borrow money, and emit bills on the credit of the United States." This clause, as embodied in the eighth section of the first article of the constitution as finally adopted, reads, "The congress shall have power to borrow money on the credit of the United States." The debate* on the question of striking out the words "and emit bills," is given in full for the reason that the subject of making bills of credit issued by the government a legal tender, is here for the first time discussed, and was not subsequently at any time, as far as I am aware, discussed at any length by congress, though it was twice presented for their consideration, until the legal-tender acts of 1862 were brought before congress for its consideration. "Mr. Gouverneur Morris moved to strike out, 'and emit bills on the credit of the United States.' If the United States had credit, such bills would be unnecessary; if they had not, unjust and useless. Mr. Butler seconds the motion. Mr. Madison: Will it not be sufficient to prohibit the making them a tender? This will remove the temptation to emit them with unjust views. And promissory notes, in that shape, may in some emergencies be best. Mr. Gouverneur Morris: Striking out the words will leave room still for notes of a responsible minister, which will do all the good without the mischief. The moneyed interest will oppose the plan of government, if paper emissions be not prohibited. Mr. Gorham was for striking out without inserting any prohibition. If the words stand, they may suggest and lead to the measure. Mr. Mason had doubts on the subject. Congress, he thought, would not have the power, unless it were expressed. Though he had a mortal hatred to paper money, yet as he could not foresee all emergencies, he was unwilling to tie the hands of the legislature. He observed that the late war could not have been carried on, had such a prohibition existed. Mr. Gorham: The power, as far as it will be necessary or safe, is involved in that of borrowing. Mr. Mercer was a friend to paper money, though in the present state and temper of America, he should neither propose nor approve of such a measure. He was consequently opposed to a prohibition of it altogether. It will stamp suspicion on the government, to deny it a discretion on this point. It was impolitic, also, to excite the opposition of all those who were friends to paper money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of citizens. Mr. Ellsworth thought this a favorable moment to shut and bar the door against paper money. The mischiefs of the various experiments which had been made were now fresh in the public mind, and had excited the disgust of all the respectable part of America. By withholding the power from the new government, more friends of influence would be gained to it than by almost anything else. Paper money can in no case be necessary. Give the government credit, and other resources will offer. The power may do harm, never good. Mr. Randolph, notwithstanding his antipathy to paper money, could not agree to strike out the words, as he could not foresee all the occasions that might arise. Mr. Wilson: It will have a most salutary influence on the credit of the United States to remove the possibility of paper money. This expedient can never succeed while its mischiefs are remembered. And as long as it can be resorted to, it will be a bar to other resources. Mr. Butler remarked that paper was a legal tender in no country in Europe. He was urgent for disarming the government of such a power. Mr. Mason was still averse to tying the hands of the legislature altogether. If there was no example in Europe, as just remarked, it might be observed, on the other side, that there was none in which the government was restrained on this head. Mr. Read thought the words, if not struck out, would be as alarming as the mark of the beast in Revelation. Mr. Langdon had rather reject the whole plan than retain the three words, 'and emit bills.' On the motion for striking out, New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, *aye*—9; New Jersey, Maryland, *no*—2. The clause for borrowing money was agreed to, *nem. con.* Adjourned." — Nine states voted to strike out, and two states to retain. Virginia voted in the affirmative, and in explanation of his vote, Mr. Madison appended the following note: "This vote in the affirmative by Virginia was oc-

* Madison papers, vol. iii., p. 1343.

casioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the government from the use of public notes as far as they could be safe and proper: and would only cut off the pretext for a *paper currency*, and particularly for making the bills a *tender* either for public or private debts." — The constitution was adopted on Sept. 17, 1787, and three years thereafter, Hamilton, in his report of Dec. 13, 1790, on a national bank, said: "The emitting of paper money by the authority of government is wisely prohibited to the individual states by the national constitution; and the spirit of that prohibition ought not to be disregarded by the government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable, to the like emissions by the states separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient." — Although notes of different forms were issued subsequently by the government at various dates, some of which were receivable for all dues payable to the government, no circulating notes were issued, which by the terms of law were made a full legal tender until the passage of the act of Feb. 25, 1862, which was nearly seventy-five years after the adoption of the constitution. — Some of the treasury notes, issued since the adoption of the constitution, and previous to the passage of the legal-tender act, were receivable for all dues to the government, and others not: some were payable at a fixed date, both with and without interest: some were fundable at any time after the date of their issue, others at a fixed date in United States bonds. — During the late civil war, treasury notes were also issued of all these different forms, and also notes payable on demand, receivable for all dues to the government, and others payable on demand, not receivable for duties on imports, or payable by the government for interest upon the public debt, but in every other respect a full legal tender to and by the government, and between the people in all payments. — No notes were issued from 1789 to 1812, a period of twenty-three years. Such notes were issued in the years 1812, 1813, 1814 and 1815, and at various dates from 1837 to 1847. They were again issued in 1857, and subsequently, in the years 1860, 1861 and thereafter. The periods for the issue of these notes may be summarized as follows: first, the war of 1812; second, the financial panic of 1837; third, the Mexican war; fourth, the financial crisis of 1857; and fifth, the war of the rebellion. It will thus be seen that there have been five emergencies in which congress, without any special constitutional authority, has seen fit to authorize such issues. The original debt had, at the beginning of 1812, been reduced from seventy-five millions to forty-five millions. — TREASURY NOTES OF THE WAR OF 1812. In 1810 it was found impossible to meet all of the annual reduction of the debt required by law from the sinking fund, and a temporary loan was authorized to make up the deficiency, which amounted to $2,750,000. This loan was paid the next year. In 1811, however, recourse was had to a loan, and the one authorized by congress for that year was taken so slowly, that, in May, the secretary for the first time recommended the issue of treasury notes upon the following principle, viz.: "1. Not to exceed, in the whole, the amount which may ultimately not be subscribed to the loan: that is to say, that the amount received on account of the loan, and that of the treasury notes, shall not, together, exceed eleven millions; which limits, therefore, the greatest possible amount of treasury notes to less than $4,900,000. 2. To bear an interest of 5⅝ per cent. a year, equal to 1½ per cent. per day on a hundred dollar note. 3. To become payable by the treasury one year after the date of their respective issues. 4. To be, in the meanwhile, receivable in payment of all duties, taxes, or debts, due to the United States." He did not propose that the notes should be fundable in the loan which they were intended to re-enforce. This recommendation of Secretary Gallatin was made in his letter of May 14, 1812, to Mr. Langdon Cheves, chairman of the committee of ways and means of the house, and, in conformity therewith, a bill was reported by that committee on June 12, 1812. — War was declared against Great Britain June 18, 1812. The failure of the loan was due to the fact that the money had to be borrowed from the very classes who had been opposed to the war: therefore, when the bill for authorizing treasury notes was put upon its passage on June 16, it met with much opposition. — It was argued, that the notes under the bill were not equal in value to gold and silver, and would not be received by the banks or the people, who were prejudiced against such government paper; that if issued they could not be redeemed, and would depreciate; that the measure would be subversive of public and private credit; that it was a confession of impaired credit; that to allow the notes to be deposited in banks and to accept bank paper in exchange was to depreciate the government's paper; that if issued, additional taxes should be imposed and set apart for the redemption of the notes, as in the case of the English exchequer notes; that the proposed notes were the same as the old continental money, and would depreciate in the same way. Others opposed the bill simply because they opposed the war or any preparation for it. In case war proved unavoidable the necessary funds should be raised by taxes and loans. The shortness of the time for which the notes were to be issued, was another objection. The public revenues would not meet the engagement, and engagements should not be entered into without a certainty of fulfillment. Taxes were necessary. It was a paltry expedient never suggested by Hamilton or Wolcott, and not even the spontaneous production of Gallatin; that the first

suggestion of the latter was to authorize a loan on such terms as would have insured its success. It was a humiliating spectacle to exhibit the government failing in negotiating its first war loan. — On the other hand, the supporters of the bill maintained that the notes would be received by the banks in the same manner as any good individual paper was received. The banks would give the government credit for them, and in return the government could draw gold and silver from the banks. The notes would be even more valuable to the latter than specie, as they could be kept as an interest-bearing reserve. They would have currency, being receivable in duties, taxes, and debts due the government, and, as interest accumulated, they would increase in value. In reply to the suggestions that money should be raised by taxes, it was stated, that when, previously, measures of that kind had been proposed, the opposition had refused to consent. The issue of treasury notes, bearing interest at 5⅔ per cent. only, did not indicate bad, but rather good, credit. Individuals in good credit could not borrow at less than 6 per cent. There was no depreciation of government paper in exchanging the notes for bank paper, as the latter was ready money, while the former were payable one year after date. It was denied that the people had or would have any prejudice against treasury notes. They were not prejudiced against bank notes, and the proposed notes bearing interest had many advantages over bank paper. The proposed notes would be in no way inferior to exchequer bills: in fact, it was only want of credit that compelled the English government to set aside certain revenues to meet the latter. The treasury notes would have two advantages over exchequer bills; one, the superior credit of the United States; and the other, that they were receivable for taxes and public dues. They were also superior to public stocks, in that, while bearing interest, they also can serve as currency, the same as gold and silver, thus enhancing the medium of circulation. There was no resemblance between them and continental money. When the latter was issued, the government was dependent on the pledges of the several states for its revenues, but now its credit was above suspicion, its power to raise revenue complete, and its ability to pay its debts undoubted. War was unavoidable. Both loans and taxes would have to be resorted to. The proposed notes were nothing but a loan with extraordinary advantages, taking, however, but little from the circulating medium of the country. In many transactions they would have all the effect of money. While not secured by any specific fund set apart for their redemption, the entire duties and taxes of the year are indirectly pledged for this purpose, since they are receivable in payment of such duties and taxes. The revenues of the year were estimated at eight millions, and the proposed issue of notes was five millions only. The faith of the government was pledged for their redemption. That faith had never been violated. The resources of the government were ample beyond those of any other nation. Its sources of revenue were unimproved land, a productive agriculture, an extensive commerce, an enterprising people, and an unlimited right of taxation. The anticipated abuse of a privilege was no argument against its legitimate use. — The bill passed the house June 17, 1812, yeas 85, nays 41. It passed the senate June 26, and became a law June 30, 1812. By it the president was authorized to issue treasury notes to an amount not exceeding $5,000,000. The notes were redeemable, at such places as were expressed on them, within one year of the date of their issue. They bore interest at the rate of 5⅔ per cent. per annum from the day of issue, being one and one-half cents a day on a hundred dollar note, payable at the place where the principal was payable. They were signed by persons designated by the president, and the compensation of these persons was fixed at one dollar and twenty-five cents each for one hundred notes signed. They were countersigned by the commissioners of loans for the state in which the notes were respectively made payable. With the approval of the president, the secretary of the treasury was authorized to borrow money upon the security of the notes, and to pay them to such banks as would give the government credit for them at par. When the notes were paid to collectors of revenue and receivers of public money, the interest ceased on the day of payment. The commissioners of the sinking fund were authorized to cause the principal and interest to be paid when due, and to purchase them at not more than par, in the same way as they purchased other public securities, with a view of reducing the debt. They were made payable to order, transferable by delivery and assignment on indorsement by persons to whose order they were made payable. — The notes were made everywhere receivable for duties, taxes, and in payment of public land, at their par value with accrued interest on the day paid in. Penalties were imposed for counterfeiting them, and an appropriation made for the expense of printing and preparing the notes. — There was nothing in the law regulating the denominations in which they should be issued, but, as a matter of fact, none were issued of a denomination of less than one hundred dollars. — The largest amount authorized under this act, outstanding at any one time, was five millions. The notes authorized were all issued before the end of the year 1813, and were all redeemed during the year 1814. The secretary estimated that there would be a deficit of nineteen millions for the year 1813. Congress authorized sixteen millions of this amount to be obtained by loans, without the usual provision that the bonds should be sold at par, or specifying the rate of interest. The loan was placed with great difficulty, the sixteen millions authorized being obtained from the avails of $18,109,377.43 of stock, bearing interest at 6 per cent. To supply the remainder, a bill was introduced into the house on Jan. 27, 1813, to authorize a new issue of treas-

These notes were not chargeable upon the sinking fund, as in the case of the first three acts of the series, nor were they payable out of any money in the treasury not otherwise appropriated, as in the previous act of Dec. 26, 1814, but rested entirely upon the provision making them fundable into stock. The principal and interest were not payable at any specified time, but the notes were everywhere receivable in all payments to the United States. The act reduced the pay of those signing the notes to seventy-five cents for each one hundred notes, and also provided that treasury notes of previous issue should be fundable into 6 per cent. stock. The holders of the small treasury notes could exchange them at pleasure, in sums of not less than $100, for certificates of funded stock bearing interest at 7 per cent. The treaty of peace was signed on Dec. 14, 1814, but the news reached Washington a few days only before the passage of the bill, which, although a war measure, was carried through, inasmuch as it was considered necessary to the regulation of the disordered finances of the country. The whole amount of treasury notes, absolute and contingent, which was authorized by these five acts, was $60,500,000, of which amount $36,680,794 was issued. The following table exhibits the amount issued under each act:

Under act of June 20, 1812		$ 5,000,000
Under act of Feb. 25, 1813		5,000,000
Under act of March 4, 1814		10,000,000
Under act of Dec. 26, 1814		8,318,400
Under act of Feb. 24, 1815—$100 notes	$4,969,400	
Under act of Feb. 24, 1815—small treasury notes	3,392,994	
		8,362,394
Total amount issued		$ 36,680,794

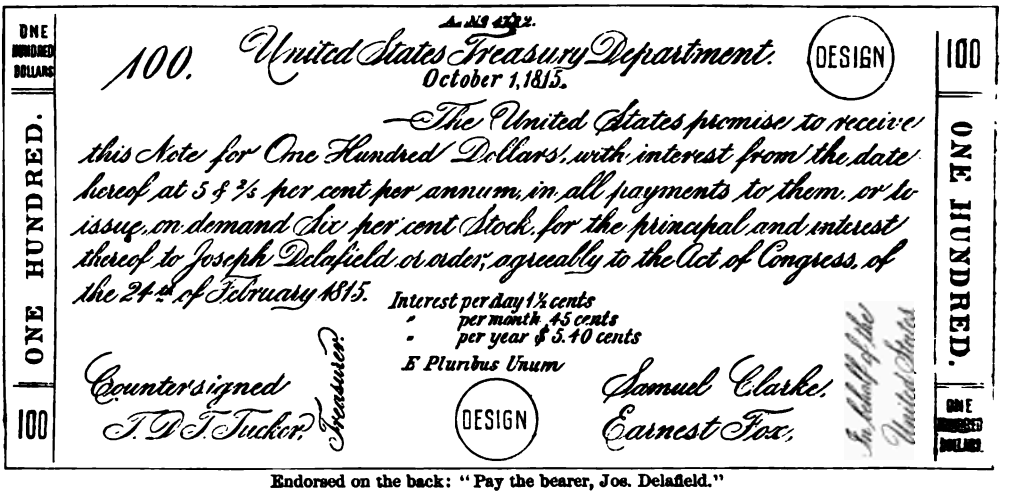
—Although the treasury notes of 1815 of small denominations originally issued, amounted to only $3,392,994, the law made them fundable into 7 per cent. stock, payable after Dec. 31; and as the notes were reissuable, they were, under various exigencies, again and again paid out, until the whole amount of the 7 per cent. stock, issued for the purpose of funding them, amounted to $9,070,386. On account of the high rate of interest of these bonds, the small treasury notes were in demand, and a small amount was sold at a premium of 4 per cent., and $1,365,000 at a premium of $32,107.64, or about 2½ per cent. The secretary, in his annual report for 1815, says: "The treasury notes, which were issued under acts passed previous to Feb. 24, 1815, were, for the most part, of a denomination too high to serve as a current medium of exchange; and it was soon ascertained that the small treasury notes, fundable at an interest of 7 per cent., though of a convenient denomination for common use, would be converted into stock almost as soon as they were issued."* The notes of $100 and upward, though fundable into 6 per cent. bonds, were depreciated from 8 to 10 per cent. below bank notes which bore no interest, but were redeemable in specie.—

In recapitulation, it may be stated that the treasury notes of the period of the war of 1812 were issued under five acts of congress, as stated in the table. The notes of the first three acts were made chargeable to the sinking fund—those of the last two, not: those of the first two acts were in denominations of not less than $100; those of the next two were not less than $20; and those of the last act were in denominations of [illegible] 100 dollars and upward. Those of the first three acts were not originally fundable [illegible] were made so by the act of N[illegible] the subsequent act of [illegible] of the acts of Dec. 26, 18[illegible] the act of Feb. 24 [illegible] named act were fundable [illegible]

[illegible]

suspension, the government was deprived of the use of specie, and as the banks in each state refused credit and circulation to the notes of banks in other states, no transfer of funds could be made to places where they were wanted to meet treasury notes: consequently the credit of these notes was lessened, and creditors refused to accept them in payment. On Nov. 12, 1814, Mr. Hall, of Georgia, introduced in the house a series of five resolutions to revive the credit of treasury notes. The second resolution provided that the notes should be a legal tender between citizens, and between citizens and foreigners, for all debts then due or afterward to become due, which the house refused

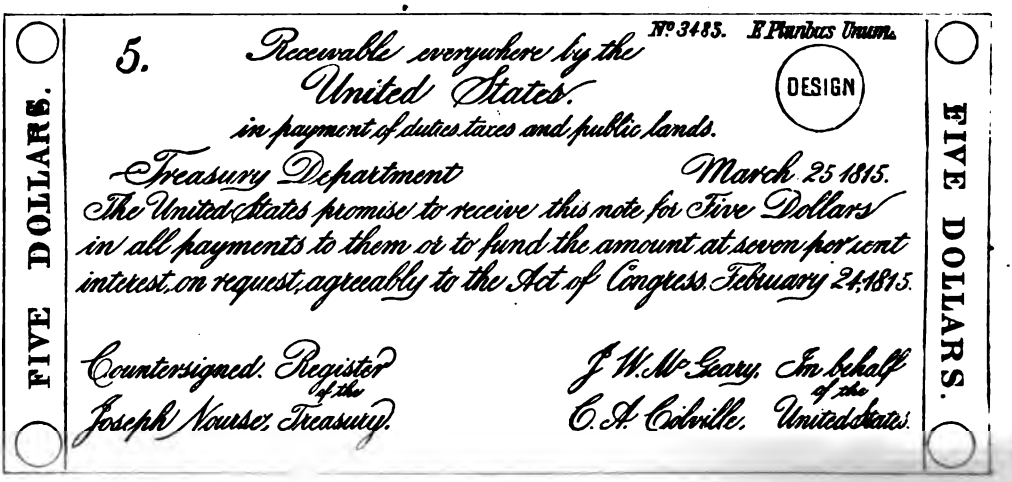
duced as measures in opposition to the proposition for a national bank, and the other four resolutions were subsequently laid upon the table by a large majority.— On Jan. 30, 1815, a bill authorizing the issue of treasury notes was introduced in the house, and referred to a committee of the whole. The bill passed the house Feb. 11, and the senate Feb. 21, and was approved Feb. 24, 1815; it was the last of a series of five acts, commencing with that of June 30, 1812, the first four of which had authorized the issue of treasury notes bearing interest at the rate of 5⅔ per cent. The following is the form of the large notes issued under this act:



Endorsed on the back: "Pay the bearer, Jos. Delafield."

This act authorized the issue and reissue of treasury notes to an amount not exceeding twenty-five millions upon principles essentially different from those governing prior issues. These notes might be of any denomination: if of a denomination less than $100, they were designated as "small

treasury notes," were payable to bearer, and bore no interest; if of a denomination of $100 or upward, they were payable to order, transferable by indorsement, and bore interest at the same rate as those of $100 and upward previously authorized. The "small treasury notes" were of this form:



These notes were not chargeable upon the sinking fund, as in the case of the first three acts of the series, nor were they payable out of any money in the treasury not otherwise appropriated, as in the previous act of Dec. 26, 1814, but rested entirely upon the provision making them fundable into stock. The principal and interest were not payable at any specified time, but the notes were everywhere receivable in all payments to the United States. The act reduced the pay of those signing the notes to seventy-five cents for each one hundred notes, and also provided that treasury notes of previous issue should be fundable into 6 per cent. stock. The holders of the small treasury notes could exchange them at pleasure, in sums of not less than $100, for certificates of funded stock bearing interest at 7 per cent. The treaty of peace was signed on Dec. 14, 1814, but the news reached Washington a few days only before the passage of the bill, which, although a war measure, was carried through, inasmuch as it was considered necessary to the regulation of the disordered finances of the country. The whole amount of treasury notes, absolute and contingent, which was authorized by these five acts, was $60,500,000, of which amount $36,680,794 was issued. The following table exhibits the amount issued under each act:

Under act of June 20, 1812		$ 5,000,000
Under act of Feb. 25, 1813		5,000,000
Under act of March 4, 1814		10,000,000
Under act of Dec. 26, 1814		8,318,400
Under act of Feb. 24, 1815—$100 notes	$4,969,400	
Under act of Feb. 24, 1815—small treasury notes	3,392,994	
		8,362,394
Total amount issued		$ 36,680,794

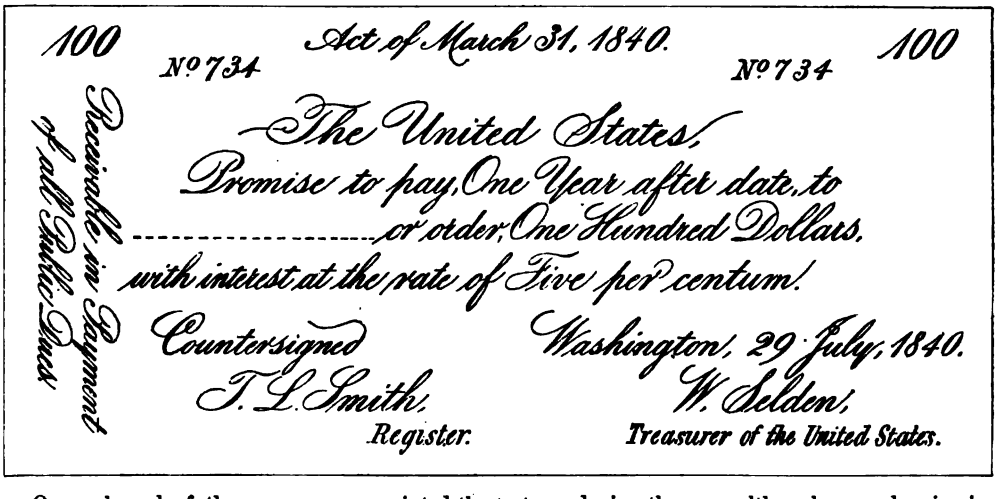
—Although the treasury notes of 1815 of small denominations originally issued, amounted to only $3,392,994, the law made them fundable into 7 per cent. stock, payable after Dec. 31; and as the notes were reissuable, they were, under various exigencies, again and again paid out, until the whole amount of the 7 per cent. stock, issued for the purpose of funding them, amounted to $9,070,386. On account of the high rate of interest of these bonds, the small treasury notes were in demand, and a small amount was sold at a premium of 4 per cent., and $1,365,000 at a premium of $32,107.64, or about 2½ per cent. The secretary, in his annual report for 1815, says: "The treasury notes, which were issued under act passed previous to Feb. 24, 1815, were, for the most part, of a denomination too high to serve as a current medium of exchange; and it was soon ascertained that the small treasury notes, fundable at an interest of 7 per cent., though of a convenient denomination for common use, would be converted into stock almost as soon as they were issued."* The notes of $100 and upward, though fundable into 6 per cent. bonds, were depreciated from 8 to 10 per cent. below bank notes, which bore no interest, but were redeemable in specie. —

* Report of the Secretary of the Treasury, 1815, p. 26.

In recapitulation, it may be stated that the treasury notes of the period of the war of 1812 were issued under five acts of congress, as stated in the table. The notes of the first three acts were made chargeable to the sinking fund—those of the last two, not; those of the first two acts were in denominations of not less than $100; those of the next two were not less than $20; and those of the last act were in denominations of 3, 5, 10, 20, 50, 100 dollars and upward. Those of the first three acts were not originally fundable into stock, but were made so by the act of Nov. 15, 1814, and by the subsequent act of Feb. 24, 1815. The notes of the acts of Dec. 26, 1814, became fundable by the act of Feb. 24, 1815, but those of the last-named act were fundable by the terms of their authorization. The notes of all the acts but the last were made payable one year from the date of their issue; those of the last act were payable at no fixed date. All of these notes (with the exception of the small treasury notes, which were without interest) bore interest at the rate of 5⅔ per cent. None of these notes had any legal-tender quality, and congress, without debate, rejected the only proposition for giving them this quality. The denominations, except in the case of the small notes of 1815, were too large for purposes of circulation, and the inducements for funding these were so great that they could not be used for that purpose. As long as the banks redeemed their notes in specie, treasury notes appear to have kept at par, but when specie payments were suspended, they began to depreciate, and appear to have been kept from great discount by the funding acts of Nov. 25, and Feb. 24, 1815. It is said, "that of eighty millions of loans negotiated by the government during this period, the avails were only thirty-four millions, after deducting discounts and depreciations." (See FINANCE.) After the close of the war, in December, 1814, these notes were rapidly funded. —TREASURY NOTES OF THE PERIOD OF THE FINANCIAL CRISIS OF 1837. In anticipation of a large surplus, congress, by act of June 23, 1836, provided for the distribution of a large amount of government money among the states in proportion to their representation in the senate and house of representatives, and three installments, amounting in all to $27,063,430, were so distributed. (See U. S. SURPLUS MONEY, DISTRIBUTION OF, AMONG THE STATES.) In the meantime, about May 1, 1837, specie payments were suspended, owing to the great depression in commercial circles. An extra session of the 25th congress was called in September of the same year. The charter of the second bank of the United States had expired on March 4, 1836, and on June 23, 1836, congress had passed an act authorizing and regulating the deposit of public moneys in state banks. No action was taken during the extra session toward rechartering the bank of the United States. The distribution of the fourth installment to the states was, however, postponed, but the secretary was prohibited from calling for any of the money already distributed without special author-

ent date, been given. — The revenues for the year (1837) were from six to ten millions short of the expenditures. The public funds already deposited with the states were unavailable, and there was another installment to be deposited on Oct. 1. The secretary recommended the withholding of this installment, and, in order to supply currency, an issue of treasury notes, the small denominations to bear no interest, and the large with interest. — A large party in congress were in favor of rechartering the bank of the United States. The advocates of treasury notes urged the issue principally upon the ground of necessity, there being no currency upon which the government could rely to make and receive payments. Many were in favor of a substitute to be issued by the proposed new bank of the United States. A bill was presented and passed by the senate. When it came to the house, objection was made that it was a money bill, which the senate had no constitutional right to originate. This point was not discussed, but the committee of ways and means presented their own bill, by which the issue of ten millions in treasury notes was authorized. The bill encountered much opposition, particularly from those in favor of authorizing a new bank, but passed the house on Oct. 9, 1837, by a vote of 127 to 98, which was a strict party vote. In the senate, the next day, Mr. Benton moved to make the lowest denomination of notes $100, instead of $50, as provided in the bill. He presented strong objections to the issue of treasury notes. Nothing but the fact that the government must otherwise stop for want of funds, would induce him to vote for paper money in time of peace. He particularly objected to the policy of reducing the denominations of paper currency. It was the most dangerous feature of the system, and would drive all specie from circulation. Mr. Clay spoke in favor of Mr. Benton's motion, and characterized the whole measure to be, to all intents and purposes, a great bank experiment, and alluded to the inconsistency of issuing, in time of profound peace, ten millions additional notes after decrying the banks for enlarging their circulation. Mr. Webster favored Mr. Benton's motion. It was lost by a vote of 25 to 16. The bill then passed by a vote of 35 to 6, both Mr. Benton and Mr. Webster voting for it, and Mr. Clay against it. This bill authorized the issue of treasury notes to an amount not exceeding ten millions, and in denominations not exceeding fifty dollars. The interest was not to exceed 6 per cent.; and they were to be payable, principal and interest, after one year from date, and were, for the first time, signed by the treasurer and countersigned by the register. They were to be issued in payment of the debts of the United States to any creditor who would receive them, and were to be receivable in payment of all debts and dues to the government. They were not reissuable, and the authority to issue terminated Dec. 31, 1838. The ten millions authorized were issued by Secretary Woodbury previous to July 1, 1838. About two millions half per cent.; three millions at 2 per cent.; and over four millions at 5 per cent. On account of the low rate of interest upon a large portion of the notes, the object for which they were issued, namely, to supply a circulating medium, was thwarted, for they were soon presented in payment of taxes, and over five millions were retired before the whole amount had been issued. — At the end of 1837 the secretary estimated that the balance in the treasury for July, 1838, would be $34,187,000, of which $28,101,644 was due from the states, $1,100,000 due chiefly from insolvent banks, and $3,500,000 from other banks, payment of which was postponed. These sums, and the bullion fund in the mint, reduced the estimated available balance in July, 1838, to about one million. This estimate was nearly correct, for congress was advised by the president, in May, 1838, that only $216,000 of available funds remained in the treasury. There were several propositions in the house, one of which was a bill for authorizing loan certificates, which should be a legal tender to public creditors, but not receivable for dues to the government. The question of the legal tender was not discussed. Mr. Cambreleng, of New Jersey, from the committee of ways and means, reported a short bill, authorizing the issue of treasury notes to the amount of the issue of October, 1837, which had been redeemed and canceled. The interest upon the issues already made under the laws of 1837 had been too small, and they had been immediately paid into the treasury when due. There were gratifying signs of a revival of prosperity. The northern banks had resumed specie payment sooner than expected. This he ascribed to the firmness of the president in refusing to allow dues to the United States to be paid in notes of banks not paying specie. He referred to the passage of the free banking act of New York as a presage of sound banking in future. He also urged the necessity of providing notes to enable the treasury to meet its payment. The objections to the bill were much the same as those urged in the debate during the previous session, though they were presented with more force and completeness, particularly by Mr. Caleb Cushing. He said that such issues were bills of credit not warranted by the constitution; that they were based only upon the faith of the government; that such measures were considered of doubtful and dangerous character by all the friends of democratic institutions; and that Madison and others had always been opposed to the issues of government paper founded not on funds or specie, but only upon faith or credit, and only consented to its expediency in remarkable exigencies. Experience had shown, that whatever interest they might bear, whether 1 mill or 6 per cent., they would not be above the value of the notes of good banks. It was said, that, if the United States under the constitution could issue these bills, so could the states. They were the same as continental money, although bearing interest. Much of the currency

issued by the states, during the revolution, denominated bills of credit, bore interest. Chief Justice Marshall's definition of bills of credit was, "paper issued by the sovereign authority, and intending to circulate as money." These notes are issued by sovereign authority, and intended to circulate as money. They operate unequally, and afford no general relief: they are below par in New York, and at 5 per cent. premium in Charleston. The bill was amended to obviate some technical objections, and finally passed by a small majority, 106 to 99, on May 16, 1838. It came up in the senate on May 18. Wright of New York, Benton, Calhoun, Brown and Talmadge were in favor of it. Webster, Clay, Crittenden and Preston were on the other side. The discussion took a wide range, involving the causes of the condition of the treasury, and the constitutionality of the issue of treasury notes. It passed by a vote of 27 to 18, and was approved on May 21, 1838. Nearly five millions were issued within one month after the passage of the bill, which showed conclusively the pressing needs of the treasury. Under the previous acts of October, 1837, and May 21, 1838, the authority to issue treasury notes expired on Jan. 1, 1839. The whole issue was not to exceed ten millions, and the latter act permitted the reissue of those paid in. — The whole amount which had been issued to December, 1838, was $15,709,801.01, and bore at different rates interest as follows: $6,888,809.60 bore interest at 6 per cent.; $4,280,273.72 bore interest at 5 per cent.; $2,784,844.73 bore interest at 2 per cent.; and $1,755,881.96 bore interest at 1 mill per cent. There had been redeemed, up to the same date, $7,955,250, leaving $7,754,560 outstanding. The authority to reissue expired with the year. — On Jan. 1, 1839, there was a large amount of notes in the treasury, which continued to grow larger until March 2, 1839, when an act was passed, extending the authority to reissue until June 30, 1839, providing the whole amount outstanding did not exceed ten millions. In December, 1839, Secretary Woodbury reported that at no time had more than ten millions been outstanding, and that the amount outstanding was less than the amount due from suspended banks, and from the Pennsylvania bank of the United States, to the government, and that the principal and interest on the treasury notes had always been promptly paid when desired. A bill was subsequently presented by Mr. Jones, chairman of the committee of ways and means. Amendments were offered with the object of making it imperative that the notes should bear interest at not less than 2 per cent., and to make them negotiable and transferable only by indorsement, in the same manner as bills of exchange: the first to prevent the issuance of notes at the nominal rate of 1 mill per cent., or one-thousandth of 1 per cent., per annum, and the second to prevent their circulation as money, and both to cure, as was alleged, the constitutional difficulty. The whigs refused to vote, leaving no quorum. On March 24, 1840, the house continued in session from ten o'clock until five p. m. of the next day. Finally, when the house adjourned, the consideration of the bill was fixed for the following Friday, and on that day—March 27, 1840—it finally passed the house by a vote of 25 to 8. It passed the senate on March 30, 1840, and was approved the following day. The following is the form of a $100 note issued under this act:


100 Act of March 31, 1840. 100
No 734 No 734
The United States,
Promise to pay, One Year after date, to
.....or order, One Hundred Dollars,
with interest at the rate of Five per centum.
Receivable in Payment of all Public Dues.
Countersigned
T. L. Smith,
Register.
Washington, 29 July, 1840.
W. Selden,
Treasurer of the United States.

— On each end of the reverse were printed the figures 100. Under this act the issues amounted to $7,114,251. Notes were to be redeemed sooner than one year, if the condition of the treasury would admit, and at any time within the year, after sixty days' notice. — The secretary, in his report for 1840, states, that treasury notes had been at par during the year, although never bearing interest higher than 5⅞ per cent.,* and subject to payment after sixty days' notice. To meet the wants of the treasury, a treasury note bill was introduced, and passed congress on Feb. 15, 1841. This law authorized an issue of notes, in the ag-

* Finance Report, vol. iv., p. 354.

payment of amounts due and payable prior to March 4, 1841, and the remaining $5,000,000 in payment of amounts due and payable after that date. In all, $7,529,062 were issued under act of Feb. 15, 1841. — In the fall of 1840, Harrison had been elected president to succeed Van Buren, but died April 4, 1841. He was the representative of the whig party, which had, since the year 1837, so bitterly opposed the issue of treasury notes. Mr. Ewing of Ohio was appointed secretary of the treasury by President Harrison. In his report to congress at its special session of May 31, 1841, he said that, from Jan. 1, 1837, to March 4, 1841, the expenditures of the government had exceeded the revenues by over $31,000,000. Of about twenty-six millions of treasury notes issued under the acts from Oct. 12, 1837, to Feb. 15, 1841, inclusive, all but about six millions had, as claimed by Secretary Woodbury, been issued in anticipation of revenues, or upon the basis of existing debts due to the United States, leaving about six millions outstanding when the new administration came in. Mr. Ewing estimated that the deficit in the revenues for the year 1841, after meeting the current expenses and redeeming the treasury notes then outstanding and to be issued, would be $12,088,215, which he considered to be the amount of the public debt. He objected to the issue of treasury notes, and recommended a loan redeemable after eight years or upon six months' notice by the government. — A bill was introduced by Millard Fillmore, chairman of the committee of ways and means, on June 24. It provided a loan, payable after Jan. 1, 1856, with interest at 5 per cent., and authority was given the secretary to purchase the bonds out of any surplus in the treasury. It was objected that the loan was unnecessary, and that it was the commencement of a scheme to organize a national bank. The debate was bitterly political. It was urged, that as this was an administration measure the loan should be paid within the term of the administration. This point was foolishly conceded, but the rate of interest was raised to 6 per cent. As thus amended the bill became a law on July 21, 1841. The reduction of the length of the loan from eight to three years, together with the proviso that no stock could be sold below par, destroyed the usefulness of the measure, and less than one-half, or only $5,672,076, of the stock was sold, which was about equal to the amount of treasury notes outstanding.—On Sept. 13, 1841, Mr. Ewing was succeeded by Secretary Forward of Pennsylvania. The policy of the administration was changed by the death of the president. The repeal of the independent treasury act Aug. 13, 1841, which had been authorized at the close of the Van Buren administration, was about the only point gained by the Harrison administration, and this repeal practically left the treasury to be managed by those who were unfriendly to the policy of the whig party.— A bill for the issue and reissue of treasury notes was introduced into the house by Mr. Fillmore, Jan. 5, 1842. Among other proposed Benton, heavily taxing all bank circulation, especially small notes. The bill became a law Jan. 31, 1842. Under it the amount authorized to be outstanding at any one time was limited to five millions, but the total amount issued and reissued was $7,959,994. The subsequent act of Aug. 31, 1842, authorized the issue and reissue of treasury notes, provided the amount outstanding at any one time should not exceed six millions, and under it notes to the amount of $3,025,554.89 were issued.— All of the notes issued since the act of Oct. 12, 1837, were issued payable either one or two years after date, chiefly for one year. These notes were continually falling due and embarrassing the treasury. Eleven millions of such notes were to fall due during the year 1843, and accordingly another bill was introduced by Mr. Fillmore, providing for the reissue of such notes as should be redeemed before July 1, 1844. The bill became a law on March 3, 1843. — The treasury notes outstanding on the dates named from November, 1837, to March, 1843, are shown in the following table :*

MONTHS.	1837.	1838.	1839.	1840.
March	.....	$6,518,964.65	$6,552,946	$2,176,981
November	$53,723.83	8,009,760.01	3,394,180	4,664,200
		1841.	1842.	1843.
March	.....	$5,393,094.00	$8,539,115	$11,656,387
November	.....	7,371,705.00	10,089,056	.....

— John C. Spencer succeeded Walter Forward as secretary of the treasury, on March 3, 1843, and was himself succeeded, on June 15, 1844, by George M. Bibb. Under the act of March 3, 1843, Mr. Spencer issued about $850,000 treasury notes. Each note on its face promised to pay, one year after date, fifty dollars, with interest at the rate of 1 mill per $100 per annum. On the back of each note was indorsed, "This note will be purchased at par for the amount of principal and interest thereof, on presentation at either of the Depositories of the Treasury in the City of New York." These notes, which were issued at the nominal rate of interest of one thousandth of 1 per cent. per annum, and by the indorsement made payable on demand, were considered by congress an evasion of the act under which they were issued, and the committee of ways and means were instructed, on Jan. 15, 1844, "to inquire and report whether the notes lately issued by the treasury department, bearing a nominal interest and convertible into coin on demand, and now forming part of the circulating medium of the country, are authorized by the existing laws and constitution of the United States"; and the report of the committee, which also contains a letter of the secretary, giving his views on the subject, is interesting from the fact that it contains the principal constitutional arguments against the issue of paper money by the government.† —

* Page 186, 3d Session, 27th Congress, Appendix. Speech of Woodbury.

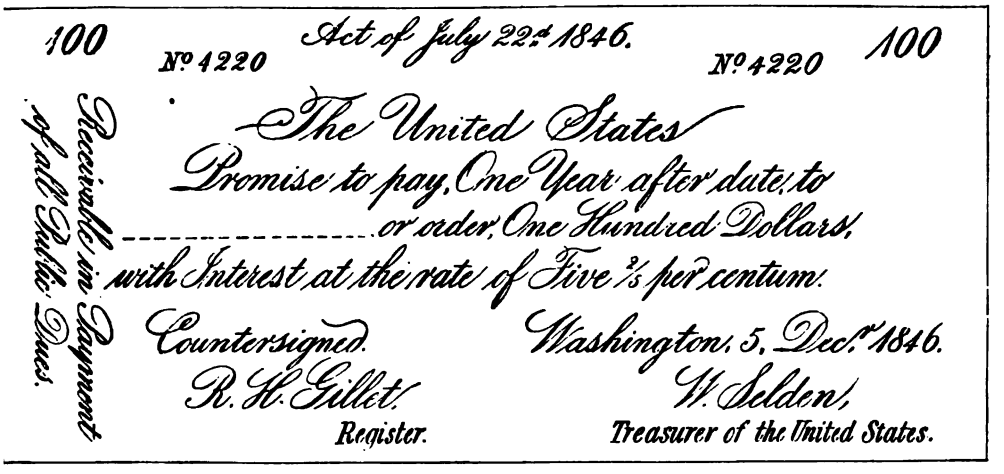
† Report No. 379, 28th Congress, 1st Session, H. of R.

During the second session of the 27th congress, after the veto, by President Tyler, of a bill to authorize the organization of a bank of the United States, the president recommended the passage of a bill for the issue of exchequer bills of not less than $5 in denomination, which notes were to be signed by the treasurer of the United States, and countersigned by the president of the board of exchequer, and redeemable in gold and silver on demand at the agency where issued. This bill, which was prepared at the treasury department, did not become a law, and it was claimed by the committee that the notes issued by Secretary Spencer were in most respects like the exchequer notes proposed in this bill. The principal difference was, that while the exchequer notes were to be in denominations as low as $5, without interest, the notes issued were of denominations not less than $50, and bore a merely nominal rate of interest. It was claimed by the committee that the constitution authorized the government to borrow money, but not to issue bills of credit; that borrowing money implied the paying of interest for the money borrowed; that interest-bearing treasury notes payable at a future day were a temporary loan, not designed to circulate as money, and could properly be issued; while notes bearing no interest and payable on demand were bills of credit, and could be issued only in violation of the constitution.—From March 3, 1843, until July 26, 1846, no new issues of treasury notes were authorized. From 1837 to 1844 treasury notes amounting to $47,002,900 were issued under eight different acts, of which $46,216,935.82 were redeemed by the close of 1845. The lowest denomination for any one note was $50, but where new notes were issued in place of old ones the accrued interest was often added. The amount authorized to be originally issued by these several acts was thirty-one millions. The remainder consisted of reissues.—The following table exhibits the amount of treasury notes issued each year, under different acts of congress, from Oct. 12, 1837, to March 3, 1843, from which it will be seen that the total amount issued was $47,002,900, all of which was sold or issued at par. Interest varied from 1 mill per cent. to 6 per cent., and the amount authorized was fifty-one millions.

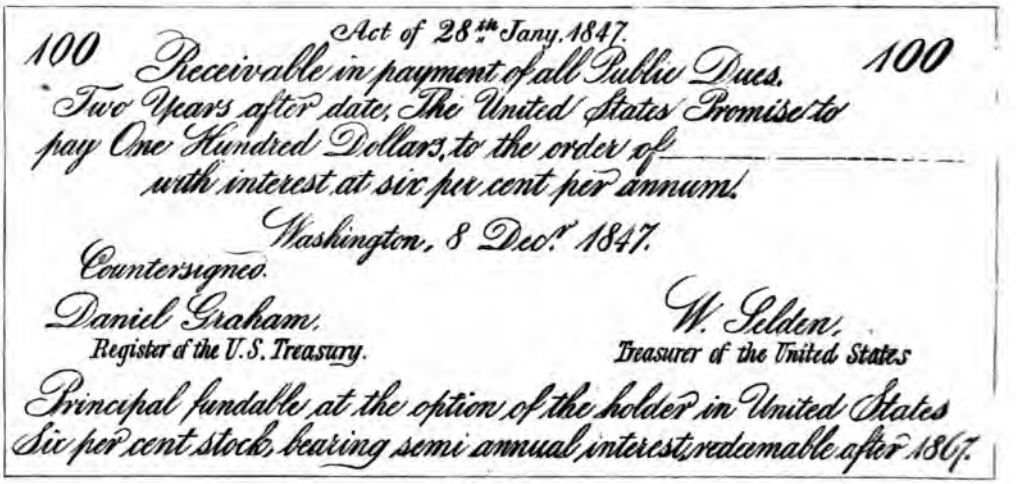
1837—Act of Oct. 12, 1837	$ 2,992,989.15
1838—Act of Oct. 12, 1837	7,007,010.85
1838—Act of May 21, 1838	5,709,810.01
1839—Act of March 2, 1839	3,857,276.21
1840—Act of March 31, 1840	5,589,547.51
1841—Act of March 31, 1840	1,524,703.80
1841—Act of Feb. 15, 1841	6,468,856.70
1842—Act of Feb. 15, 1841	1,060,206.05
1842—Act of Jan. 31, 1842	7,914,644.83
1843—Act of Jan. 31, 1842	45,350.00
1842—Act of Aug. 31, 1842	2,408,554.88
1843—Act of Aug. 31, 1842	617,000.00
1844—Act of March 3, 1843	1,806,950.00
Total	$ 47,002,900.00

—Treasury Notes of the Period of the Mexican War. On July 1, 1844, the public debt of the United States amounted to $24,748,188, and consisted principally of stocks not payable until the lapse of ten and twenty years.* The 5 per cent. stocks payable in ten years, were at a premium of 106, and the 6 per cent. stocks payable in twenty years, at a premium of 116. The secretary estimated that the revenue under the tariff of 1842 would yield a much larger amount than was necessary. Accordingly, congress, in July, 1846, passed a bill amending the tariff and reducing the duties on imports. In the meantime, during the year 1845, difficulties with Mexico, owing to the annexation of Texas, rendered war inevitable, and on May 13, 1846, war was declared. Secretary Walker estimated, that, if the war should continue for a year, there would be a deficiency of more than twelve millions; and, in order to meet this deficiency, a bill was reported from the committee on ways and means, which, with some additions, embodied the provision of the act of Oct. 12, 1837, as to treasury notes, and that of April 14, 1842, as to a loan. The following is the form of a $100 note issued under this act:

* Report of Secretary Bibb, 1844.


100 Act of July 22d 1846. 100
No 4220 No 4220
The United States
Promise to pay, One Year after date, to
_____ or order, One Hundred Dollars,
with Interest at the rate of Five 2/5 per centum.
Countersigned. Washington, 5. Decr 1846.
R. H. Gillet, W. Selden,
Register. Treasurer of the United States.
Receivable in Payment of all Public Dues.

could also be reissued, and also a loan which could be issued in lieu of treasury notes; the amount of both not to exceed ten millions. The stock was to be redeemable after ten years, no notes of less than $50 were to be issued, and they were to be signed by the treasurer and the register. The rate of interest was not to exceed 6 per cent. Notes were to be used in payment of public creditors who would receive them, and the secretary could borrow money on them. The bill became a law July 22, 1846. Under this act, $7,687,800 of notes were issued, and $4,999,149 of stock. Of these notes $2,086,550 bore interest at 5⅔ per cent., and $1,766,450 at 1 mill per cent. per annum. — In January, 1847, the treasury was again in need, and to meet this necessity a bill was introduced, authorizing the issue of twenty-three millions of treasury notes, and an additional five millions under the act of July 22, 1846. This was an elaborate bill, containing all necessary provisions in legislation of this kind. The debate was principally upon the conduct of the war, and, after one or two amendments had been agreed to, the bill passed the house on the same day that it was introduced, by a vote of 166 to 22. In the senate on Jan. 25, a resolution to postpone its consideration was lost, and the debate took considerable latitude, principally upon the tariff question. The general sentiment appeared to be, that in the midst of the war the honor of the country must be sustained. Finally, with some slight amendments, the bill passed, on Jan. 27, 1847, by a vote of 43 to 2, and became a law on the following day. — Notes issued under this act were not to be of a less denomination than $50, and were receivable in payment of public dues, including duties on imports, and were redeemable at the expiration of one or two years, and the interest was to cease at the expiration of sixty days' notice. The following is the form of a 6 per cent. $100 note issued under this act:


Act of 28th Jany. 1847.
100 Receivable in payment of all Public Dues. 100
Two Years after date, The United States Promise to pay One Hundred Dollars, to the order of _____
with interest at six per cent per annum.
Washington, 8 Decr. 1847.
Countersigned.
Daniel Graham,
Register of the U.S. Treasury.
W. Selden,
Treasurer of the United States
Principal fundable at the option of the holder in United States Six per cent stock, bearing semi annual interest, redeemable after 1867.

REVERSE.

Pay to Bearer.
Interest, 6 Dollars per Year.
" 50 Cents " month
" 33⅓ " " 20 Days
" 16⅔ " " 10 "
" 8⅓ " " 5 "
" 1⅔ " " 1 Day

casioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the government from the use of public notes as far as they could be safe and proper: and would only cut off the pretext for a *paper currency*, and particularly for making the bills a *tender* either for public or private debts." — The constitution was adopted on Sept. 17, 1787, and three years thereafter, Hamilton, in his report of Dec. 13, 1790, on a national bank, said: "The emitting of paper money by the authority of government is wisely prohibited to the individual states by the national constitution; and the spirit of that prohibition ought not to be disregarded by the government of the United States. Though paper emissions, under a general authority, might have some advantages not applicable, and be free from some disadvantages which are applicable, to the like emissions by the states separately, yet they are of a nature so liable to abuse—and, it may even be affirmed, so certain of being abused—that the wisdom of the government will be shown in never trusting itself with the use of so seducing and dangerous an expedient." — Although notes of different forms were issued subsequently by the government at various dates, some of which were receivable for all dues payable to the government, no circulating notes were issued, which by the terms of law were made a full legal tender until the passage of the act of Feb. 25, 1862, which was nearly seventy-five years after the adoption of the constitution. — Some of the treasury notes, issued since the adoption of the constitution, and previous to the passage of the legal-tender act, were receivable for all dues to the government, and others not: some were payable at a fixed date, both with and without interest: some were fundable at any time after the date of their issue, others at a fixed date in United States bonds. — During the late civil war, treasury notes were also issued of all these different forms, and also notes payable on demand, receivable for all dues to the government, and others payable on demand, not receivable for duties on imports, or payable by the government for interest upon the public debt, but in every other respect a full legal tender to and by the government, and between the people in all payments. — No notes were issued from 1789 to 1812, a period of twenty-three years. Such notes were issued in the years 1812, 1813, 1814 and 1815, and at various dates from 1837 to 1847. They were again issued in 1857, and subsequently, in the years 1860, 1861 and thereafter. The periods for the issue of these notes may be summarized as follows: first, the war of 1812; second, the financial panic of 1837; third, the Mexican war; fourth, the financial crisis of 1857; and fifth, the war of the rebellion. It will thus be seen that there have been five emergencies in which congress, without any special constitutional authority, has seen fit to authorize such issues. The original debt had, at the beginning of 1812, been reduced from seventy-five millions to forty-five millions. — TREASURY NOTES OF THE WAR OF 1812. In 1810 it was found impossible to meet all of the annual reduction of the debt required by law from the sinking fund, and a temporary loan was authorized to make up the deficiency, which amounted to $2,750,000. This loan was paid the next year. In 1811, however, recourse was had to a loan, and the one authorized by congress for that year was taken so slowly, that, in May, the secretary for the first time recommended the issue of treasury notes upon the following principle, viz.: "1. Not to exceed, in the whole, the amount which may ultimately not be subscribed to the loan: that is to say, that the amount received on account of the loan, and that of the treasury notes, shall not, together, exceed eleven millions; which limits, therefore, the greatest possible amount of treasury notes to less than $4,900,000. 2. To bear an interest of 5⅔ per cent. a year, equal to 1½ per cent. per day on a hundred dollar note. 3. To become payable by the treasury one year after the date of their respective issues. 4. To be, in the meanwhile, receivable in payment of all duties, taxes, or debts, due to the United States." He did not propose that the notes should be fundable in the loan which they were intended to re-enforce. This recommendation of Secretary Gallatin was made in his letter of May 14, 1812, to Mr. Langdon Cheves, chairman of the committee of ways and means of the house, and, in conformity therewith, a bill was reported by that committee on June 12, 1812. — War was declared against Great Britain June 18, 1812. The failure of the loan was due to the fact that the money had to be borrowed from the very classes who had been opposed to the war: therefore, when the bill for authorizing treasury notes was put upon its passage on June 16, it met with much opposition. — It was argued, that the notes under the bill were not equal in value to gold and silver, and would not be received by the banks or the people, who were prejudiced against such government paper; that if issued they could not be redeemed, and would depreciate; that the measure would be subversive of public and private credit; that it was a confession of impaired credit; that to allow the notes to be deposited in banks and to accept bank paper in exchange was to depreciate the government's paper; that if issued, additional taxes should be imposed and set apart for the redemption of the notes, as in the case of the English exchequer notes; that the proposed notes were the same as the old continental money, and would depreciate in the same way. Others opposed the bill simply because they opposed the war or any preparation for it. In case war proved unavoidable the necessary funds should be raised by taxes and loans. The shortness of the time for which the notes were to be issued, was another objection. The public revenues would not meet the engagement, and engagements should not be entered into without a certainty of fulfillment. Taxes were necessary. It was a paltry expedient never suggested by Hamilton or Wolcott, and not even the spontaneous production of Gallatin; that the first

— The table given at foot of page 971 exhibits the different kinds of treasury notes outstanding on February 1, 1884, which were issued from the organization of the government to the date of the passage of the act of March 2, 1861. — TREASURY NOTES OF THE PERIOD OF THE CIVIL WAR. The total public debt on June 20, 1860, was $64,769,703.08. The outstanding treasury notes issued under act of June 23, 1857, were $19,690,500. The amount of treasury notes outstanding, issued under acts previous to that date, was $105,111.64. The act of June 22, 1860, authorized a loan of twenty-one millions, at a rate of interest not exceeding 6 per cent., to be reimbursed within a period not more than twenty years, and not less than ten years. The money was to be used in the redemption of treasury notes, and to replace any amount paid to the treasurer in such notes for public dues. Under this authority, proposals were invited by Secretary Cobb, on Sept. 8, 1860, for ten millions of this loan, which amount was "ample to meet all the treasury notes that would fall due before Jan. 1, 1861." In his report for Dec. 4, 1860, he says: "The rate of interest was fixed at 5 per centum per annum, under the conviction that the loan could be readily negotiated at that rate, for, at that time, the 5 per cent. stock of the United States was selling in the market at the premium of 3 per cent. The result realized this just expectation, and the whole amount offered was taken, either at par or a small premium." Before, however, the time had arrived for payment on the part of the bidders, political complications arose, which affected the credit of the government so unfavorably, that the amount realized was but $7,022,000, the subscribers of $2,978,000 having failed to make good their subscriptions. The secretary stated, that, in the present condition of the country, capitalists were unwilling to invest in United States stock at par, and recommended a repeal of so much of the act of June 22, 1860, as authorized the issue of the additional stock, and asked for authority for the issue of treasury notes for the same amount, "to be negotiated at such rates as will command the confidence of the country." He recommended that the public lands be unconditionally pledged for the ultimate redemption of all the treasury notes which it may become necessary to issue, and suggested, "that there should always exist in the department power to issue treasury notes for a limited amount, under the direction of the President, to meet unforeseen contingencies. It is a power which can never be abused, as the amount realized from such source can only be used to meet lawful demands upon the treasury. No secretary of the treasury, or president, would ever exercise it, unless compelled to do so by the exigencies of the public service. On the other hand, it would enable the government to meet, without embarrassment, those sudden revulsions to which the country is always liable, and which can not always be anticipated. I have already stated that provision should be made at once to relieve the treasury from its present embarrassment, produced by the causes referred to. To do this, congress should authorize the issue of an additional amount of treasury notes, not less than ten millions of dollars: with this means the department would be enabled to meet all lawful demands upon it for the present. The extent of the financial crisis, through which the country is now passing, can not now be determined, and until it is better known, no policy can be recommended of a permanent character." — Secretary Cobb resigned on Dec. 10, but the act of Dec. 17, 1860, was passed in compliance with the suggestions contained in his report. The pledge of the proceeds of the public land was not given in the act, and one of the reasons for withholding such legislation was, that it would interfere with the passage of the homestead bill, which was then under consideration. The act authorized the issue of ten millions of treasury notes in denominations of not less than $50, redeemable in one year from the date of issue, with interest at the rate of 6 per cent., but the secretary was authorized to issue such notes after advertisement at the lowest rate of interest offered. Of these notes, five millions were offered to subscribers. The bids were opened Dec. 28, and only $500,000 were taken at 12 per cent. It was important to negotiate the loan in order to meet the interest on government bonds upon Jan. 1. The remainder of the loan was subscribed by the banks in New York, previous to that date, at 12 per cent. Gen. John A. Dix was appointed secretary of the treasury on Jan. 11, and bids for the remaining $5,000,000 were opened on the 19th, and the notes awarded at the average rate of 10¾ per cent., as follows:

$ 10,000	at 8¾	per cent.
30,000	9	"
10,000	9¼	"
140,000	9½	"
67,000	9¾	"
721,000	10	"
265,000	10¼	"
543,000	10½	"
1,267,000	10¾	"
1,947,000	11	"
$5,000,000 Total.	Average, 10¾	per cent.

The whole ten millions were issued, redeemable at the expiration of one year from date, bearing interest as follows: $70,200 at 6 per cent.; $384,500 at rates varying from 6 to 10 per cent.; $1,027,500 at 10 per cent.; $3,688,700 at rates from 10 to 12 per cent.; and $4,840,000 at 12 per cent. Additional offers bearing interest, ranging from 15 to 36 per cent., were declined. The amount of treasury notes outstanding on Dec. 1, 1860, previous to the passage of this act, was $14,599,700, of which $42,600 was payable in 1859, $3,133,400 in 1860, and $11,423,700 in 1861. Of these notes, $8,684,200 bore interest at 6 per cent., and the remainder at lower rates. — Secretary Dix, in a letter to the chairman of the committee of ways and means, dated Jan. 18, 1861, says: "Within the last few days the amount of overdue treasury

ury notes. The bill was similar in its provisions to the act of 1812: the arguments for and against the measure, were, in the main, the same as those in 1812. The opposition complained that much favoritism had been shown in the dealings of the banks. It was alleged that among the banks granting credit, in return for the treasury notes deposited, as authorized by the law of 1812, were those acting as depositaries of public moneys derived from the deposits of collectors and public agents; that this very money so deposited by the government agents was again loaned to the government on the credit of treasury notes. On the other hand, it was urged that the use of banks as depositaries was unavoidable, and that, in any event, banks would receive incidental benefit from keeping government deposits. Even if a stock loan was substituted for treasury notes the money realized therefrom would be deposited with the same banks until required by the government. The bill passed the house by a vote of 79 to 41, and the senate by a vote of 17 to 9, and became a law on Feb. 25, 1813. — The greatest amount of notes authorized by this act, outstanding at any one time, was five millions: they were all redeemable by the first quarter of the calendar year of 1815, but at the close of that quarter only $1,483,900 had been redeemed, and all of the remainder was not finally paid until the year 1820, although the greatest portion was called in by 1817. They were issued in denominations of not less than $100. An act similar in all respects to that of Feb. 25, 1813, passed the house by vote of 83 to 48, and the senate without debate, on March 1, and was approved March 4, 1814. It authorized the issue of five millions of treasury notes, and of an additional five millions, which, if issued, was to be considered as part of a stock loan for the year, which was subsequently to be authorized. This loan for twenty-five millions was authorized on March 24 of the same year, and could only be placed at a large discount. An additional five millions was therefore issued in place of an equal amount of stock, making in all ten millions of treasury notes issued under this act. These notes were for the first time issued in denominations of less than $100, notes of the denomination of twenty dollars being placed in circulation. The whole ten millions were issued previous to June 30, 1815. The policy of congress seemed to be to keep the authorized issue of treasury notes each year below the amount of the revenue of the year, or, if more was authorized, they were to be in lieu of, and to re-enforce, stock loans. —On Dec. 26, 1814, an act was passed which authorized the issue of $7,500,000 of treasury notes in place of portions of the loans of March 24 and Nov. 15 not already placed, and three millions more for the expenses of the war department. These notes bore the same rate of interest and were for the same time as those of the act of June 30, 1812, and under this act, $8,318,400 of notes were issued, a portion of which was in the denominations of twenties and fifties. — On Aug. 31, 1814, specie payments were suspended except in New England. The accounts of the treasury department show that there were outstanding on Sept. 30, 1814, $10,649,800 of treasury notes. Mr. Crawford was succeeded in October by Secretary Dallas, and the latter, in his report to the committee of ways and means on Oct. 17, 1814, says: "The condition of the circulating medium presents another copious source of mischief and embarrassment. The stock of specie was diminished by exportation, and would remain so withdrawn from use. The multiplication of banks had increased the paper currency so that it was difficult to calculate its amount, and still more difficult to ascertain its value. Bank currency was of no benefit since the suspension of specie payments, and there virtually existed no circulating medium common to all the citizens of the United States. The money transactions of private individuals were at a stand, and the fiscal obligations of the government labored with extreme inconvenience. Under favorable circumstances, the limited issue of treasury notes would probably afford relief, but they were an expensive substitution for coin or bank notes." He concluded by recommending the establishment of a national bank. This statement was called out by a report made by Mr. Eppes, chairman of the committee of ways and means of the house, on Oct. 10, 1874, in which, in order to secure the circulation of treasury notes, it was recommended that notes of small denominations should be issued, to be funded into 8 per cent. stock, payable to bearer, and transferred by delivery, receivable in all payments of public lands and taxes. The internal revenue taxes were to be pledged for payment of interest, and they were to be exchangeable for stock at 8 per cent., or redeemable in specie after six months' notice from the government. On Nov. 24, 1814, in a report to the committee to which a bill for establishing a national bank had been referred, Mr. Dallas mentions, as one of the means at the disposal of the treasury, the issue of treasury notes, "which none but necessitous creditors, contractors in distress or government agents acting officially were willing to accept." He also states that the act of Nov. 15, 1814, authorizing treasury notes to be taken in payment for subscriptions to loans, was passed too late; that the interest on the public debt had not been punctually paid, and that a large amount of treasury notes had already been dishonored. In a subsequent communication of Dec. 14, 1814, he said that the non-payment of treasury notes, and the risk of not paying the interest on the funded debt, were chiefly owing to the suspension of specie payments by the banks, and the consequent impracticability of transferring public funds from the place where they were deposited to the place where they were needed. The difficulty referred to in meeting the interest upon the public debt was in Boston. A state bank had large government deposits, and a draft was sent to meet the interest, upon Oct. 1, 1814. The state bank declined paying in coin or bank

50 Issued in pursuance of an Act of Congress approved March 2, 1861 50

Two Years The United States After Date

Promise to pay to the order of

No. 34953 C Fifty Dollars No. 34953 C

with interest at six per cent Payable 1st Jan. and 1st July

Washington, Aug. 7, 1861

Convertible into

Countersigned Bonds of the United States.

G. Luff, for the Register of the Treasury.

H. G. Root, for the Treasurer of the United States.

Receivable in payment of all Public Dues.

REVERSE.

50 United States Pay to Bearer of America

the name of "The Confederate States of America." Massachusetts soldiers, on their way to Washington, were attacked by a mob in Baltimore. In the month of May the confederate capital was removed to Richmond; North Carolina and Arkansas seceded, and the Union army crossed the Potomac into Virginia, and took possession of Alexandria and Arlington Heights. In June, Tennessee passed an ordinance of secession, and Gen. Butler was defeated at Big Bethel. The two-year treasury notes which had been recently issued at par, were at 2½ per cent. discount; and the government, instead of disposing of the notes, borrowed five millions at sixty days upon them as collateral security. During the following month the disastrous results of the first battle of Bull Run startled the entire country. The Union army, defeated, fell back upon Washington, and the capital of the country was believed to be in danger. Two days thereafter, President Lincoln called for five hundred thousand three-year volunteers. An extra session of congress had been called for July 4, 1861, and on that day, amid events like these, Secretary Chase transmitted his first report to Congress, which recommended measures to provide the means for continuing a civil war which proved in magnitude to be unequaled in the history of nations. Specie payments were suspended on Dec. 28, 1861. The war was carried on chiefly by the use of treasury notes as a circulating medium. The purchasing power of these notes rapidly declined. Prices of all kinds advanced rapidly, and particularly the prices of articles most needed for the supply of the army. The expenditures of the government during the four years of the war were vastly increased beyond the amount which would have been necessary if the war could have been conducted upon the gold standard instead of upon the fluctuating standard of the legal tender paper dollar.—Never was a great national debt contracted so rapidly. In 1835, as has been seen, the country was entirely out of debt, and on Jan. 1, 1861. the whole debt of the Union amounted to but 166

These notes were not chargeable upon the sinking fund, as in the case of the first three acts of the series, nor were they payable out of any money in the treasury not otherwise appropriated, as in the previous act of Dec. 26, 1814, but rested entirely upon the provision making them fundable into stock. The principal and interest were not payable at any specified time, but the notes were everywhere receivable in all payments to the United States. The act reduced the pay of those signing the notes to seventy-five cents for each one hundred notes, and also provided that treasury notes of previous issue should be fundable into 6 per cent. stock. The holders of the small treasury notes could exchange them at pleasure, in sums of not less than $100, for certificates of funded stock bearing interest at 7 per cent. The treaty of peace was signed on Dec. 14, 1814, but the news reached Washington a few days only before the passage of the bill, which, although a war measure, was carried through, inasmuch as it was considered necessary to the regulation of the disordered finances of the country. The whole amount of treasury notes, absolute and contingent, which was authorized by these five acts, was $60,500,000, of which amount $36,680,794 was issued. The following table exhibits the amount issued under each act:

Under act of June 20, 1812		$ 5,000,000
Under act of Feb. 25, 1813		5,000,000
Under act of March 4, 1814		10,000,000
Under act of Dec. 26, 1814		8,318,400
Under act of Feb. 24, 1815—$100 notes	$4,969,400	
Under act of Feb. 24, 1815—small treasury notes	3,392,994	
		8,362,394
Total amount issued		$ 36,680,794

—Although the treasury notes of 1815 of small denominations originally issued, amounted to only $3,392,994, the law made them fundable into 7 per cent. stock, payable after Dec. 31; and as the notes were reissuable, they were, under various exigencies, again and again paid out, until the whole amount of the 7 per cent. stock, issued for the purpose of funding them, amounted to $9,070,386. On account of the high rate of interest of these bonds, the small treasury notes were in demand, and a small amount was sold at a premium of 4 per cent., and $1,365,000 at a premium of $32,107.64, or about 2½ per cent. The secretary, in his annual report for 1815, says: "The treasury notes, which were issued under act passed previous to Feb. 24, 1815, were, for the most part, of a denomination too high to serve as a current medium of exchange; and it was soon ascertained that the small treasury notes, fundable at an interest of 7 per cent., though of a convenient denomination for common use, would be converted into stock almost as soon as they were issued."* The notes of $100 and upward, though fundable into 6 per cent. bonds, were depreciated from 8 to 10 per cent. below bank notes, which bore no interest, but were redeemable in specie. —

* Report of the Secretary of the Treasury, 1815, p. 26.

In recapitulation, it may be stated that the treasury notes of the period of the war of 1812 were issued under five acts of congress, as stated in the table. The notes of the first three acts were made chargeable to the sinking fund—those of the last two, not; those of the first two acts were in denominations of not less than $100; those of the next two were not less than $20; and those of the last act were in denominations of 3, 5, 10, 20, 50, 100 dollars and upward. Those of the first three acts were not originally fundable into stock, but were made so by the act of Nov. 15, 1814, and by the subsequent act of Feb. 24, 1815. The notes of the acts of Dec. 26, 1814, became fundable by the act of Feb. 24, 1815, but those of the last-named act were fundable by the terms of their authorization. The notes of all the acts but the last were made payable one year from the date of their issue; those of the last act were payable at no fixed date. All of these notes (with the exception of the small treasury notes, which were without interest) bore interest at the rate of 5⅔ per cent. None of these notes had any legal-tender quality, and congress, without debate, rejected the only proposition for giving them this quality. The denominations, except in the case of the small notes of 1815, were too large for purposes of circulation, and the inducements for funding these were so great that they could not be used for that purpose. As long as the banks redeemed their notes in specie, treasury notes appear to have kept at par, but when specie payments were suspended, they began to depreciate, and appear to have been kept from great discount by the funding acts of Nov. 25, and Feb. 24, 1815. It is said, "that of eighty millions of loans negotiated by the government during this period, the avails were only thirty-four millions, after deducting discounts and depreciations." (See FINANCE.) After the close of the war, in December, 1814, these notes were rapidly funded. — TREASURY NOTES OF THE PERIOD OF THE FINANCIAL CRISIS OF 1837. In anticipation of a large surplus, congress, by act of June 23, 1836, provided for the distribution of a large amount of government money among the states in proportion to their representation in the senate and house of representatives, and three installments, amounting in all to $27,063,430, were so distributed. (See U. S. SURPLUS MONEY, DISTRIBUTION OF, AMONG THE STATES.) In the meantime, about May 1, 1837, specie payments were suspended, owing to the great depression in commercial circles. An extra session of the 25th congress was called in September of the same year. The charter of the second bank of the United States had expired on March 4, 1836, and on June 23, 1836, congress had passed an act authorizing and regulating the deposit of public moneys in state banks. No action was taken during the extra session toward rechartering the bank of the United States. The distribution of the fourth installment to the states was, however, postponed, but the secretary was prohibited from calling for any of the money already distributed without special author-

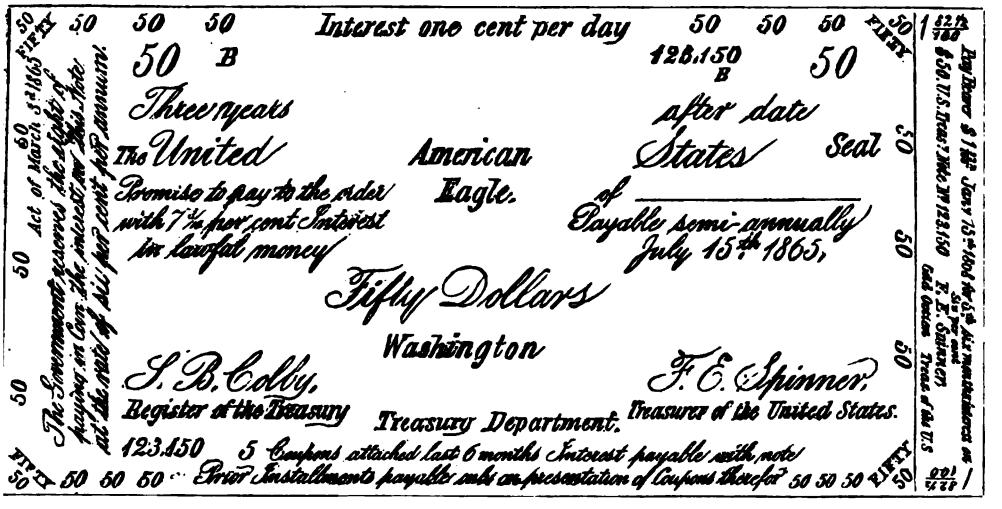
crediting the government of any country can well be devised." — Treasury notes authorized by the acts of June 30, 1812, Feb. 24, 1815, and three intervening acts, bore interest, as recommended by Secretary Gallatin, as has been seen, at the rate of 5⅔ per cent. a year, and were receivable in payment of all duties and taxes laid by the authority of the United States, and for all public lands sold by said authority; and when so received, interest was to be computed at the rate of "one cent and one-half a cent per day" on every one hundred dollars of principal, each month being reckoned as thirty days. It is probable, that the proposition for the issue of the seven-thirty notes was obtained from this act, for a substitute was proposed for the legal tender act, which passed the house of representatives Feb. 6, 1862, which contained a section providing for the issue of transferable certificates bearing interest at the rate of 5⅔ per cent. per annum. These recommendations of the secretary were embodied in the acts of July 17 and Aug. 5, 1861. The first was passed by nearly the unanimous vote of the house, only five votes (one from Kentucky, two from Missouri, one from Ohio, and one from New York) having been against it. It authorized the secretary to borrow 250 millions, either in twenty-year treasury notes, with interest not exceeding 7 per cent., or in seven-thirty three-year treasury notes, and to issue demand notes, bearing no interest, and receivable for public dues. These latter notes were limited to fifty millions, and to denominations of not less than ten dollars. But the act of August 5 authorized the issue of five dollar notes; also twenty-year 6 per cent. bonds for the amount of the seven-thirty notes issued, which bonds were to be used only in exchange, or for the purpose of funding such notes. Under these acts, nearly 140 millions of seven-thirty notes were issued, and sixty millions of demand notes, without interest; ten millions of these notes having been authorized by the act of Feb. 12, 1862. — The first demand notes were issued in August, and paid for salaries at Washington. They were received with reluctance, and the merchants and shop-keepers endeavored to discredit them. Railroad corporations refused them in payment of fares and freight; and leading banks in the city of New York refused to receive them except on special deposits. The secretary and other officers of the treasury signed a paper agreeing to accept them in payment of salaries. A circular was issued to the various assistant treasurers, stating that treasury notes of the denominations of five, ten and twenty dollars had been, and will continue to be issued, redeemable in coin on demand in Boston, New York, Philadelphia, St. Louis and Cincinnati. Gen. Scott also issued a circular on Sept. 8, 1861, announcing to the army, "that the treasury department, to meet future payments to the troops, is about to supply, besides coin, treasury notes in five, ten and twenty dollars, as good as gold in all banks and government offices throughout the United States, and most convenient for transmission by mail from the officers and men to their families at home.' Of these notes $24,550,325 were issued before the 1st of December, and $33,460,000 were in circulation at the time of the suspension of specie payment on Dec. 28. The whole amount authorized was issued prior to April 1, 1862. Notwithstanding the circular of the secretary, it became necessary to use the available coin in payment of the interest upon the public debt, and there was at times some difficulty in redeeming the notes promptly in gold. At a meeting of the associated banks in the city of New York, in January, 1862, it was resolved, "That before we receive such notes, we must require that such legal provision be made by congress as shall insure their speedy redemption, and that a committee of the association be appointed to consider the subject and report on it at an adjourned meeting." The notes were receivable for duties, and soon obtained good credit. After the suspension of specie payment, efforts were made to retire them as rapidly as possible, for as they were receivable for duties, they embarrassed the government in providing for the gold interest upon the public debt. — On July 1, 1863, more than fifty six millions had been retired, and a much larger amount of legal-tender notes had been placed in circulation. The demand notes were not, by the terms of the law, made payable in gold, but as they were authorized prior to the suspension of specie payment, and proclaimed as payable in coin by the circular of the secretary, they were considered so payable, and, after the suspension of specie payment, were quoted at times at about the same premium for legal-tender notes as gold. Interest upon the first issue of the seven-thirty notes was also paid in gold. These notes were fundable into twenty-year 6 per cent. bonds of 1881, and but few were presented for payment. The amount redeemed in money to Nov. 1, 1864, was only $63,500, while the whole amount converted into bonds to that date was $125,864,900.*—The seven-thirty loan was successfully negotiated through the associated banks of New York, who, jointly with the banks of Boston and Philadelphia, made a contract with the secretary on Aug. 15, 1861, for the purchase of government securities to the amount of 150 millions, in three different installments. The total amount taken by the New York banks, was 105 millions. Whenever subscriptions were made, 10 per cent. was paid to the assistant treasurers in New York, Boston and Philadelphia, and the remainder was placed to the credit of the United States on the books of the banks subscribing. The arrangement of the associated banks among themselves was to issue certificates to each subscriber, stating the amount so subscribed, and placed to the credit of the government; and, as such deposits were withdrawn, or paid into the treasury, seven-thirty notes were issued for the same amount to the subscribers respectively. An immediate issue was to be made of seven-thirty treasury notes, dated Aug. 15, 1861, to the extent

* Finance Report, 1864, p. 10.

of fifty millions, bearing interest from that date. The associated banks were to take jointly this amount at par, with the privilege of fifty millions on Oct. 15, and fifty millions on Dec. 15; the banks giving their decision on the first days of these months. It was understood, that, if the whole amount should be taken, no other government stock or treasury notes, except demand notes, should be negotiated or paid out by the treasury until Feb. 1, 1862. The details of this negotiation, which was perhaps the most important one during the war, are given in the Bankers' Magazine for September, 1861, and August, 1862. — The report of June 12, 1862, of the loan committee of the associated banks of New York, states, that, at the time the negotiation was made, "the credit of the government had become impaired to such a degree that a large loan could not be obtained in any ordinary way, nor even a small temporary loan, except for a very short period at a high rate of interest. Men's hearts failed them: the rebellion was on so large a scale, and had so unexpectedly broken out and raged with such fury, that to subdue it seemed to most persons to be impossible. Then it was, after careful deliberation and consultation with the secretary, that the banks decided it to be wise for them to depart from their usual legitimate business, and sustain the government credit, and stand or fall with it. This act restored the public confidence, and was the highest indorsement of the public credit that could then have been given. * * When the banks agreed to advance this large amount to the government, they did so without hope or expectation of profit from it, and they earnestly sought to obtain from the government the assurance that they should be indemnified from loss. It was not until five months after taking the first loan, and two months after taking the third, in the month of January last, that there was any reason to expect the securities to command in the market a price higher than that at which they had been taken. * * Much doubt was expressed, even by our most experienced bankers and financiers, when the contract was entered into, of the ability of the banks to fulfill it. It has been fulfilled by them to the letter, and has proven of more value to the country than can be estimated. As fortunately as unexpectedly, it has resulted profitably for the associates, and has probably enabled them to employ their means to nearly as much advantage as would have been done but for the political disturbances of the country."— Secretary Chase, in his report for Dec. 9, 1861, thus refers to this negotiation: "Representatives from the banking institutions of the three cities, responding to his invitation, met him for consultation in New York, and after full conference, agreed to unite as associates in moneyed support to the government, and to subscribe at once a loan of fifty millions of dollars, of which five millions were to be paid immediately to the assistant treasurers, in coin, and the residue, also in coin, as needed for disbursement. The secretary, on his part, agreed to issue three year seven-thirty bonds, or treasury notes, bearing even date with the subscription, and of equal amount; to cause books of subscription to the national loan to be immediately opened; to reimburse the advances of the banks, as far as practicable, from this national subscription; and to deliver to them seven-thirty bonds, or treasury notes, for the amount not thus reimbursed. It was further understood, that the secretary of the treasury should issue a limited amount of United States notes, payable on demand, in aid of the operations of the treasury, and that the associated institutions, when the first advance of fifty millions should be expended, would, if practicable, make another, and, when that should be exhausted, still another advance to the government of the same amount, and on similar terms. * * All these objects were happily accomplished. Fifty millions of dollars were immediately advanced by the banks. The secretary caused books of subscription to be opened throughout the country, and the people subscribed freely to the loan. The amounts thus subscribed were reimbursed to the banks, and the sum reimbursed, though then covering but little more than half the amount, enabled those institutions, when a second loan was required, to make a second advance of $50,000,000. Thus, two loans, of $50,000,000 each, have been negotiated for three-year seven-thirty bonds, at par. The first of these loans was negotiated, and the first issue of bonds bears date, Aug. 19, the second Oct. 1, 1861." — On Nov. 16, a third loan was negotiated with the associated institutions under the seventh section of the act of Aug. 5, 1861, by agreeing to issue to them fifty millions of dollars in 6 per cent. bonds, at a rate equivalent to par, for the bonds bearing 7 per cent. interest, authorized by the act of July 17, 1861. — The table on page 978 gives quotations of United States 5 and 6 per cent. bonds, of treasury notes and of gold, at the dates stated, compiled from tables in Hunt's Merchants' Magazine for 1862–3–4. — About three years after the passage of the act authorizing the first issue of seven-thirty notes, another act was passed, on June 30, 1864, authorizing 200 millions of similar notes, and a subsequent act of March 3, 1865, authorized 600 millions in addition, and under this act the whole amount (including $29,992,500 of reissues) was issued. Of this amount forty-four millions were in denominations of fifty dollars; 137 millions, in one hundreds; 228 millions, in five hundreds; 370 millions, in one thousands; and about fifty millions, in five thousands. They were issued in three series, dated Aug. 15, 1864, June 15, 1865, and July 15, 1865. These notes, like those that preceded them, were fundable into 6 per cent. bonds—the former into eighty-ones, and the latter into five-twenties—and this fact was printed upon the reverse of each note. The 800 millions last issued were payable, principal and interest, in lawful money. More than twenty millions, which were authorized by the act of June 20, 1864, were paid to the soldiers direct. Of the 600 millions, authorized by the act

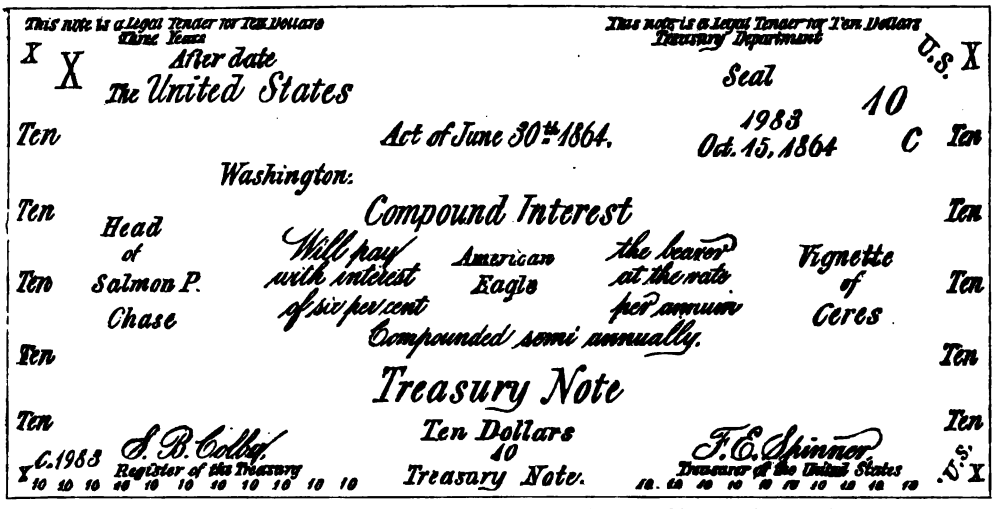
YEARS AND MONTHS.	6's, 1861.		5's, 1874.	7 3-10. 3 Years.	1 Year Certificates Old.	Demand Notes.	Gold.
	Registered.	Coupon.					
1862.							
February 5	88	89	78¼	----------	----------	----------	----------
March 1	93¼	92¼	85¼	99¼	----------	----------	2¼
April 1	93	93	87	99¼	96¼	----------	2
May 10	103¼	103	94	104	99¼	¼	3¾
June 7	103	106	96	106¼	100¼	1	4¼
July 5	100¼	100¼	95	102	98¼	5¼	9¼
August 2	98¼	98¼	85¼	102¼	98¼	5¼	15¼
September 6	99¼	99¼	88¼	102¼	99	8	19¼
October 4	104¼	104¼	94	105¼	94	22¼	23
November 1	104	104¼	93¼	105¼	99¼	26¼	31¼
December 6	101	104	91¼	104	97¼	25	22
1863.							
January 3	96¼	98	88¼	102¼	96¼	29	34¼
February 7	92	93¼	85¼	102	94	55	57¼
March 7	99¼	100¼	94¼	105	98¼	53	55¼
April 4	104¼	105	97¼	104¼	99	----------	55¼
						1 Year Certificat's New.	
May 2	105¼	106¼	97¼	106¼	102	99¼	150¼
June 6	104	108¼	99	107	101¼	97¼	145¼
July 11	104¼	105	97¼	106	100¼	98¼	132¼
August 1	104¼	105¼	96¼	106¼	101	99¼	129¼
September 5	106	106	95	106	100¼	99¼	131¼
October 3	107	106¼	95	106¼	101¼	99¼	143¼
November 7	108	109	98	107	101¼	98¼	147¼
November 27	108	100	98	106¼	101¼	98	145¼
1864.							
January 2	104¼	105¼	96	106¼	101¼	97¼	152
February 6	107¼	107¼	100	108	102¼	98¼	158¼
March 5	111¼	111	100	111	103¼	99¼	161¼
April 2	111	110	100	111	----------	99¼	166¼
May 7	113	113	102	109¼	----------	98¼	173¼
June 4	109	113¼	102	109¼	----------	98	191
July 11	102¼	102¼	102	108¼	----------	94¼	235
August 6	106¼	105¼	99	107¼	----------	94¼	261¼
September 3	107	107	100	111	----------	93¼	243¼
October 1	106	106¼	103	110¼	----------	94¼	193¼
November 5	107¼	106¼	100	106¼	----------	95¼	244¼
December 12	108¼	108¼	100	120	----------	97¼	237¼

of March 3, 1865, seventy millions were issued during that month, and the whole remainder was taken during the following four months. Secretary McCulloch, in his report for Dec. 4, 1865, thus refers to the negotiations and issue of the remaining 530 millions of these notes: "Upon the capture of Richmond, and the surrender of the confederate armies, it became apparent that there would be an early disbanding of the forces of the United States, and consequently heavy requisitions from the war department for transportation and payment of the army, including bounties. As it was important that these requisitions should be promptly met, and especially important that not a soldier should remain in the service a single day for want of means to pay him, the secretary perceived the necessity of realizing as speedily as possible the amount—$530,000,000—still authorized to be borrowed under this act. The seven and three-tenths notes had proved to be a popular loan, and although a security on longer time and lower interest would have been more advantageous to the government, the secretary considered it advisable, under the circumstances, to continue to offer these notes to the public, and to avail himself, as his immediate predecessors had done, of the services of Jay Cooke, Esq., in the sale of them. The result was in the highest degree satisfactory. By the admirable skill and energy of the agent, and the hearty co-operation of the national banks, these notes were distributed in every part of the northern and some parts of the southern states, and placed within the reach of every person desiring to invest in them. No loan ever offered in the United States, notwithstanding the large amount of government securities previously taken by the people, was so promptly subscribed for as this. Before the first of August the entire amount of $530,000,000 had been taken, and the secretary had the unexpected satisfaction of being able, with the receipts from customs and internal revenue and a small increase of the temporary loan, to meet all the requisitions upon the treasury."—On the opposite page is the form of the seven-thirty note issued under the act of March 3, 1865, with one coupon attached. The whole half year's interest was payable with the note, and there were five coupons upon the right end of the note. On the reverse were printed these words: "Pay to bearer. At maturity convertible at the option of the holder into bonds redeemable at the pleasure of the government, at any time after five years, and payable twenty years from July 15, 1868, with interest at 6 per cent. per annum, payable semi-annually in coin."—During the month of July, 1862, gold was at a premium for legal tender notes of from 10 to 15 per cent., and demand notes, which were receivable for customs at a premium of about 8 per cent. The subsidiary silver coinage authorized by the act of Feb. 21, 1853, was about 7 per cent. less in intrinsic value than the silver dollar, and this difference in weight was authorized, so that it might be retained in the country for purposes of change. This silver

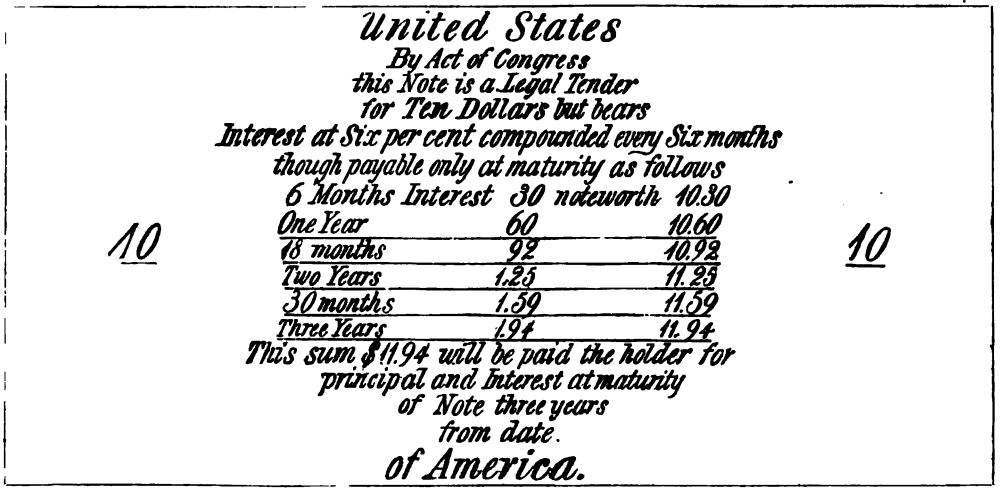


coin soon began to disappear. Considerable amounts were hoarded in the north and south, and larger amounts were exported to Canada and South America; and a premium of from 10 to 12 per cent. was offered for small amounts by business men who desired it for convenience in making change. Many individuals as well as corporations issued small obligations, such as had been issued in 1812 and 1837. Postage stamps were used to a considerable extent for purposes of change. The postmaster general, in his report of December, 1862, says: "In the first quarter of the current year ending Sept. 20, the number of stamps issued to postmasters was one hundred and four millions; there were calls for about two hundred millions, which would have been nearly sufficient to meet the usual demand for a year. This extraordinary demand arose from the temporary use of these stamps as a currency for the public in lieu of the smaller denominations of specie, and ceased with the introduction of the so-called postal currency.'" — On July 17, 1862, an act was passed which authorized 'the issue of "postage and other stamps of the United States"; which were receivable in exchange for United States notes, and in payment of all dues to the United States, in sums of not less than five dollars. Under this law, notes of the denominations of 5, 10, 25 and 50 cents were issued, and the denominations of 5 and 25 cents were printed on brown tinted paper, with an engraved head of Jefferson, which was the exact counterpart of that used on the five-cent postage stamp. On the twenty-five-cent note the head of Jefferson was five times repeated. The ten-cent note was printed in green, with the head of Washington, the counterpart of that used on the ten-cent postage stamp. Upon the fifty-cent note this vignette was five times repeated. These notes were issued in the month August, 1862, and were termed "postage currency," and continued in use until they were replaced by the fractional currency authorized by section four of the act of March 3, 1863. The previous act prohibited private corporations, banking associations and individuals from issuing or circulating notes for fractions of a dollar, and imposed a penalty, upon conviction, of a fine not exceeding five hundred dollars, and imprisonment not exceeding six months. The law did not prohibit the issue of fractional currency by cities, and considerable amounts were placed in circulation by various municipalities notwithstanding the fact that in many of the states laws had been passed in the year 1837, or prior thereto, prohibiting such issues. — The amount of fractional currency was limited to fifty millions of dollars, and denominations of from three cents to fifty cents were issued, which were exchangeable for United States notes in sums of not less than three dollars. On the days on which this small currency was first issued to the public, the offices of the assistant treasurer in New York and in other cities were thronged with long lines of people anxious to obtain this paper currency to supply the deficiency caused by the withdrawal of silver coin. On account of the scarcity of one and two-dollar notes and of fractional currency, whole sheets of these notes when they were first issued were paid to the army, and subsequently were so cut that four 25-cent notes were used in place of a one-dollar note, and four fifty-cent notes in place of a two-dollar note, and in this form considerable amounts were paid out. These notes were universally used for small change in and out of the army. The total issue of "postage currency," which commenced Aug. 21, 1862, and ceased May 27, 1863, was $20,215,635. $4,282,082 was outstanding on June 1, 1883, of which $1,028,332 was in denominations of five cents; $1,243,974 in ten cents; $1,039,203 in twenty-five cents; and $970,572 in denominations of fifty cents. The total amount of issues and reissues under both acts, was $368,720,074. They wore out rapidly and became ragged and filthy, and were frequently returned for redemption. — The first issues under the act of March 3 commenced on Oct. 10, 1863, and ceased on Feb.

15, 1876; and an act was passed on April 17, of the same year, directing the secretary to replace this circulation by the issue of subsidiary silver coin. The fractional paper currency was issued in five different series. The highest amount outstanding at any one time was less than fifty millions. The amount outstanding on February 1, 1884, was $15,363,184. A considerable amount is still held by banks and bankers, which is grudgingly paid out to those customers who desire it for purposes of remittance by letter. The principal portion of the amount outstanding will probably never be presented for redemption. The proportion of loss to the people from this fractional currency is vastly greater than that of any other kind of circulation ever issued in this country, and this loss, in a large measure, must be attributed to the small value of the notes and the many casualties of the war. The proportion of legal-tender notes and national bank notes of the highest amount outstanding at any one time, not presented for redemption in the course of twenty years, is estimated at about 1½ per cent. — Authority was given by the second section of the act of March 3, 1863, to issue 400 millions of treasury notes; bearing interest at a rate not exceeding 6 per cent. in lawful money for a term not exceeding three years, payable at periods expressed on their face, and in denominations of not less than ten dollars. These notes were exchangeable, together with the accumulated interest for treasury notes not bearing interest. They were made legal tender for their face value, excluding interest. Power was also given to the secretary to issue 150 millions of additional greenbacks, which were to be issued only in exchange for these interest-bearing notes. Under this act, $44,520,000 notes were issued, redeemable one year from date, and $166,480,000 two years from date, bearing interest at 5 per cent. per annum, which were known as "one and two year notes of 1863." — Authority was given by the act of June 30, 1864, for the issue of 200 millions of treasury notes in denominations of not less than ten dollars, not exceeding three years, and bearing interest not exceeding 7.30 per cent. per annum, interest payable semi-annually, principal and interest to be paid in lawful money. The notes were to be a legal tender for their face value. No seven-thirty notes were issued under this act, but, in lieu thereof, $266,595,440 of compound interest notes were issued. The act did not authorize in terms the issue of compound interest notes, but as the interest at 6 per cent. compounded, would be considerably less than at 7.30 per cent. simple interest, their issue was not in conflict with the terms of the act. The notes were in the form shown on the opposite page. Of these notes, $177,045,770 were issued in redemption of the one and two year 5 per cent. notes, and it is not probable that more than 200 millions of these notes were outstanding at any one time. Secretary Fessenden, in his report for Dec. 6, 1864, thus refers to the issue of these notes: "The whole amount of national circulation, not bearing interest, exclusive of fractional currency, and of notes issued by national banks, is limited to four hundred millions of dollars, subject to slight occasional increase from the fifty millions held in reserve for the payment of temporary deposits. Of 5 per cent. interest-bearing notes there were outstanding, on the first of November last, $120,519,110. To a considerable extent these notes have been, and will continue to be, used as currency. Those with coupons have been found particularly objectionable, as, though withdrawn to a certain extent while the interest is maturing, they are liable to be periodically rushed upon the market. In consideration of this feature, a large amount, viz., about ninety millions of the original issue of one hundred and fifty millions of these coupon notes, have been withdrawn and destroyed, and their place occupied by notes payable in three years, bearing interest at 6 per centum, compounded semi-annually. This is believed to be the best form of interest-bearing legal-tender notes, as being more likely to be withdrawn and held until maturity, as an investment. Of these, fifteen millions in amount were issued under the act of March 3, 1863, and about ninety millions under the act of June 30, 1864. The total amount of interest-bearing notes outstanding on the 22d of November last, was $210,222,870. What proportion of these may be considered as an addition to the circulation I am unable to determine. To that extent, whatever it may be, they contribute to the amount of the currency, and thus in some degree occasion and in still greater degree sustain, an increase of prices, and depress values." — About two years and eight months after the passage of the last act, authority was given for the issue of temporary loan 3 per cent. certificates, for the purpose of retiring the compound interest notes. When these notes were issued, it was expected that they would, as the interest accumulated, soon pass out of circulation into the hands of bankers and capitalists. These expectations were realized, for the interest was only payable at maturity three years from date. Such notes, with accrued interest, would not be paid out by the holders except in cases of absolute necessity. In order to insure the retirement of these notes, "An act to provide ways and means for the payment of compound interest notes," was passed on March 2, 1867. — This act authorized the issue of 3 per cent. certificates in denominations of not less than $100, payable on demand. The national banks were authorized to hold these certificates as a part of their reserve, provided that not less than two-fifths of the entire reserve should consist of lawful money of the United States. This privilege did not largely diminish the amount of gold coin and greenbacks which the banks were required continually to keep on hand, as most of the banks held a large amount of cash reserve, in addition to the amount required by law. This excess could with great profit be invested in the new certificates, and they could be used to advantage for clearing-house purposes, and the banks at once availed


This note is a Legal Tender for Ten Dollars
Three Years
After date
The United States
Act of June 30th 1864.
Washington.
Compound Interest
Head of Salmon P. Chase
Will pay with interest of six per cent
American Eagle
the bearer at the rate per annum
Vignette of Ceres
Compounded semi annually.
Treasury Note
Ten Dollars
Treasury Note.
S. P. Colby
Register of the Treasury
F. E. Spinner
Treasurer of the United States
This note is a Legal Tender for Ten Dollars
Treasury Department
Seal
1983
Oct. 15, 1864
C
U.S.

On the reverse of these notes, the following table, showing the rates of interest which would accumulate upon the notes, was printed for the convenience of the holder:


United States
By Act of Congress
this Note is a Legal Tender
for Ten Dollars but bears
Interest at Six per cent compounded every Six months
though payable only at maturity as follows

6 Months Interest	30 noteworth	10.30
One Year	60	10.60
18 months	92	10.92
Two Years	1.25	11.25
30 months	1.59	11.59
Three Years	1.94	11.94

This sum $11.94 will be paid the holder for principal and Interest at maturity of Note three years from date.
of America.
10
10

themselves of this privilege. The amount authorized by this act was fifty millions, which was increased to seventy-five millions by the act of July 25, 1868. These certificates were payable on demand, and redeemable at the pleasure of the government: they were chiefly issued during the fiscal year 1868 and 1869, and for the most part retired in the fiscal years from 1869 to 1873—$12,195,000 being retired during the latter year. — The act of July 12, 1870, authorized the issue of $54,000,000, additional bank circulation, and section two of that act provided, that at the end of each month after the passage of this act the comptroller of the currency should report the amount of such circulating notes issued, whereupon the secretary of the treasury should redeem and cancel a like amount of 3 per cent. certificates; and in order to retire such certificates he may give notice to the holders of said certificates, designating the number, date and amount, that they shall cease to bear interest from and after a certain day designated, and that the certificates so designated shall cease to be available for any portion of the reserve. Thus it will be seen that the compound interest notes were issued for the purpose of retiring 5 per cent. notes, the 3 per cent. certificates for the retirement of the compounds which were maturing, and the act of July 12, 1870, in turn for the retirement of the 3 per cents, and these different acts had the effect of rapidly accomplishing these results, with but little inconvenience either to the banks or to the public. — The act of March 3, 1863, authorized the issue of gold certificates, of one and two-year notes, and of compound interest notes; and certificates under the fifth section of that act were used for clearing-house purposes soon after the passage of the national bank act. They were authorized to be issued in sums of not less than $20, corresponding with the denomination of United States notes. The coin and bullion deposited were required to

the same on demand. Certificates representing coin in the treasury were authorized to be issued in payment of interest on the public debt, but it was provided that the amount of certificates issued should not, at any one time, exceed 20 per centum beyond the amount of coin and bullion in the treasury. These certificates were authorized to be received at par in payment of duties. The first issue was made on Nov. 13, 1865. On June 30, 1875, there were outstanding $21,796,300, of which the national banks in New York city held $12,642,180. Their issue was discontinued on Dec. 1, 1878, just previous to the resumption of specie payment, and the amount outstanding had decreased on June 30, 1879, to $15,413,700. The amount outstanding on Oct. 3, 1883, was $4,907,440, of which the national banks held $4,594,300. On Jan. 1, 1883, the amount outstanding was $3,568,840. Most of these certificates were issued for clearing-house purposes, in denominations of $1,000, $5,000 and $10,000. — On June 8, 1872, an act was passed authorizing the secretary of the treasury to receive United States notes on deposit without interest from national bank associations, in sums not less than $10,000, and issue certificates therefor, of denominations not less than $5,000. These certificates were similar to the 3 per cent. certificates just referred to, except that they bore no interest, and were largely used in place thereof for clearing-house purposes. The certificates were payable on demand in United States notes at the place of issue, and they were authorized to be held and counted to be used in settlement of clearing-house balances. These certificates were not properly treasury notes, and the highest amount issued was $64,780,000, on Aug. 3, 1875, which amount was rapidly reduced after the resumption of specie payments. On June 30, 1875, there were outstanding $59,045,000, of which the national banks held $47,310,000. On June 30, 1876, the amount outstanding was $33,140,000, of which the banks held $27,955. The amount outstanding on June 1, 1883, was $11,805,000, of which the banks held, on May 1, $8,420,000. — The act of Feb. 26, 1879, authorized the issue of 4 per cent. certificates, of the denomination of $10, which were convertible at any time, with accrued interest, into the 4 per cent. bonds authorized to be issued July 14, 1870. This act was passed for the purpose of facilitating the refunding of 5 and 6 per cent. bonds then falling due into 4 per cents, but the act was really unnecessary, for about the time the certificates began to be issued, the 4 per cent. bonds were above par in the market. Long lines of people gathered at the different government depositories where the certificates were offered, and the amount was taken as fast as they could be furnished. $40,012,750 were disposed of at par, of which $39,398,110 were issued during the fourth quarter of the fiscal year 1879, and the amount outstanding on June 1, 1883, was $358,000. — The following table exhibits the amount of treasury notes of the different forms issued during the late civil war, outstanding on June 1, 1883, interest upon all of which has long since ceased:

NOTES.	Act.	Rate of Interest.	Interest Ceased.	Principal.	Interest.
Treasury notes of 1861	Mar. 2, 1861.	6 per cent.	March 3, 1863.	$ 3,000	$ 864.50
Demand notes	July 17, 1861. Feb. 12, 1862.	No interest.		59,010	
7-30's of 1861	July 17, 1861.	7 3-10 per cent.	Aug. 19 and Oct. 1, 1864.	16,250	1,091 55
Fractional currency	July 17, 1862. Mar. 3, 1863. June 30, 1864.	No interest.		15,379,552	
1 year notes of 1863	Mar. 3, 1863.	5 per cent.	Various dates in 1865.	40,825	2,053 35
2 year notes of 1863	Mar. 3, 1863.	5 per cent.	Various dates in 1866.	31,100	1,472 47
Compound interest notes	Mar. 3, 1863. June 30, 1864.	6 per cent.	June 10, 1867, and May 15, 1868.	214,670	43,913 61
7-30's of 1864 and 1865	June 30, 1864. Mar. 30, 1865.	7 3-10 per cent.	Aug. 15, 1867, and July 15, 1868.	137,650	19,951 89
3 per cent. certificates	Mar. 2, 1867. July 25, 1868.	3 per cent.	Feb. 28, 1873.	5,000	394 31
Legal tender certificates	June 8, 1872.	No interest.		11,805,000	
Gold certificates	Mar. 3, 1863.	No interest.		3,568,840	

—"An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for refunding the floating debt of the United States," which was signed by President Lincoln on Feb. 25, 1862, is the first law ever placed upon the statute books making treasury notes, or anything but gold and silver coin, a tender in payment of debts. Indeed, it may be said that neither the congress of the United States nor the continental congress, which preceded it, issued any form of legal tender treasury notes. The continental congress had no power to enact such a law. It did, however, pass a resolution, on Jan. 4, 1777, recommending to the legislatures of the different states to pass laws making the bills of credit issued by congress a lawful tender in payment of public and private debts, and a refusal thereof an extinguishment of such debts; that debts payable in sterling money be discharged in continental dollars at the rate of 43.6 sterling per dollar; and that in the discharge of all other debts and contracts, continental dollars shall pass at the rate fixed by the respective states for the value of Spanish milled dollars. In accordance with the recommendation contained in these resolutions, continental money was made a legal tender in Connecticut, Massachusetts,

Rhode Island and New Jersey in 1776, and in Pennsylvania, Delaware, Maryland and Virginia in 1777. — The legal-tender act was passed during the second session of the 32d congress, which met Dec. 2, 1861. The report of the secretary of the treasury bears date Dec. 9. The third installment of fifty millions, of the loan of 150 millions already referred to, had been negotiated on the 16th of November previous, with the associated banks. The secretary was hopeful that the war would be brought to an auspicious termination before midsummer, but at the same time submitted estimates based upon its continuance. In this event, it was estimated that the public debt, which, on July 1, 1861, was $90,867,828, would be, on July 1, 1862, 517 millions, and on July 1 of the following year, 897 millions. He recommended the issue of circulating notes in place of the existing bank note circulation, which depended "on the laws of thirty-four states, and the character of some sixteen hundred private corporations." Two plans for effecting this object were suggested: the first was the withdrawal of the bank circulation, and the issue of United States notes instead thereof, payable in coin on demand; the second contemplated the delivery to banks of notes prepared for circulation under national direction, and to secure prompt convertibility into coin by the pledge of United States bonds, and other needful regulations. Both of these plans were discussed at considerable length in the report, the preference of the secretary being decidedly in favor of the issue of bank notes. The avails of the large loans made from the banks were not allowed to remain on deposit, to be drawn by checks as the necessities of the government should require, but were, from time to time, paid into the treasury, so that it was quite difficult for some of the banks to meet the last installment. The banks were in danger of suspending specie payment at the time of the meeting of congress. Suspension finally took place on Dec. 28, 1861, and two days later, on the 30th, Mr. Spaulding, of the subcommittee of the committee of ways and means, introduced the legal-tender bill. — A national bank bill had been prepared previously, and when nearly completed, Mr. Hooper, of Massachusetts, also of the subcommittee, incorporated in it several provisions contained in a recent free banking bill, which had passed the legislature of his own state. Two hundred copies of this bill, which was hastily prepared late in the month of December, were printed for the use of the committee of ways and means, and a copy of this bill, which was the basis of the national bank act which became a law about a year afterward, is in the possession of the writer of this article. It being evident that the bank bill would encounter considerable opposition from the friends of banks organized under state laws, and that great delay would necessarily occur from the consideration of an elaborate bank bill of sixty or more sections, arranged for the organization of banks in the different states of the Union, the bill was laid aside, and the bill authorizing the issue of legal-tender notes was considered. An informal letter was read to the committee from Attorney General Bates, in which he gave it as his opinion that congress had not only the right to issue such bills of credit, but also to make them a legal tender. Discussion of the bill continued for several days, and, upon a vote being taken, it was found that the committee was equally divided, but by the change of a vote it was finally reported to the house on July 7, 1862, and published in the leading New York newspapers, only two of which were favorable to the measure. Delegates from ten of the principal banks in the three leading cities appeared in Washington and opposed the bill. The bill was afterward submitted to the secretary of the Treasury by the committee, and, upon its return with his suggestions, was reported to the house on Jan. 22, 1862, with the title above given, as a substitute for the previous bill. The bill passed the house on Feb. 6, 1862, by a vote of 93 to 59. The vote to strike out the legal-tender clause was lost in the senate by 17 yeas to 22 nays, and the bill passed by a vote of 30 to 7. The chief amendments in the senate were: requiring payment of interest semi-annually in coin on bonds and seven-thirty notes; conferring on the secretary power to sell 6 per cent. bonds at the market value thereof for coin; making the bonds redeemable in five years and payable in twenty years from date at the option of the government, and authorizing temporary deposits in the treasury at 6 per cent. — There was considerable debate in both houses upon the question of the right of the government to issue demand notes, and the arguments were not unlike those which have already been given in previous debates in congress. The principal discussion was, however, upon the constitutional right of congress to issue legal-tender notes. On the 20th the amendments were returned to the senate with the concurrence of the house in part of them, and non-concurrence in others, and with some amendments to the senate amendments, after which a conference committee was appointed in the house and senate, which committee had a long consultation extending through two or three days. The report of the conference committee was agreed to on the 24th in the house by yeas 97, nays 22, and in the senate on the 25th without a division, and on the same day the bill was approved by the president. It authorized the issue of 150 millions of United States notes, not bearing interest, payable to bearer at the treasury of the United States, and of denominations of not less than $5, fifty millions of which were to be in lieu of the demand treasury notes which had been previously issued; they were similar in form to those notes, but they were not receivable in payment of duties on imports, and were not payable by the government for interest upon its obligations, which were payable in coin; they were to be a legal tender in payment of all other debts, public and private, within the United States. They differed from the first notes issued also, and in this respect, that all holders of legal-tender

notes were authorized to deposit any sum not less than $50, or any multiple of $50, with the treasurer, or either of the assistant treasurers, and receive duplicate certificates, upon which were to be issued to the holder an equal amount of bonds of the United States bearing interest at the rate of 6 per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof. The second section of the same act authorizes the issue of 500 millions of five-twenty bonds into which the treasury notes were to be funded, in accordance with the previous section and as stated in the title of the bill. The first notes issued were of the date of March 10, 1862, and there was printed upon the back the following words: "This note is a legal tender for all debts, public and private, except duties on imports and interest on the public debt, and is exchangeable for United States 6 per cent. bonds redeemable at the pleasure of the United States after five years." — On June 7, 1862, the secretary addressed letters to the chairman of the committee of ways and means of the house and the finance committee of the senate, recommending a further issue of 150 millions of dollars of legal-tender notes. He said that nearly the whole issue of sixty millions in demand notes was held by bankers and by capitalists, and was at a premium of ¼ to 1½ per cent. on account of its availability for the payment of duties; so that there was really only about ninety millions of United States notes in circulation. He said that the United States notes are maintained at near par in gold by the provision for their conversion into bonds bearing 6 per cent. interest payable in coin, and that resumption would be more easily effected "if the currency—small as well as large—were of United States notes, than if the channels of circulation be left to be filled up by the emissions of non-specie paying corporations, solvent and insolvent." With these letters he transmitted bills for the consideration of these committees. The immediate necessities of the government admitted of but little delay, and the bill, substantially as recommended by the secretary, passed both houses, and was signed by the president on June 11, 1862. The bill authorized the issue of 150 millions of legal-tender notes, thirty-five millions of which were to be in denominations less than $5. The subsequent act of March 3, 1863, authorized the issue of an additional 150 millions, making the aggregate authorized issue of legal-tender notes 450 millions of dollars. This act was similar to the previous legal-tender acts, so far as the issue of treasury notes was concerned, except that it provided "that the holders of United States notes issued under former acts shall present the same for the purpose of exchanging them for bonds as therein provided on or before July 1, 1863, and thereupon the right to exchange the same shall cease and determine." — After the passage of the act of March 3, 1863, the secretary decided to commence the negotiation of 5 per cent. ten-forty bonds, and gave notice that he should decline to allow the holders of legal tenders to fund such notes in bonds bearing a greater rate of interest than 5 per cent. after July 1, 1863. The negotiation of the 5 per cents was not successful at that time, and that portion of the act of March 3 which repealed the right to fund legal tenders into five-twenties, as printed upon the back of the notes, was not only a violation of the contract with the holder, but also a serious financial mistake. It had the effect to materially reduce the value of the treasury notes in the market, prevented for a time the further funding of treasury notes after July 1, and undoubtedly postponed for many months the date for the resumption of specie payment. — The highest amount of legal-tender notes outstanding at any time was on Jan. 3, 1864, when the amount reached $449,338,902. The second section of the act of June 30, 1864, provided that "the total amount of United States notes issued or to be issued shall not exceed 400 millions, and such additional sum, not exceeding fifty millions, as may be temporarily required for the redemption of temporary loans." The following table shows by denominations the amount of legal-tender notes outstanding on June 1, 1883:

Ones	$27,585,368.80
Twos	25,808,502.20
Fives	71,677,845.00
Tens	73,465,906.00
Twenties	63,266,909.00
Fifties	23,708,395.00
One hundreds	34,348,090.00
Five hundreds	14,862,500.00
One thousands	12,457,500.00
Five thousands	330,000.00
Ten thousands	170,000.00
Destroyed in the Chicago fire	—1,000,000.00
Total	$346,681,016.00

— Secretary McCulloch, in his report for 1865, expressed the opinion, that the legal-tender acts were war measures, and ought not to remain in force one day longer than should be necessary to enable the people to prepare for a return to the gold standard. The house of representatives during the same month passed a resolution, by a vote of 144 yeas to 6 nays, "cordially concurring in the views of the secretary of the treasury in relation to the necessity of the contraction of the currency with a view to as early a resumption of specie payment as the business interests of the country will permit." In order to carry into effect this resolution, congress, by an act approved March 12, 1866, authorized the retiring and cancellation of not more than ten millions of legal-tender notes within six months from the passage of the act, and thereafter not more than four millions in any one month. Under this act, the amount outstanding was so far reduced, that on Dec. 31, 1867, the amount was 356 millions. On Feb. 4, 1868, the further reduction of the volume of such notes was prohibited, leaving the last-named amount outstanding until Oct. 1, 1872. Between that date and Jan. 15, 1874, under Secretaries Boutwell and Richardson, the amount was increased to

$382,979,815, and on June 20, 1874, the maximum amount was fixed at $382,000,000; section six of the act of that date providing that "the amount of United States notes outstanding and to be used as a part of the circulating medium shall not exceed the sum of 382 millions, which said sum shall appear in each monthly statement of the public debt, and no part thereof shall be held or used as a reserve." — Section three of the act of Jan. 14, 1875, authorized an increase of the circulation of national banks in accordance with existing law, without respect to the limit previously existing, but required the secretary of the treasury to retire legal-tender notes to an amount equal to 80 per cent. of the national bank notes thereafter issued, until the amount of such legal-tender notes outstanding should be 300 millions, and no more. Under the operation of this act $35,318,984 of legal-tender notes were retired, leaving the amount in circulation on May 31, 1878, the date of the repeal of the act, $346,681,016, which is the amount now outstanding. — The following table exhibits the amount of the various issues of treasury notes outstanding on July 1 of each year from 1862 to 1883; together with the amount of national bank notes and the value of the legal-tender treasury note as compared with coin for the same dates:

YEAR ENDING JULY 1.	Demand Notes.	Legal Tender Notes.	7-30 Notes.	Fractional Currency.	One and Two Year Notes of 1863.	National Bank Notes.	Value of Paper Dollar as compared with Coin.
1862	$53,040,000	$ 96,620,000	$122,582,485	.....	.....	.....	$0.86.6
1863	3,351,019	297,767,114	139,974,435	$20,192,456	$ 89,879,475	.....	.76.6
1864	780,999	431,178,670	139,286,935	22,894,877	153,471,450	$ 31,235,270	.38.7
1865	472,603	432,687,966	671,610,397	25,005,829	42,338,710	146,137,860	.70.4
1866	272,162	400,619,206	830,000 000	27,070,877	3,454,230	281,479,008	.66.0
1867	208,432	371,783,597	813,460,622	28,307,524	1,123,630	298,625,379	.71.7
1868	141,723	356,000,000	488,344,847	32,626,952	555,492	299,762,855	.70.1
1869	123,739	356,000,000	37,897,197	32,114,637	347,772	299,929,624	.73 5
1870	106,256	356,000,000	661,000	39,878,684	248,272	299,766,984	.85.6
1871	96,505	356,000,000	475,900	40,582,875	198,572	318,261,941	.89.0
1872	88,296	357,500,000	352,150	40,855,835	167,522	337,664,795	.87.5
1873	79,967	356,000,000	293,450	44,799,365	142,105	347,267,061	.86.4
1874	76,732	382,000,000	247,650	45,881,296	127,625	351,981,032	.91.0
1875	70,107	375,771,580	213,900	42,129 424	113,375	354,408,008	.87.2
1876	66,917	369,772,284	200,850	34,446,595	104,705	332,998,336	.89.5
1877	63,962	359,764,332	181,400	20,408,137	95,725	317,048,872	.94.7
1878	62,297	346,681,016	173,950	16,547,769	90,485	324,514,284	.99.4
1879	61,470	346,681,016	164,150	15,842,606	86,185	329,691,697	1.00.0
1880	60,975	346,681,016	161,500	15,590,888	82,485	344,505,427	1.00.0
1881	60,535	346,681,016	158,450	15,481,887	79,985	355,042,675	1.00.0
1882	59,695	346,681,016	155,250	15,423,182	74,985	358,742,084	1.00.0
1883	58,985	346,681,016	153,400	15,376,624	71,765	356,815,510	1.00.0

—The act of Jan. 14, 1875, required the secretary of the treasury, on and after Jan. 1, 1879, to redeem in coin the legal-tender notes on their presentation at the office of the assistant treasurer in the city of New York, in sums of not less than $50. In order that he might always be prepared to do this, he was authorized "to use any surplus revenue from time to time in the treasury not otherwise appropriated, and to issue, sell and dispose of at not less that par in coin any of the 5, 4½ and 4 per cent. bonds authorized by the act of July 14, 1870. Under this act Secretary Sherman, in 1877, sold at par in coin fifteen millions of 4½ per cents, and twenty-five millions of 4's; and in April, 1878, he sold fifty millions of 4½ per cents at a premium of 1½ per cent. This coin was placed in the treasury for purposes of resumption, and on Jan. 1, 1879, the secretary held 135 millions of gold coin and bullion, and, in addition, over thirty-two millions in silver coin and bullion; the gold coin alone being nearly equal to 40 per cent. of the United States notes then outstanding. — The assistant treasurer of the United States, at New York, became a member of the clearing house, thus facilitating the business of the banks with the government. The banks in New York strengthened the hands of the government by agreeing to receive United States notes, not only for their ordinary balances, but in payment of the interest upon the public debt, and of other coin obligations of the government. The banks of the country, at the date of resumption, held more than one-third of the outstanding treasury notes, but they had so much confidence in the ability of the secretary to maintain resumption that none were presented by them for redemption. The people preferred the issues of national banks and of the government to coin itself. There was, therefore, no demand for payment of the notes of the government, and the gold coin in the treasury, which amounted to 135 millions on the day of resumption, increased more than thirty-six millions in the next ten months. The amount held on Nov. 1, 1879, exceeded 171 millions, and on Nov. 1, 1883, 209 millions. The resumption act is still in force, and gives the secretary unlimited power, with which to provide for the redemption in coin of the legal-tender notes. He is thus enabled, so long as the credit of the government continues good, to check, by the sale of United States bonds, any exportation of coin which might endanger the redemption of United States legal-tender notes. — From the date of the passage of the act of April 12, 1866, which authorized a reduction of the amount of legal-tender notes, to the passage of the act of July 12, 1882, enabling national banking

of almost every conceivable form to regulate the currency were introduced in congress. Throughout the country the subject was continually discussed, not only during political campaigns and at public conventions, but in the smaller gatherings of the school district and the meetings of individuals by the way side. Speeches and political pamphlets by the thousand, essays, campaign papers innumerable, and caricatures of almost every kind and description, upon the subject of the expansion and contraction of the currency, and its effect upon business, were distributed broadcast in all directions. Perhaps the most plausible argument which was presented over and over again in every portion of the country during these continued discussions, was in reference to the retirement of the national bank notes, and the substitution thereof of treasury notes, in order, as was claimed, to save to the government the interest upon the bonds held by the national banks, as security for their circulating notes. Discussions of this subject in its various forms, and statements of the profits of the circulation of the national banks at different dates, may be found in the reports of the comptroller of the currency during the last nine years.—The act of Feb. 28, 1878, authorized any holder of silver dollars of the weight of 412½ grains troy of standard silver, to deposit the same with the treasurer, or any assistant treasurer, of the United States, in sums not less than ten dollars, and receive therefor certificates of not less than ten dollars, each corresponding with the denominations of the United States notes. It required that the coin deposited or representing the certificates should be retained in the treasury for the payment of the same on demand, and that said certificates should be receivable for customs, taxes and all public dues, and also authorized their reissue. This act did not authorize their use as clearing house certificates, nor make them available as reserve for the national banks. — The act of July 12, 1882, authorized and directed the secretary of the treasury to receive deposits of gold coin in denominations of not less than $20 each, corresponding with the denominations of United States notes. The coin deposited for the certificates is required to be retained for the payment of the same on demand, and these certificates, and also silver certificates, are authorized to be counted as part of the lawful reserve of the national banks. The act also provides that no national banking association shall be a member of any clearing house in which such certificates shall not be receivable in the settlement of clearing house balances.

YEARS.	Coinage.	Amount in Treasury.	Silver Certificates Outstanding
1878	$ 8,573,500	$ 7,718,357	$ 1,850,410
1879	35,801,000	28,358,589	2,539,950
1880	63,734,750	45,108,296	12,374,270
1881	91,372,705	63,249,300	51,166,530
1882	119,144,780	87,524,182	66,096,710
1883	147,255,899	111,914,019	88,616,831

28, 1878, which authorized the same, the amount in the treasury and the amount of silver certificates issued on July 1, from 1878 to 1883 inclusive. — The amount of gold certificates which had been issued under the act of July 12, 1882, was, on Nov. 1, $21,790,000, and on Jan. 1, 1884, $87,874,500.—AUTHORITIES. *American State Papers; Annals of Congress; Madison Papers; Elliot's Debates; Congressional Globe; National Loans of the United States*, by R. A. Bayley; *Finance Reports; Annual Cyclopædia; Harper's Magazine;* Hunt's *Merchants' Magazine*, New York; *Bankers' Magazine*, New York; Schuckers' *Life of Chase;* Spaulding's *History of Legal-Tender Money; New York Newspapers*, 1861–2–3. JOHN JAY KNOX.

UNITED STATES NOTES. Legal-Tender Cases—Decisions of the Supreme Court of the United States. On April 30, 1866, the legislature of New York provided by law for refunding to the banks and other corporations in like condition, the taxes of 1863 and 1864 collected upon that part of their capital invested in securities of the United States exempt by law from taxation. The board of supervisors of the county of New York was charged with the duty of auditing and allowing, with the approval of the mayor of the city and the corporation counsel, the amount collected from each corporation for taxes on the exempt portion of its capital, together with costs, damages and interest. This act was passed in conformity with the decision of the United States supreme court in the Bank Tax Case (reported in 2d Wallace, 200), which decided that a tax on the obligations of the United States by state authority was void. The bank of New York presented a claim to the said board of supervisors for the refunding of those taxes which the bank had paid on the United States notes, commonly called "greenbacks," during the years aforesaid. The board refused the application on the ground that "greenbacks" were not "securities" of the United States government, but were practically and in effect "money," taxable as cash. The court of appeals of the state of New York sustained the action of the board, but on appeal to the United States supreme court (Bank *vs.* The Supervisors, 7 Wallace, 26), that court, at its December term, 1868, reversed the opinion of the state court. The court said: "The act of February, 1862, declares that 'All United States bonds and other securities of the United States held by individuals, associations or corporations within the United States, shall be exempt from taxation by or under state authority.' We have already said that these notes are obligations. They bind the national faith. They are, therefore, strictly securities. They secure the payment stipulated to the holders by the pledge of the national faith, the only ultimate security of all national obligations, whatever form they may assume." — On June 20, 1860, a certain Mrs. Hepburn made a promissory

note, by which she promised to pay to Henry Griswold on Feb. 20, 1862, eleven thousand two hundred and fifty "dollars." At the time when the note was made, and also at the time when it fell due, there was, confessedly, no lawful money of the United States, or money which could be lawfully tendered in payment of private debts, but gold and silver coin. Five days after the day when the note by its terms fell due, that is to say, on Feb. 25, 1862, congress passed the first legal tender act, commonly so called, by which the United States notes issued thereunder were made a legal tender for "all debts, public and private, within the United States," except certain public debts. In March, 1864, Mrs. Hepburn tendered payment of the debt, principal and interest, in the United States notes issued under this act. The amount tendered, $11,250 in legal-tender notes, at that time was worth only about $7,000 in coin. The tender was refused. She was sued in the Louisville chancery court in the state of Kentucky. She tendered and paid the same money into court. It was declared by the chancellor to be a satisfaction of the debt. The case was appealed to the court of errors of Kentucky. That court reversed the chancellor's decision, and ordered a contrary judgment to be entered. Whereupon Mrs. Hepburn took the case to the United States supreme court, where it was argued by very numerous and able counsel at the December term, 1868, but not decided until the December term, 1869. (Hepburn *vs.* Griswold, 8 Wallace, 603.) The court was comprised of Mr. Chief Justice Chase, and Associate Justices Nelson, Clifford, Field, Grier, Davis, Miller and Swayne. Mr. Justice Grier resigned before the opinion of the court was announced, but agreed with the majority in the consultation room, as was announced by the chief justice. The chief justice delivered the opinion of the court. In this opinion Justices Nelson, Clifford and Field concurred. The court held that the language of the act of Feb. 25, 1862, making the United States notes issued thereunder "a legal tender in payment of all debts, public and private, within the United States," included pre-existing debts as well as debts which should be incurred after the passage of the act, and while it might be an exercise of rightful power in congress under those powers granted it by the constitution to declare war, suppress insurrection, raise and support armies and navies, borrow money on the credit of the United States to pay the debts of the Union, and to provide for the common defense and general welfare, to emit bills of credit or United States notes intended to circulate as money, and make the same legal tender for debts to be incurred after the passage of the act, yet inasmuch, as the act by construction declared these notes to be legal tender in payment of pre-existing debts, that the act was inconsistent with the spirit of the constitution, and was not a law "necessary and proper" for carrying into execution the powers vested by the constitution in congress or in the government of the United States. The constitution reads that congress shall have, besides certain powers granted in express terms, "power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States or in any department or offices thereof." The court held that the legal-tender clause was unnecessary and improper. That the notes would have maintained themselves equally well without it. The chief justice quoted the fact that the three hundred million of dollars in notes issued by the national banking associations under the act of February, 1863, and the fifty millions of fractional currency issued under the act of March, 1863, were not made a legal tender, and argued that it was the quality of receivability for public dues, and not the quality of legal tender, which made these United States notes circulate as freely as they did. The chief justice declared that the act was obnoxious to those clauses of the constitution, also, which forbade the impairment of the obligations of contracts, the taking of private property for public use without compensation, and the deprivation of any person of his property without due process of law. And that the constitution was ordained to "establish justice," which this act did not do, so far as regards pre-existing debts. For all of which reasons elaborately stated, the court held the act unconstitutional and therefore void. Mr. Justice Miller, with whom concurred Justices Davis and Swayne, delivered a dissenting opinion. He held that what was "necessary and proper" to carry into execution the powers vested by the constitution in the government of the United States, can not rightfully be construed to mean only such legislation as is indispensably necessary, but that congress has the choice of means, and is empowered to use any means, which are, in fact, conducive to the exercise of the power granted or calculated to produce the end desired. He fortified this position by the clear, strong decisions of the court delivered by Chief Justice Marshall, who announced this exposition of the constitution in United States *vs.* Fisher, 2 Cranch, 358, and in McCulloch *vs.* The State of Maryland, 4 Wheaton, 316. He further said, that, while the constitution forbade any state from impairing the obligation of a contract, it said nothing about the power of congress in the premises. And that the provision that private property should not be taken for public use without due compensation, nor any person be deprived of his property without due course of law, had no application to the indirect effect of great public measures whereby lands, stocks, contracts etc., might depreciate in value, because, for instance, such an effect would doubtless succeed an immediate abolition of the tariff on iron by depreciating the value of furnaces and the capital employed in its manufacture, and yet no one would claim that such a repeal was therefore unconstitutional and void. That the whole argument of the injustice of the law and of its being opposed to the spirit of the constitution, was too

abstract and intangible for application to courts of justice. That the act was passed to save the life of the government, to pay its soldiers and sailors and other public debts. That the legal-tender clause was considered "necessary and proper" by congress, and that the courts had no right to interfere with that discretion. "It would authorize this court to enforce theoretical views of the genius of the government, or vague notions of the spirit of the constitution and of abstract justice, by declaring void laws which did not square with those views. It substitutes our ideas of policy for judicial construction, an undefined code of ethics for the constitution, and a court of justice for the national legislature." — One Parker (Legal Tender Cases, 12 Wallace, 457) was under contract to convey a lot of land to one Davis, upon payment of a certain sum of money. The contract antedated, and suit was brought on the same before, the passage of any of the legal-tender acts. After the passage, to wit, in February, 1867, the supreme court of Massachusetts decreed that Davis should pay into court a certain sum of money, and that Parker should thereupon execute a deed to him for the land in question. Davis accordingly paid into court the given sum in United States notes. Parker refused to execute the deed on the ground that he was entitled to coin; whereupon the court changed the decree, and ordered that Parker should execute the deed upon payment by Davis into court of the specific sum in United States notes. From that decree the case was appealed to the United States supreme court. The case was argued at its December term, 1870, and on Jan. 15, 1872, the opinion of the court was delivered by Justice Strong, who, with Justice Bradley, had been added to the court in 1870 by President Grant, making a full bench of nine. The other justices were the same that sat in the case of Hepburn *vs.* Griswold. The court overruled the latter case and held the legal-tender acts to be constitutional as respects contracts made before their enactment as well as after. The court said, in reference to the case of Hepburn *vs.* Griswold: "That case was decided by a divided court and by a court having a less number of judges than the law then in existence provided this court shall have. These cases have been heard before a full court, and they have received our most careful consideration." And Mr. Justice Bradley, in his separate concurring opinion said: "And in this case, with all deference and respect for the former judgment of the court, I am so fully convinced that it was erroneous and prejudicial to the rights, interest and safety of the general government, that I, for one, have no hesitation in reviewing and overruling it. It should be remembered that this court, at the very term in which, and within a few weeks after, the decision in Hepburn *vs.* Griswold was delivered, when the vacancies on the bench were filled, determined to hear the question reargued. This fact must necessarily have had the effect of apprising the country that the decision was not fully acquiesced in, and of obviating any injurious consequences to the business of the country by its reversal." Justice Strong, in delivering the opinion of the court, reiterated and enforced the arguments made by the minority in Hepburn *vs.* Griswold. He held that the distinction made by the chief justice in regard to the constitutional validity of the act as to debts contracted after its passage and debts contracted before, was not well founded, and that the fundamental question was, Can congress constitutionally give to United States notes the character and quality of money? If they can, then such notes can be made legally available to fulfill all contracts solvable in money, without reference to the time when such contracts were made, unless expressly otherwise provided. "What we do assert is, that congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof." And that, therefore, all contracts calling for "dollars" simply can be legally fulfilled by a tender of the government's promises to pay dollars, by force of the legal-tender acts, without regard to date. And on this point Mr. Justice Bradley, in his concurring opinion, says: "So with the power of the government to borrow money, a power to be exercised by the consent of the lender, if possible, but to be exercised without his consent if necessary. And when exercised in the form of legal tender notes or bills of credit, it may operate for the time being to compel the creditor to receive the *credit of the government* in place of the gold which he expected to receive from his debtor. All these are fundamental political conditions on which life, property and money are respectively held and enjoyed under our system of government, nay, under any system of government. There are times when the exigencies of the state rightly absorb all subordinate considerations of private interest, convenience or feeling; and at such times the temporary, though compulsory, acceptance by a private creditor, of the government credit, in lieu of his debtor's obligation to pay, is one of the slightest forms in which the necessary burdens of society can be sustained. Instead of being a violation of such obligation, it merely subjects it to one of those conditions under which it is held and enjoyed." The chief justice, with whom concurred Justices Nelson, Field and Clifford, delivered a dissenting opinion. He strenuously maintained his former views, as did also Justices Field and Clifford, in separate opinions. The burden of their argument was, that the constitution forbade any state to make anything but gold and silver a legal tender, and granted to the government only the right to coin this gold and silver, and regulate the value thereof and of foreign coin. And while the power to emit treasury notes was conceded as one means of borrowing money, yet that congress had no right to make such notes money, or legal tender as money. Mr. Justice Clifford showed that the

words "and emit bills on the credit of the United States" were originally reported in article seven, in the draft of the constitution as submitted to the convention. Mr. Morris moved to strike the clause out on the ground that it was unnecessary, and a vicious suggestion of a power which would be unquestionably used anyhow without it. Mr. Madison thought it would be sufficient to let the clause remain, as it did not contain the hurtful power to make such bills legal tender, but finally voted in favor of striking out the clause entirely, as was done, as eliminating even a "*pretext for a paper currency, and particularly for making the bills a tender either for public or private debts,*" without disabling the government from the use of treasury notes. JOHN JAY KNOX.

UNITED STATES OF AMERICA, The. — I. COLONIAL HISTORY. 1. *Discovery.* It is unnecessary to consider here the controversy in regard to the discoveries of the Northmen, for the existence of the United States is due, in the first place, to the discovery of the new world by Columbus (see AMERICA), and, in the second place, and yet much more directly, to the discoveries of John and Sebastian Cabot in 1497 and 1498. There are but scanty records of their voyages; but it is quite certain that Sebastian sailed along the coast of what is now the United States from parallel 38° (Virginia) to its northern limit. As both were in the service of the English king, and Sebastian was probably born in Bristol, England, their discoveries were the foundation of the English claims in North America. — The discovery of the coast further south was mainly due to voyages from the Spanish West Indies. Ponce de Leon discovered Florida, on the eastern side, in 1512; and in 1528 Narvaez secured a temporary foothold on its northwest coast. In 1520 Ayllon discovered the coast of what is now South Carolina; and in 1524 Verrazzani, an independent voyager in the service of France, filled up most of the gaps by exploring the coast from the southern border of North Carolina to Nova Scotia. It is thus quite certain that the coast of the Atlantic and gulf of Mexico was fairly well known in 1524. There has always been a strong suspicion, however, that the Atlantic coast was just as well known years before 1524, by the voyages of Cortereal in 1500, and of other forgotten sailors before and after him. It is asserted, for example, that a planisphere, dating from 1502, has been discovered (1883) at Modena, in the archives of the Este family, and that it gives the outline of the whole Atlantic coast of the United States, including Florida. There has even been a disposition, in some quarters, to deny the claims of Columbus as a discoverer, and to make him also a mere reproducer of the work of unknown predecessors. However this may be, the political history of the United States can not look back further than Columbus' discovery for the causes of the country's existence. The discovery of the Pacific coast is elsewhere treated. (See NORTHWEST BOUNDARY.) — All this work was confined to the seacoast, and no attempt was made upon the interior for nearly a century, with a single remarkable exception, the most extraordinary episode in this part of the history of the United States. In 1539 Ferdinand de Soto, with a Spanish force, landed at Tampa bay, marched north into what is now northern Georgia, thence back to Mobile, and thence northwest into Arkansas, discovering and crossing the Mississippi, in April, 1541, near the present southerly boundary of Tennessee. After nearly crossing Arkansas, he moved down the Washita river to the Mississippi. Here he died, in May, 1542, and the remnants of his force built boats, in which they reached Mexico. With the exception of this quixotic affair, and a few expeditions sent northward by the Spanish governors of Mexico into what is now New Mexico and California, the interior of North America was for a long time untouched: the ocean was the base of operations for all the early discoverers. — 2. *Colonization.* The colonization of the central belt of North America, now covered by the United States, was essayed at different times by five nations of Europe, England, France, Spain, Holland and Sweden. The details of these attempts will be found under the names of the various colonies referred to below. It is intended here only to show the manner in which Great Britain gradually ousted the other sovereignties from this particular territory, and formed here a chain of thirteen homogeneous colonies of her own, fitted for subsequent coalescence into a nation. — The claim of Spain to the whole of the two Americas, confirmed by a papal bull in 1493, was respected by other nations until they were touched by the influences of the reformation. In 1562 an unsuccessful colony of French Huguenots was planted at Port Royal, and this part of the continent was named Carolina, in honor of Charles IX. of France. In 1564 a more successful colony was planted on the St. John's river, in northern Florida; but this was extirpated by the Spaniards under circumstances of great atrocity. There were no further attempts at colonization by French Protestants; and the energies of Spain were bent toward the richer regions of Mexico and South America; so that central North America remained uncolonized. — England was now controlled by the reformation; a new era of mental and physical activity was opening; and her policy was taking a line of pronounced opposition to Spain. Her connection with the new world had been kept up by a vigorous prosecution of the Newfoundland fisheries; and in 1578 her preliminary failures in the process of colonization were begun. In that year, and in 1583, two unsuccessful voyages were made to North America by Sir Humphrey Gilbert, Sir Walter Raleigh's half-brother, under patent from Queen Elizabeth. In 1584, under a new patent, Raleigh sent out two small vessels under Amidas and Barlow. They explored the coast of North Carolina, and reported so favorably that Queen Elizabeth named the country Virginia, as a token of the favor of the

North Carolina: it was starved out in a year. In 1587 he established another at the same place: it had disappeared, when it was searched for three years afterward, and has never since been heard of. Raleigh's ill success discouraged him and others, and there were no further individual efforts at English colonization. English voyagers still skirted the coast and trafficked with the Indians, but at the beginning of the seventeenth century there was not an English colonist in North America. — English colonization was forced by the general poverty and discontent of the English lower classes; but English statesmen wisely intrusted the execution of the work to joint-stock companies. Two companies were formed, and were chartered by one patent of James I., dated April 10, 1606. To the London company, composed of merchants and gentlemen in and near London, was granted the Atlantic coast between north latitude 34° and 41°, that is, from about Cape Fear to Long Island. To the Plymouth company, whose members lived in the west of England, was granted the coast between north latitude 38° and 45°, that is, from the mouth of the Potomac to the eastern boundary of Maine. From the Potomac to Long Island, where the two grants conflicted, neither company was to plant a settlement within 100 miles of a settlement previously planted by the other. The western extent of both grants was indefinite. — The patent practically reserved to the crown all powers of legislation, and gave the nominal ruling bodies, the councils, little or no power. But it contained the following important clause, which was always rated as more significant by the colonists than by the crown: "And we do, for us, our heirs and successors, declare by these presents that all and every the persons, being our subjects, which shall dwell and inhabit within every or any of the said several colonies and plantations, and every of their children, which shall happen to be born within any of the limits and precincts of the said several colonies and plantations, shall have and enjoy all liberties, franchises and immunities, within any of our other dominions, to all intents and purposes as if they had been abiding and born within this our realm of England, or any other of our said dominions." The intention of this royal advertisement and contract for the encouragement of emigration always seemed to the colonists too plain for argument. The ingenuity of crown lawyers was easily able to convince the crown, in after years, that there were many "liberties, franchises and immunities," extorted from the crown by English subjects, which did not extend to the colonists. But the colonists were never convinced, and it is difficult to see any reason why they should have been convinced. — The patent also contained a provision, that, if any resident of the colonies should trade with foreign countries, without first obtaining a license from the crown, his ship and "all his goods and chat-

no higher conception of colonization than the other governments of the time, and that its purpose was "to monopolize the consumption of the colonies, and the carriage of their produce." (This branch of the subject is fully treated under NAVIGATION LAWS.) — The Plymouth company, after an unsuccessful attempt to fix a colony at the mouth of the Kennebec river in 1607, did no colonizing for itself, and in 1620 received a new charter, covering the territory between north latitude 40° and 48°, that is, from about Philadelphia to Cape Breton island. This charter was also surrendered to the crown in 1635; but, before the surrender, the company had made the grants which resulted in the formation of the several colonies of New Hampshire, Massachusetts and Connecticut (see their names), and the unauthorized settlement had been begun, which became the colony of Rhode Island. (See its name.) Massachusetts was at first two colonies, Plymouth and Massachusetts Bay; and Connecticut, in like manner, was dual, Connecticut and New Haven. It is notable that only two of these six colonies, New Hampshire and Massachusetts Bay, were founded under the auspices of the company. The first settlement in the company's territory, at Plymouth, Dec. 21, 1620, was made without the company's permission or knowledge, and the two Connecticut colonies and Rhode Island were equally unauthorized. After the dissolution of the company, the crown reduced the number of colonies to four, by consolidation, and chartered these at various times. — The London company was more active and successful. Its first expedition fixed the first permanent English colony in North America at Jamestown, in the present state of Virginia, May 13, 1607. In 1609 it received a new charter, limiting its territory to the present states of Virginia, Maryland and North Carolina. By the subsequent creation of the colonies of Maryland and Carolina the jurisdiction of Virginia was reduced to the area which it covered as a state. (See VIRGINIA, TERRITORIES.) In 1624 the London company was deprived of its charter, and Virginia became a royal province; but the inhabitants were not deprived of the privileges which the company had granted them. — The grant of land for the new colony of Maryland in 1632 was carved out of the Virginia jurisdiction, and so was the northern half of the grant of Carolina in 1663. (See NORTH CAROLINA.) But, in the latter case, the grant extended far to the south of the original grant to the London company, covering the old French claims to "Carolina." The Spaniards felt no more amicably toward the new than toward the old intruders, but were unable to get rid of them in the same summary fashion, and submitted to the intrusion. In 1732 the last of the original thirteen colonies, Georgia, was carved out of South Carolina as a barrier against the Spaniards in Florida; and at the peace of 1763 it was extended a little further south, to its present southern boundary. — Holland and

Sweden were the only powers which disputed the territory of the inchoate nation with England, and their attempts were confined to the region of three degrees between the specific grants to the two English companies, from about Philadelphia to Long Island. The attempt of the Swedes may be briefly dismissed: it was never supported earnestly by the mother country, and fell like an unsupported forlorn hope after the first assault. It was located in the present state of Delaware, but with efficient support from home would have grounded a fair claim to the whole of the present state of Pennsylvania. Unsupported, it was unable to resist the Dutch to the north, who conquered and annexed it in 1655. All the present middle states thus became Dutch. — Holland claimed the coast line explored in 1609 by Henry Hudson, an Englishman in the service of the Dutch East India company. It extended from Chesapeake bay to the Hudson river, and up that river to where Albany now stands. To this they added claims, by exploration or conquest from the Indians or Swedes, to Long Island, the territory west and northwest of the coast line, and the territory between the Hudson and the Connecticut rivers. In 1621 all this territory, under the name of New Netherlands, was granted by Holland to the Dutch West India company, which colonized and governed it for forty years. In 1664, Charles II. granted the territory comprised in New Netherlands to his brother, duke of York, who took possession at once by force. New York and New Jersey were made separate colonies. (See their names.) In 1681 Pennsylvania was made a separate colony, and Delaware remained united with it, by very loose ties, until the revolution. (See their names.) — The central zone of North America seems made for a great nation, and the English people had thus seized the whole of its vantage ground, the Atlantic coast. At first the seizure was made almost at one blow and without opposition, so far as regarded the northern and southern portions of the coast; and the natural pressure of these upon the centre had begun the last stage of the work, when it was hastened by force in 1664. The last rival then disappeared from the coast, and the whole gateway to an imperial domain was in English hands. — 3. *Colonial Development.* The disturbed state of England during the forty years following the landing of the settlers at Plymouth, undoubtedly contributed very essentially to the growth of the colonies. At first, while the high church party controlled the administration of affairs in England, dissenters of every grade of intensity, from the low church puritan to the independent, found safe refuge in New England, and increased the population of this section. In this manner about 20,000 persons emigrated in the eleven years, 1630–41. When the high church party went down, and when the Presbyterians suffered a like misfortune, their adherents found refuge in the colonies to the southward. In either case the emigration was itself a protest against the existing order of things in England, which came little short of rebellion: it was the only substitute for force. — It is certain, however, that the wonderful increase in the population of the colonies was due to the natural *vis generandi* of the race, set loose in a boundless and fertile territory, rather than to persecution and immigration. As soon as statistics began to make any approach to accuracy, it became evident that the population of the colonies was doubling steadily once in twenty-five years. And yet Franklin, a man of cautious estimate, could write as follows, in 1751: "There are supposed to be now upward of one million English souls in North America, though it is thought scarce eighty thousand have been brought over sea." Whether this estimate be well or ill founded, it shows the belief at the time that the old English people had not been transferred to America, but that a new English people had grown up there from a small seed. — But, in spite of the comparative smallness of the seed, its peculiar character, and the reasons for its transfer, were of enormous weight in the history of the United States, and have colored all the subsequent order of events. The original settlers were to frame the institutions of the new nation, to cast the mould in which their descendants were to be developed. In doing the work, they were controlled by the lurking and generally unconscious feeling of incipient rebellion under which they had emigrated. Their minds naturally reverted to the traditions of their race; they rejected most of the forms of class supremacy which they had found so troublesome at home; and in each of the thirteen colonies they established as near an approach to democracy as circumstances would allow. It is a mistake to suppose that the privileges of the people were secure only under the charter governments of New England. In what might be called the palatine governments, Pennsylvania, Delaware, Maryland, and (at first) New Jersey and North and South Carolina, in which the crown resigned the dominion of the colony to a palatine, or proprietor, the patents were very full and liberal in enumerating the privileges of the people, and the people were always more ready to assert them against a proprietor than against the king. In the Carolinas (see NORTH CAROLINA) the proprietors attempted to establish a privileged aristocracy, but were defeated by popular opposition. In the royal colonies, New Hampshire, New York, New Jersey, Virginia, the Carolinas, and Georgia, in which any struggle had to be leveled at the king's vicegerent, the tender plant of popular privilege was effectually shielded by the distance of the colonies from the mother country, and by the uniform contempt of the mother country for the colonies. The former furnished special safeguards, but the latter was a general safeguard. A timely creation of a number of American peerages, with grants of land, and with hereditary privileges, even if only in the royal colonies, would have vitally altered the conditions of the new country, and would have immensely increased the difficulties of the final revolution. It must be evident that this

or checked the establishment of democracy in America, but it had an implacable opponent in the prejudices of the ruling class in England. Thus, from various influences the thirteen commonwealths which grew up on the Atlantic coast of North America were of a generally democratic character. They varied only in degree, from the highly democratic charter commonwealths, through the scarcely less democratic palatine commonwealths, to the royal commonwealths, in which democracy maintained itself successfully against the feeble opposition of a distant king. There were some limitations on the elective franchise; there were, in most of the colonies, attempts to establish an ecclesiastical order; but hereditary privilege, with all its powerful influences on politics, was a complete blank in the colonies. The unwisdom of the English ruling class, its disdainful refusal to recognize any equal class in the new country, had resulted in the spread of democracy over all America. — During the first period of their development, the colonies had little or no political connection with one another, but were loosely united by a common allegiance to the crown. Each colony lived its own life, uncontrolled by any or by all of the other colonies. These are the circumstances on which has been built the theory of "state sovereignty." (See that title.) They are admitted, but not the consequences which are sought to be drawn from them. On the contrary, it must be evident that all the materials for a new nation were here present in chaos, waiting for the blow which should crystallize them into permanent form. (See NATION.) So long as there were no controlling common interests, the repelling force between individual colonies showed itself rather in inaction than in action, rather by a negation of union than by positive and individual commonwealth assertion. Just as rapidly as the importance of public action increased, just so surely did the signs of union multiply. They were naturally confined at first to the homogeneous New England colonies, which united for a time in 1643. (See NEW ENGLAND UNION.) When the French wars fairly opened, after 1689, the middle colonies began to take part with the New England colonies in their expeditions against the Canadian strongholds. Finally, when the great French and Indian war broke out, common interests brought all the colonies into something like common action. (See WARS, I.) South Carolina troops were with Washington at Fort Necessity; and wherever troops from different colonies came together, as they frequently did thereafter, they learned to use the common name "provincials" to distinguish themselves from the British troops. There was even a promising but unsuccessful attempt at a formal union of the colonies in 1754. (See ALBANY PLAN OF UNION.) — A more successful attempt to unite the colonies was made in 1765. (See STAMP ACT CONGRESS.) It was due to the first attempt of the home government to impose internal taxes on the colonies was one general plea, the original promise of the crown to all emigrants to America, that they should "enjoy all liberties, franchises and immunities," "to all intents and purposes as if they had been abiding and born within this our realm of England." Certainly the people of England had secured, as at least one of their "liberties, franchises and immunities," the right to be taxed by their own parliaments, not by a foreign parliament or by the crown. The colonies accordingly claimed the same for themselves; none of them was able to maintain it individually; and they drifted together in common action. — The action of the congress of 1765 was altogether advisory and deliberative, not legislative, and had only the effect of accustoming the colonists to the idea of union. The case was much the same with the first continental congress of 1774. But events were moving rapidly. It has been stated that the rights of the colonists were not guaranteed at all in the royal colonies, except by the original promise of the crown; that they were considerably better secured in the palatine, or proprietary, colonies; and that they were best secured in the charter colonies of New England. When, therefore, the crown and parliament chose, or were forced, to attack the rights of Massachusetts, one of the charter colonies, the attack was felt by all, and all united to resist it. When the second continental congress met, in 1775, the struggle had taken the shape of force, and the congress was compelled to resort to action, not to deliberation. (See CONGRESS, CONTINENTAL; REVOLUTION; FLAG.) — In theory, the second congress was exactly like the first, a meeting of committees from thirteen independent commonwealths, without any authority to act except what was formally given to each delegation by its own commonwealth. But in practice the case was radically different. The congress became a revolutionary national assembly, and seized all the powers of national government; and the authority for the seizure was not in any grant of power by the states, but in the acquiescence and support of the people at large. It is true that the people universally desired the retention of state lines in the organization of the new nation; but the retention was due to the will of the mass of the people, not to the will of any or all of the states. If the mass of the people had desired it, congress would have blotted out or ignored state lines, as it did in the case of Vermont, and any individual state would have been as powerless against congress as against the crown. The states, then, owe their existence as states, originally and continuously, to the will of a people practically unanimous on that subject. It is very true that this national people can express its will only with the very greatest difficulty, and then mainly by acquiescence or resistance; but it is equally true, that, when it has been necessary, as in 1775 and 1787–9, when the usual machinery of state government has failed, the national people

has found a way to express its will, and its will has been obeyed. The statement of conflicting views in regard to the ultimate "sovereignty" of the United States is necessarily reserved to a subsequent section of this article: but the reasons above assigned will explain why this series of articles holds that the ultimate sovereignty of the United States is in the mass of the people; and that state and national governments and constitutions owe their existence to the will of the ultimate sovereignty, and hold from it. This has seemed to the writer the only theory which can account in an orderly manner for the successive changes of national government: it makes the continental congress a legal, even if revolutionary, exponent of the general popular will; the articles of confederation a valid system for its time, even if unnecessarily ratified by the state legislatures; and the convention of 1787 a legitimate exponent of the general popular will to have a change of government, in spite of the state legislatures, but without sacrificing the states. Any other theory makes the continental congress a clique of daring usurpers, seizing national power in defiance of the *de jure* sovereignties, the states; the articles of confederation a similar successful usurpation by the state legislatures, to which their commonwealths had granted no powers to make any such league; and the constitution itself a *contra* usurpation by an illegal convention, condoned by the tardy ratifications of state conventions. (See CONGRESS, CONTINENTAL; CONFEDERATION, ARTICLES OF; CONVENTION OF 1787.) Either the sovereignty of the United States is in the mass of the people, divided into states by its own will; or the political history of the United States must be abandoned as only a labyrinth without a clue. — II. NATIONAL HISTORY. 1. 1775–89. If we take the first instance of the use of force in the struggle between the colonies and the mother country, the fight at Lexington, April 19, 1775, as the signal for the transformation of congress into a revolutionary national assembly, the people of the "United Colonies" were still nominally under the rule of George III. for more than a year thereafter. Congress still addressed them and spoke of them as "his majesty's most faithful subjects in these colonies," even while it was exhorting them to kill the soldiers sent to America by his majesty. When the royal proclamation of Aug. 23, 1775, charged them with "forgetting the allegiance which they owed to the power that had protected and sustained them," the congress, in its answer of the following Dec. 6, defined its position thus skillfully: "What allegiance is it that we forget? Allegiance to parliament? We never owed—we never owned it. Allegiance to our king? Our words have ever avowed it, our conduct has ever been consistent with it." When, however, it was found that the king was irrevocably committed to the enemies of the United Colonies, the congress, July 4, 1776, abolished the royal authority forever. (See DECLARATION OF INDEPENDENCE, ALLEGIANCE.) In 1778 the new nation was recognized by France, and in 1783, by the definitive treaty of peace which closed the struggle, it was recognized by the king of Great Britain. (See REVOLUTION, AMERICAN, and, for the terms of the recognition, STATE SOVEREIGNTY.) — The congress retained its position as a revolutionary government for six years, 1775–81, though its power was constantly decreasing during the last half of the period. In 1781 it passed, without a jar, into the new government under the articles of confederation. This purported to be a pure federation, a league of sovereign states, and it was soon found to be useless and dangerous. In 1787 a federal convention was extorted from the state legislatures and congress by a general concurrence of the popular will. It framed the constitution, which was ratified by state conventions and became the basis of a new national government. (See CONGRESS, CONTINENTAL; CONFEDERATION, ARTICLES OF, and TERRITORIES for the delay in ratifying them; CONVENTION OF 1787; CONSTITUTION.) — 2. *The Federalists*, 1789–1801. At the time of the organization of the new government, parties had already been developed, though the line of division was not permanently preserved. All who had supported the new constitution took the name of federalists, as those who opposed it took the name of anti-federalists. The anti-federalists, as a distinct party, disappeared as soon as the new government was fairly organized, and the federalists were left in undisputed control of national affairs. But the latter party contained many members, particularly in Virginia, who were opposed to the growth of national power at the expense of state power, and to strong government or class government at the expense of the individual. These coalesced into a new party of constitutional opposition, the democratic-republican party, which grew stronger all through this period, until, in 1801, it finally overthrew the federal party. (See ANTI-FEDERAL PARTY; FEDERAL PARTY, I.; DEMOCRATIC-REPUBLICAN PARTY, I., II.; CONSTRUCTION; HAMILTON; JEFFERSON.) — In July, 1788, when the ninth state had ratified the constitution, the congress of the confederation had named New York city as the place, and March 4, 1789, as the time, for the organization of the new government. Difficulty of travel, and the slovenly habits learned under the confederacy, delayed the organization until April 6, when a quorum of both houses was obtained to count the electoral votes. Until 1804 the electors simply voted for two persons, without specifying the vote for president and vice-president. (See ELECTORS.) In this case, Washington was found to have a unanimous vote, and became president, and John Adams, having the next largest vote, became vice-president. (In all cases under this article, for electoral votes see the article ELECTORAL VOTES; for cabinets, see ADMINISTRATIONS; for brief biographies, see the names of the persons mentioned.) — The federalists, with very little opposition, proceeded to organize the new government by acts defining the powers of the various departments,

and organizing inferior courts and territories. Their work was so well done that it still forms the skeleton of the government of the United States. Two other measures, involving the first broad construction of the powers of congress, provoked a warmer opposition. The organization of a national bank (see BANK CONTROVERSIES, II.), and the assumption of state debts (see FINANCE; CAPITAL, NATIONAL), resulted in the rise of the republican party, under Jefferson. Nevertheless, the result of the presidential election of 1792 was the same as that of 1789. — Foreign affairs now began to control American politics, for the French revolution had begun its destructive course, and the republicans, and still more the democrats, were in pronounced sympathy with it. (See GENET, CITIZEN; DEMOCRATIC CLUBS.) England had begun a systematic effort to drive American commerce into her own harbors, and the republicans were anxious to begin a war of commercial restrictions against her (see EMBARGO, I.); but this question was put to rest for ten years by a treaty concluded in 1794–5. (See JAY'S TREATY.) French agents, however, continued to interfere in American politics, and diplomatic difficulties with France continued through the following term. — Vermont was admitted as a state in 1791, Kentucky in 1792, and Tennessee in 1796. (See their names.) The rest of the western border was the occasion of more difficulty. Travel was exceedingly difficult, for the roads were so bad as to be almost worse than no roads; internal migration was slow; the Indian title to lands west of Pennsylvania was not extinguished; and border lawlessness was as ready to oppose national laws as to attack the Indians. In 1794 it became necessary to march a militia force into western Pennsylvania to suppress disorders. (See WHISKY INSURRECTION.) A war with the Miamis resulted in their defeat and their cession of nearly the whole of Ohio in 1795; and in the same year, by Jay's treaty, the British gave up the forts in the northwest territory, which they had held for twelve years in violation of the treaty of 1783. Emigration to Ohio increased at once, and the movement of American population was turned finally toward the northwest territory. — During Washington's second term, party division advanced so far that the republican members of the cabinet successively retired, and the administration became altogether federalist. In 1796 Washington refused to be a candidate for a third term (see FAREWELL ADDRESSES), and John Adams was elected president. Jefferson, however, ran ahead of the other federalists, and became vice-president. Adams' single term was one of great difficulty at home and abroad. The United States came to the verge of war with France (see X Y Z MISSION), and the federal majority in congress seized the opportunity to enact dangerous laws for their own partisan advantage. (See ALIEN AND SEDITION LAWS.) Opposition in congress was so evidently hopeless that the republican leaders at first attempted to use the state legislatures as instruments of resistance. (See KENTUCKY AND VIRGINIA RESOLUTIONS, NULLIFICATION.) But the presidential election of 1800 proved to be a surer instrument: the federal party was defeated, and fell, never to rise again. There were some points which were settled with great difficulty (see DISPUTED ELECTIONS, I.; ELECTORS, VI.), but the main question had been settled for the time: the people, as yet, preferred that power should not be granted to the federal government at the expense of the states. (In general, see FEDERAL PARTY, I., DEMOCRATIC-REPUBLICAN PARTY, I., II.). — 3. *The Republicans*, 1801–29. The methods of the government of the United States were altogether the same after 1801 as before: the constructive skill of the federalists had planned them so wisely that it would have been worse than folly to drop them. But its spirit had changed, and the change was quickly reflected by the states. Democracy had got the bit in its teeth; the hand of the federalists had not been heavy enough to control it. In every state outside of New England, all restrictions upon the right of white males over the age of twenty-one to vote were gradually swept away, with the exception of residence qualifications; and all connection between state and church was severed. It became the fashion to think, talk and act more freely, and with less subservience to the prejudices of the individual's class or creed. In this sense the "revolution of 1800" has never gone backward. every party, court, church and person in the United States feels the influence of the force which was then loosed. — In foreign affairs, Jefferson's administrations were marked by a war with Tripoli (see ALGERINE WAR), and a revival of the commercial difficulties with Great Britain. (See EMBARGO.) These latter continued through Jefferson's administrations, and into those of his successor, and culminated in the war of 1812. (See WARS, IV.; CONVENTION, HARTFORD.) No part of the political history of the United States is so weak as this period, for the negation of national sovereignty in internal affairs carried with it impotence in foreign intercourse. (See NATION.) In 1807 the British frigate "Leopard" stopped and searched the United States frigate "Chesapeake," and took from her four seamen, claimed to be deserters; and the only retaliation was a proclamation ordering British armed vessels to quit the waters of the United States. — In domestic affairs, Jefferson's first administration was marked by the annexation of Louisiana, in 1803 (see ANNEXATIONS, I.), which more than doubled the territory of the United States. Four years afterward, in 1807, Fulton produced a usable steamboat, and within four years the building of steamboats on western waters had begun. Fulton's invention carried emigration far more rapidly into the northwest territory, and through it to Louisiana. But Jefferson's second term, said John Randolph, was like the lean kine, and ate up the fatness of the first. It was disturbed, to a dangerous extent, by the distress and discontent

produced in New England by the restrictive system. (See EMBARGO, II.; SECESSION, I.; HENRY DOCUMENTS.) The newly acquired Mississippi river became the route of a mysterious expedition, under the late vice-president, Burr, which excited general fears for the safety of Louisiana. (See BURR.) Jefferson's second term ended unhappily, with a general suspension of commerce, discontent, distrust and uncertainty, and he was succeeded by Madison. — During Madison's first term the embargo system passed by successive stages into open war against Great Britain. (See EMBARGO, III.–V.; WARS, IV.) The war achieved none of the objects for which it was begun, but it served a greater purpose by hardening the gristle of the young nation into something like bone. No test could be so severe, for a nation which still considered itself a "voluntary confederation," as a war to which one of its most influential sections was conscientiously and angrily opposed; but the test was endured successfully. (See CONVENTION, HARTFORD; DRAFTS, I.; NATION, III.) With the close of the war a new era began, which only waited for the introduction of the railroad in 1830 to develop into the full life of the United States. Commerce revived. Manufactures, fostered by the restrictive system and the war, demanded and received protection; and in the process they destroyed the remnants of the federal party. (See TARIFF; FEDERAL PARTY, II.) The war, especially on the northern and southwestern frontier, had forced upon the attention of the people the danger of their shocking lack of good roads, and there was a general movement toward an improvement in some shape. The energies of the national government were at first turned to the construction of roads. (See CUMBERLAND ROAD.) But the state of New York had the enterprise to open a new vein by the construction of the Erie canal, and this turned other states and the national government to a general system of public improvements. (See NEW YORK, INTERNAL IMPROVEMENTS.) A new national bank was created. (See BANK CONTROVERSIES, IV.) All these measures were opposed to that strict construction of the constitution, and that complete supremacy of state life and action, which were the formal basis of the dominant party; but the drift of the party to their support could not be checked. It was aided by the supreme court, whose influence as a nationalizing factor now first became apparent. (See JUDICIARY, II.) The whole change reconciled the federalists to their absorption into the republican party. Indeed, they claimed, with considerable show of justice, that the absorption was in the other direction; that the republicans had recanted; and that the "Washington-Monroe policy," as they termed it after 1820, was all that federalists had ever desired. — This was an era of state making. Louisiana was admitted in 1812, Indiana in 1816, Mississippi in 1817, Illinois in 1818, Alabama in 1819, Maine in 1820, and Missouri in 1821. (See their names.) In the admission of Missouri there was a series of difficulties

which showe
the south, w
the subject c
settled in a
both sections
years. (See
State admiss
admission of
territories, an
lation to the
mation had n
Madison's se
president wit
the matter of
elected witho
had disappea
the next three
also. (See E
absorbing rep
ical sections
headed by Jo
tection to ma
ed by Clay,
the southwest
defined econo
ness for dem
by Crawford,
but cared onl
presidential el
ers were cand
Adams was el
atives. (See
ing his single
united in a c
tariff and inte
INTERNAL IMP
the Jackson a
nearer. togethe
Jackson the re
tion; and in 18
Adams. — Fro
of this period,
inal spirit of th
nerable point.
ing nominatio
ence of leaders
of caucuses of
resenting the
cratic enough,
matter of nomi
CAUCUS SYSTE
INATING CONV
ceased to be a
now congress b
their action, w
it has grown
Jackson's electi
as a rebuke to
had disregarde
ple, while it fo
constitution, in
the same time
yet unsuccessfu
more democrat

(See ELECTORS, VI.) In one point the movement was more successful: in all the states, excepting South Carolina, the choice of electors was abandoned by the state legislatures, and given to the people. — In foreign affairs, the most noteworthy event was the formulation of the "Monroe doctrine." This is fully treated elsewhere. (See MONROE DOCTRINE.) — (In general, see FEDERAL PARTY, II.; DEMOCRATIC PARTY, III.; WHIG PARTY, I.) — 4. *The Democrats*, 1829–49. Since the beginning of Jackson's first term democracy has held social and political control of the United States. It showed itself first in a blind and unhesitating support of Jackson, as the exponent of democracy. To his opponents this seemed like the establishment of a popular tyranny, a Cæsarism. They, therefore, took the party name of whigs, as the opponents of a would-be king, and were joined, after the failure of nullification, by most of the extreme state rights republicans of the south. (See WHIG PARTY, II.) Jackson's supporters very naturally took the name of democrats, though they still asserted a sole right to the name of republicans, when they chose to use it. (See DEMOCRATIC PARTY, IV.) Under the lead of Jackson and the new school of politicians which surrounded him, the democrats attacked the national bank, drove it into politics, and, after a struggle of about five years, destroyed it. (See BANK CONTROVERSIES, III.; DEPOSITS, REMOVAL OF.) They broke up, not without much rebellion in their own ranks, the Adams system of internal improvements. (See that title.) They obtained a gradual reduction of the protective tariff (see TARIFF), while they suppressed the attempt of the South Carolina nullificationists to abolish it suddenly and by revolutionary means. (See NULLIFICATION.) They gave the people a nominal control over the appointing power by introducing the practice of "rotation in office": its real effects are fully treated in a distinct series of articles. (See SPOILS SYSTEM, REMOVALS.) At the same time they gave the people, or rather the politicians who represented the people, full control over nominations by the creation of the modern machinery of a national party. (See NOMINATING CONVENTIONS.) Finally, under Van Buren, Jackson's successor, they completed the "divorce of bank and state," by introducing the sub-treasury system. (See INDEPENDENT TREASURY.) — All these changes are credited to the democratic party: in reality, most of them were due to Jackson, who toned up and re-enforced any wavering energy in his party by an abundant use of his veto power. (See VETO.) By whatever means accomplished, they still further changed toward democracy the feelings of the people; and the introduction of the railroad in 1830, and the telegraph in 1844, into the vast territory of the United States, fixed the character of its political and social life, particularly in the north and west. The south did not feel the change so much (see SLAVERY, IV.); and from this time the drift of the two great sections apart became more rapid. (See NATION, III.)—In foreign affairs, the policy of the new leaders was as vigorous as in domestic affairs. Claims for depredations on American commerce during the Napoleonic wars had long been urged against France, Spain, Naples, Portugal and Denmark. Jackson collected them. (See EXECUTIVE, III.) There was much popular sympathy with the Canadian revolt of 1837, but the government suppressed any active interference with its course. (See MCLEOD CASE.) — This whole period, 1829–49, has been assigned to the democrats, in spite of the whig success in the presidential election of 1840. Harrison, the whig president, died after serving but one month, and the new president, Tyler, was a natural democrat. His use of the veto power neutralized the whig majority in congress during the first half of his term; and during the second half he was supported by a democratic majority in the house. In 1844 the democrats returned to the full enjoyment of their temporarily suspended power, by the election of Polk and a democratic congress. As a consequence of the election, Texas was annexed (see ANNEXATIONS, III.); the war with Mexico followed (see WARS, V.); and this was followed by a still larger acquisition of territory. (See ANNEXATIONS, IV., V.) While this was going on, the territory of Oregon was secured by treaty with the only other claimant, Great Britain. (See NORTHWEST BOUNDARY.) By all these changes, the area of the United States took on the rounded and complete form which has not since been altered, except by the later acquisition of Alaska. Six new states were admitted: Arkansas in 1836, Michigan in 1837, Florida and Texas in 1845, Iowa in 1846, and Wisconsin in 1848. (See their names.) The agency of the railroad in hastening the westward movement of population had now become more evident, and several other incipient states were developing. Foreign immigration had not yet swelled to the enormous proportions which it was soon to take; but the population had grown about 600 per cent. larger in sixty years, from 3,900,000 in 1790 to 23,000,000 in 1850. A little people had become a great people. (See, in general, DEMOCRATIC PARTY, IV.; WHIG PARTY, II.) — 5. *Sectional Conflict*, 1849–61. Southern leaders always blamed the growing spirit of democracy in the north and west for the anti-slavery agitation which began about 1830. (See ABOLITION, II.; PETITION.) There was, no doubt, very much truth in the assertion: Garrison, Wendell Phillips and other abolitionists were the product of the modern democratic spirit, not of the temper of colonial or earlier constitutional times. The spirit which moved them was one which cared more for the equal rights of all mankind than for political theories, nationality, state rights or constitutions; and they became the Ishmaelites of politics. They have claimed and received a large share of the credit for the final overthrow of slavery; and yet it is very difficult to locate the reasons for their claim, unless he who provokes a wild beast to such frenzy that his neighbors have to kill it may justly claim the credit for its death. Most

of them were absolute impracticables, unable to suggest a policy or a remedy for slavery, except, possibly, the forcible expulsion of slave-holding states from the Union. The liberty party of 1840 and 1844 had neither growth nor effects; and the free-soil party (see its name) of 1848 and 1852 was hardly an improvement on the liberty party, if we leave out its mere political allies. From 1830 until 1848 it can hardly be said that the real abolitionist feeling or influence increased even in proportion to the growth of population. The only real result of the twenty-years anti-slavery agitation was to exasperate the slaveholders, to convince them that the north was against slavery, instead of against slavery extension, and thus to embitter the conflict of the sections over the territory wrested from Mexico. Anti-slavery agitation never had the faintest prospect of success by its own exertions: its first chance of life came from the Mexican annexations, its first prospect of success from the Kansas-Nebraska bill, and its final victory from the civil war; and each of these events took place against the will of the abolitionists. Slavery was destroyed by no human skill or foresight.—In 1846, when the first indication appeared of a purpose to acquire territory from Mexico, outside of Texas, as "indemnity for the past, and security for the future," it was proposed to add a proviso forbidding slavery in any such acquisition. (See WILMOT PROVISO.) For four years this was the controlling question of national politics. At first the proviso did not seem to be very objectionable to the south or to the dominant party: its proposer was a democrat, and it was favored by the Polk administration. As the discussion went on, the south came to consider the proposal as an attack upon slavery; and when the proviso failed in 1850 several southern states had on record declarations of their intention to secede if it was adopted. The governing purpose of the democratic party was to preserve its national organization intact. It succeeded in so doing by evolving the idea that the question was to be settled, for each territory, by its own people (see POPULAR SOVEREIGNTY): this was acceptable to the northern wing, and was not as yet repudiated by the southern wing. Nevertheless, its inevitable result was to make the former somewhat smaller than the latter, and thus to begin to unbalance the party. The whigs proposed no solution of the great question, and thus their two wings, while maintaining their relative strength, were steadily drifting away from one another. In 1848 they succeeded in electing Taylor president and Fillmore vice-president, by means of nominating a popular and successful general, without a platform; but the success was deceptive. All through the administration of Taylor and Fillmore the two great parties were shifting their material. In the south, pro-slavery whigs went into the democratic party; in the north, anti-slavery democrats went into the free-soil party. Thus the democratic party, while remaining national, was becoming unbalanced, and stronger in the south than in the north. The northern whigs, abandoned by all the factions, were the only stationary feature in the political kaleidoscope; and in the presidential election of 1852 they were left completely in the lurch by their former southern associates.—The Taylor administration proposed, as a solution of the territorial question, the immediate erection of the territories into states, with full power to govern their own affairs. This was followed out in the case of California, because of the discovery of gold in it and the consequent increase of population. In the other territories, Utah and New Mexico, both sections were content, in 1850, to ignore the Wilmot proviso and leave the question untouched. (See COMPROMISES, V.) The whole difficulty was thus covered out of sight for a time. But there was an uneasy feeling that further difficulties were not far off, and that the country was in worse shape to meet them, not only from the shifting of parties, but from the changes of leaders. In the four years before 1853, Clay, Webster, Calhoun, Polk and Taylor had died; and the new men who took their places can hardly be ranked as first-class men. Most of them had laid the foundations of their political characters in the belief that the great business of politics was to evade and ignore slavery. The abler men were those who had an active programme to offer, the radicals of both sections; Jefferson Davis in the south, and Seward, Sumner and Chase in the north. Thus all the ability in politics was a sign of disunion. The same tendency was shown in every direction. Calhoun's speech of March 4, 1850, is a clear statement of the manner in which the political, ecclesiastical and social cords that held the Union together were being snapped in every direction. Even the churches obeyed the general impulse, and divided into churches "north" and "south": only the Roman Catholic and Episcopal organizations, of those which had a national extent, were able to resist it. When the whig party succumbed to it, after the presidential election of 1852, there was no great tie left, except the national organization of the democratic party, and that had lost much of its spirit. It is a remarkable evidence of the innate strength of the American Union that the two fragments of the planet, thus rent asunder by slavery before 1852, should for nine years longer have gone in close and parallel courses, held by such weak ties, before the force of repulsion finally mastered them.—In spite of the general uneasiness in respect to the future, the first four years after the compromise of 1850 passed quietly, except for the excitement attending the execution of the new fugitive slave law, and the opening movements of the attempts to obtain new slave territory by "filibustering." (See FUGITIVE SLAVE LAW, FILIBUSTERS, OSTEND MANIFESTO.) In 1854 the slavery question was again brought on the political field in larger proportions than ever by the passage of the Kansas-Nebraska bill, which virtually repealed the Missouri compromise. (See KANSAS-NEBRASKA BILL.) The passage of the law not only provoked

for it threw between them the territory of Kansas, as a prize for the more active. Slave state immigrants and free state immigrants were at once arrayed against one another; and the struggle continued for more than four years, marked by all sorts of fraud and violence, and most of the characteristics of civil war. (See KANSAS.) The struggle, at any rate, cut away the dead material from politics. It put an end to the whig party. Many of its members endeavored to galvanize its corpse, and reunite its southern and northern portions, by introducing opposition to foreigners as an issue paramount to slavery; but the attempt was a failure. (See AMERICAN PARTY.) In 1856 the American party nominated presidential candidates, Fillmore and Donelson; and their defeat put an end to their party. When the boards were cleared, it was found that there were but two rivals in politics: the democratic party, having a national organization, strong in the south, and weaker in the north; and the republican party, sectional of necessity, and confined to the north. (See DEMOCRATIC PARTY, V.; REPUBLICAN PARTY, I.) This division made the election of 1856 almost entirely sectional, Fremont, the republican candidate, carrying most of the northern states, and Buchanan, the democratic candidate, carrying the southern states, with enough northern states to elect him. (See ELECTORAL VOTES, XVIII.) But Fremont's defeat was a Pyrrhic victory for slavery. For the first time in our history an electoral vote had been cast for a candidate pledged against the extension of slavery; and his party had so nearly united the free states that he was defeated only by the failure of Pennsylvania and Illinois to vote for him. Both these states were evidently drifting straight to the republican party, and it was not difficult to forecast the result of the next election, unless some great change of policy took place in one section or the other. — No such change took place: on the contrary, both sections became more aggressive. The administration, since 1852, had steadily sustained the southern view, that the constitution protected property, recognized slaves as property, and therefore protected slavery in the territories, while they were territories. In 1857 the supreme court also sustained the southern view. (See DRED SCOTT CASE.) This was the last re-enforcement which the south could hope for, and it was a failure. The dominant party of the north received it with more wrath than respect, and answered it with an increase of state laws to nullify or modify the fugitive slave law. (See PERSONAL LIBERTY LAWS.) A few of the bolder advanced the skirmish line of the war which was to follow, and attempted a fugitive slave migration on a grand scale. (See BROWN, JOHN.) Kansas had achieved her destiny, and had really become a free state; there was little on the surface to fight about; and yet the wider divergence of the sections was yearly becoming more apparent. — During Buchanan's administration the first conflict took place with submission. (See MORMONS.) The admission of California in 1850, Minnesota in 1858, and Oregon in 1859, increased the number of states to 33; but the increase was a new danger to slavery. The south had always abandoned the control of the house of representatives to the superior numbers of the north, while the admission of states had been calculated as carefully as possible to secure to the south an equal share in the senate, without whose assent no law could be passed. For the first sixty years after 1789, each new free state was balanced by a new slave state; but this process had now ceased to be possible. Texas was the last slave state that ever was admitted; and since its admission five new free states had come in, Kansas was in readiness, and the germs of others had appeared. If this majority of free states was to continue the previous drift to the republican party, that party would soon control both houses of congress, elect the president, and pass such laws as it pleased. Nor was the supreme court safe from it: if the natural change in its *personnel* by death and appointments to fill vacancies should prove too slow a process, a law to increase the number of justices would quicken it and put the Dred Scott decision at the mercy of a republican majority. This was the underlying danger, seldom referred to but often thought of, which compelled slavery to strike for its life while it yet had time. — In 1860 the last of the old natural cords which held the Union together was snapped by the disruption of the democratic party. (See DEMOCRATIC PARTY, V.) There were now four parties in the political field, a northern democratic party, a southern democratic party, a republican party, and a "constitutional union" party. (See the names of the two latter.) In the election the free states at last became practically unanimous, and Abraham Lincoln was elected president by the republicans. It should be noted, however, that in the congress which was to make the laws during the first half of his administration, the republicans were in a decided minority. Nevertheless, his election by a union of the free states against the slave states offered a *casus belli* which southern leaders were not disposed to neglect. Secession was begun by South Carolina; the six other gulf states followed at once; and in February, 1861, the seceding states formed a new government under the name of the "Confederate States of America." The forts, custom houses, mints, navy yards, and public buildings of the United States within the seceding states were seized, and the few regular soldiers were compelled to surrender, except at the forts near Key West, Fort Pickens, at Pensacola, and Fort Sumter, in Charleston harbor; and the two latter were closely invested. Buchanan was successful in keeping the peace until the end of his term; but, when Lincoln was inaugurated, the authority of the United States was suspended in the gulf states, from South Carolina to Texas. (See, in general, SECESSION; CONFERENCE, PEACE; CONFEDERATE STATES; BUCHANAN.) — 6. *The Re-*

bellion, 1861–5. Early in April, President Lincoln decided to put an end to the almost successful process of starving out Fort Sumter, and sent a provision fleet to supply it. The batteries around it at once opened fire on the fort, and it surrendered April 14. Then followed a call for troops to suppress the rebellion, and a declaration of war by the confederate states, early in May, against the United States. The first attempt at "coercing" the seceding states was followed by the secession of the southern tier of border states, North Carolina, Tennessee and Arkansas, and of Virginia in the northern tier. Delaware, Maryland, Kentucky and Missouri refused to secede. (See BORDER STATES, and the names of the states.) These secessions brought the area of the confederacy to its maximum. — The financial history of the war is fully given elsewhere. (See FINANCE, BANKING IN THE UNITED STATES, INTERNAL REVENUE, DISTILLED SPIRITS, INCOME TAX, TARIFF.) An outline of its military and naval history is elsewhere given. (See REBELLION, ALABAMA CLAIMS, GENEVA AWARD.) Its political history is also given elsewhere. (See ABOLITION, III.; EMANCIPATION PROCLAMATION; HABEAS CORPUS; REPUBLICAN PARTY, II.; DEMOCRATIC PARTY, VI.; DRAFTS; RECONSTRUCTION, I.) At the close of the rebellion no one was criminally punished for participation in it. (See TREASON, AMNESTY.) Almost the only civil victim was President Lincoln, who was assassinated just after the fall of Richmond. (See his name). — Three states were admitted during this period: Kansas in 1861, West Virginia in 1863, and Nevada in 1864. — 7. *Reconstruction*, 1865–70. The war of the rebellion and its result are usually regarded as the decisive proofs of the stability of the American form of government. And yet the five years following were, for it, a still more crucial test. The formation of the confederacy made the theatre of war *pseudo* foreign soil during the rebellion; and the territory remaining under the direct control of the United States government was spared many of those effects of war which are most evil to a republic. And those evils which were felt were met with the reserve power arising from years of peaceful constitutional discussion and long settled habits of political thinking. The difficulties of reconstructing the Union were to be met without any such reserve power, and even with the counteracting influences of the passion of war and victory. That the reconstruction should have been accomplished under such difficulties, and yet with so little alteration of the spirit of the system, is the most decisive proof that the American system is impregnably fixed in the affections of the people. It is easy to find blunders and contradictions in the process: it is far harder to find any difference in the status of New York and Mississippi, now that the smoke has cleared away. — When the war began, there was a general idea that any seceding state might again secure its former privileges in the Union on the simple conditions of ceasing hostilities and organizing a loyal state government. Under this theory the so-called "Pierpont" government of Virginia was recognized as the government of the state; its consent to the organization of the new state of West Virginia was accepted as valid; and its senators and representatives were admitted to congress. As the war grew warmer, and slavery was attacked, the original simple plan of reconstruction was necessarily modified. The executive, President Lincoln, first, and afterward President Johnson, only modified it so far as to require an assent to the abolition of slavery as an additional requisite: the repudiation of the ordinances of secession and of the state war debts seems to have been required only as an evidence of loyalty and good faith. In congress there was a growing belief, after 1862, that the national government, by legislation and its execution, should supervise the process of reconstruction, fix the qualifications of voters, and decide on its satisfactory completion. As this belief grew stronger, the southern members admitted under the influence of the original theory were excluded from congress; the reconstructed governments of Virginia, Arkansas and Louisiana were carefully ignored; and, as far as possible, all evidences of the original theory were wiped out. President Johnson still held fast to it, and in 1865 the remaining states of the defunct confederacy were reconstructed under his leadership. This reconstruction was still ignored by congress, which proposed, officially and unofficially, terms of its own. These became harder as the resistance of the southern people, backed by President Johnson and the democratic party of the north, was overcome, until in 1867 negro suffrage and the disfranchisement of leading confederates became a part of the terms. Reconstruction was then carried out under military supervision; most of the seceding states were readmitted in 1868; and in February, 1871, all the states were represented in congress, for the first time since December, 1860. (See, in general, RECONSTRUCTION.) During this period three amendments to the constitution were ratified (see CONSTITUTION, III.); Nebraska was admitted as a state; and Alaska was purchased. (See ANNEXATIONS, VI.) — During the struggle between congress and the president over reconstruction, other acts were passed over his veto (see FREEDMEN'S BUREAU, CIVIL RIGHTS BILL, TENURE OF OFFICE, VETO, JOHNSON); and the struggle ended in an unsuccessful impeachment of the president in 1868. See IMPEACHMENTS, VI.) In the presidential election of 1868 the republicans were successful in electing Gen. Grant. — 8. *The Republicans*, 1870–84. The congressional plan of reconstruction had undoubtedly had a view to the party advantage which would come from a unanimous negro vote for the republican party in the south. But, during Grant's two terms of office, this advantage almost entirely disappeared. One after another, the reconstructed governments of the south passed under the control of the white voters, until the last of them, South Carolina and Louisiana, followed the others

in the opening months of the Hayes administration, in 1877, and the so-called "solid south" was formed. (See, in general, KU-KLUX KLAN; INSURRECTION, II; RECONSTRUCTION, III.) As one result of the struggle to maintain the reconstructed governments, there was a secession from the republican party in 1872, under the name of "liberal republicans"; but its only immediate result was the re-election of Grant, and the defeat of the democrats and liberals. An indirect result was the reinstatement of the democrats as a national party, by their abandonment of their opposition to the consequences of the war. (See LIBERAL REPUBLICAN PARTY; DEMOCRATIC PARTY, VI.) — The loose methods of dealing with large amounts, which had grown up during the war, became more noticeable as the expenses of the government decreased, and the inevitable result, during Grant's two terms, was a great crop of public scandals. (See CRÉDIT MOBILIER; WHISKY RING; IMPEACHMENTS, VII.; SALARY GRAB.) An effort was made to reform the civil service, but it was a failure for the time. (See CIVIL SERVICE REFORM.) In 1873 a period of financial depression set in; it continued for several years, and had considerable influence on politics. It helped to give the democrats a majority in the house of representatives which met in 1875, and it brought to the surface of politics a struggle between "hard money" and "soft money," between a resumption of specie payments and a continuance of paper emissions. The republican party was first brought under control, and, before it lost the house of representatives in 1875, it had passed an act to resume specie payments Jan. 1, 1879. The democrats opposed the act, and, in their national platform of 1876, demanded its repeal on the ground that it was premature and an impediment to resumption. A third party grew up rapidly, which opposed resumption altogether. (See GREENBACK PARTY.) In spite of the opposition, the republican support of the act was successful, and resumption took place on the date assigned. — In foreign affairs, the great interest of Grant's two terms was in the treaty of Washington of 1871. It submitted to arbitration the various unsettled questions pending between the United States and Great Britain. (See ALABAMA CLAIMS; GENEVA ARBITRATION; TREATIES, FISHERY; NORTHWEST BOUNDARY.) There was an unsuccessful attempt to annex San Domingo. (See SAN DOMINGO.) In October, 1873, a Spanish vessel captured the "Virginius," which was carrying recruits and supplies to the insurgents in Cuba, and a number of those on board were shot. For a time there was a probability of war, for the "Virginius" was sailing under the United States flag; but it was shown clearly that she had forfeited her right to carry it. — Indian affairs were much disturbed. An attempt in 1873 to remove the little tribe of Modocs from southern Oregon to a reservation was only successful after a war which was made difficult by the character of the country, a region of extinct volcanoes, abounding in hiding places. In 1876 the Sioux Indians in Montana left their agencies: Gen. Custer attacked the whole tribe with but five companies, and was killed with his whole party. The Sioux were then driven into British America. — The presidential election of 1876 fell into complete confusion, but ended in the success of the republicans, and the inauguration of President Hayes. (See DISPUTED ELECTIONS, IV.; RETURNING BOARDS; ELECTORAL COMMISSION; ELECTORS.) He withdrew the troops which had been supporting the reconstructed governments of Louisiana and South Carolina, and these also passed under the control of the white voters. The whole administration was a welcome period of unwonted calm in politics. Its only serious breaks were the attempts of the democratic majority in the house to repeal some of the war legislation (see RIDERS, VETO), and the transfer of public interest to silver. An act of 1870 had made the bonds of the United States payable in "coin"; and, as silver was falling in price, the act of Feb. 12, 1873, dropped the silver dollar from the list of United States coins. In 1878 a general vote of both parties passed the "Bland silver bill" over the veto. It made the silver dollar a legal tender for public and private debts, and directed its recoinage at the rate of not less than $2,000,000 a month. (See COINAGE, PARIS MONETARY CONFERENCE.) In the close of this and the beginning of the following terms the national debt was refunded, its term lengthened, and its interest charges largely decreased. (See FINANCE.) — In the presidential election of 1880 the republicans were successful, and Garfield was elected president. His death, in September, 1881, left his office to President Arthur. (See both names, and EXECUTIVE, IV.) In the domestic politics of the country the controlling interest of his term has centred upon the tariff. (See that article.) There have also been efforts in various southern states to form third parties, under various names, in which both whites and blacks could join, in order to break up the "color line" in politics. These have been supported by the administration, but have not been successful, except in Virginia, and, in part, in Tennessee. (See those states.) In the inevitable reform of the civil service a great step in advance has been taken, and for the first time the public sentiment of the country has supported it strongly (See SPOILS SYSTEM, REMOVALS.) — In foreign affairs, Chinese immigration has been restricted in accordance with the terms of a treaty negotiated under the preceding administration. (See CHINESE IMMIGRATION.) The proposed cutting of a canal through the isthmus of Panama, under French control, brought up the idea that the Monroe doctrine (see that article) required the control of the canal to be in the United States. The Garfield administration began a diplomatic correspondence to that end with Great Britain, which was dropped by its successor. Peru had begun a war against Chili, and had been completely conquered; and the United States interfered to prevent the extreme spoliation of the conquered

nation. But, as Chili refused to yield to moral force, and the United States was not disposed to use physical force, the interference came to nothing. There was some fear of difficulty with Great Britain on the question of extradition, which had long been troublesome. (See EXTRADITION.) There had been for years an enormous immigration from Ireland to the United States. (See EMIGRATION.) A very large part of it was the real or imagined result of former English misgovernment in Ireland. As might have been expected, this class of immigrants gave a warm support to revolutionary movements in Ireland, but there was no remedy for it, since their support did not pass beyond legitimate bounds. The further question whether refugees charged with violence are subject to extradition, or are insured against it by the political purpose and character of their acts, has not yet been formally and officially raised (1884). — (See, in general, the names of the various persons and political parties mentioned; ADMINISTRATIONS, for the presidents, vice-presidents and

STATES.	1824.				1828.		1832.		1836.		1840.		
	Adams.	Jackson.	Cra'fd.	Clay.	Jackson. [Dem.]	Adams. [N. Rep.]	Jackson. [Dem.]	Clay. [N. Rep.]	V. Buren [Dem.]	Whigs.*	Harrison [Whig.]	V. Buren. [Dem.]	Birn'y [Ab.]
Alabama	2,416	9,443	1,680	67	17,138	1,938	.....	.....†	19,068	15,637	28,471	33,991	.....
Arkansas	.....	.....	.....	.....	.....	.....	.....	.....	2,400	1,238	5,160	6,049	.....
Connecticut	7,587	.....	1,978	.....	4,448	13,829	11,269	17,755	19,234	18,466	31,601	25,296	174
Delaware		Legislature.			4,349	4,769	4,110	4,276	4,155	4,738	5,967	4,884	.....
Georgia		Legislature.			18,709	.....	20,750	.....	22,126	24,930	40,261	31,933	.....
Illinois	1,542	1,901	219	1,047	6,763	1,581	14,147	5,429	18,097	14,983	45,537	47,476	149
Indiana	3,095	7,343	.....	5,315	22,237	17,052	31,552	15,472	32,480	41,281	65,302	51,695	.....
Kentucky	.....	6,453	.....	16,782	39,084	31,172	36,247	43,396	33,435	36,955	58,489	32,616	.....
Louisiana		Legislature.			4,605	4,097	4,049	2,528	3,653	3,383	11,297	7,617	.....
Maine	6,870	2,330	.....	.....	13,927	20,773	33,291	27,204	22,300	15,239	46,612	46,201	194
Maryland	14,632	14,523	3,646	695	24,578	25,759	19,156	19,160	22,167	25,852	33,528	28,752	.....
Mass.	30,687	.....	6,616	.....	6,019	29,836	14,545	33,003	33,501	41,093	72,874	51,948	1,621
Michigan	.....	.....	.....	.....	.....	.....	.....	.....	7,360	4,000	22,933	21,098	321
Mississippi	1,694	3,234	119	.....	6,763	1,581	5,919	.....	9,979	9,688	19,518	16,995	.....
Missouri	311	987	.....	1,401	8,232	3,422	5,192‡	.....	10,995	8,337	22,972	29,760	.....
N. Hamp.	4,107	643	.....	.....	20,692	24,076	25,486	19,010	18,722	6,228	26,158	32,670	126
N. Jersey	9,110	10,985	1,196	.....	21,950	23,758	23,856	23,393	26,347	26,892	33,351	31,034	69
New York		Legislature.			140,763	135,413	168,497	154,896	166,815	138,543	225,817	212,519	2,798
N. Carolina	.....	20,415	15,621	.....	37,857	13,918	24,862	4,563	26,910	23,626	46,376	34,218	.....
Ohio	12,280	18,457	.....	19,255	67,597	63,396	81,246	76,539	96,948	105,405	148,157	124,782	903
Penn.	5,440	36,100	4,206	1,609	101,652	50,848	90,983	56,716	91,475	87,111	144,021	143,676	343
Rhode Isl'd	2,145	.....	200	.....	821	2,754	2,126	2,810	2,904	2,710	5,278	3,301	42
S. Carolina		Legislature.			Legislature.		Legislature.		Legislature.		Legislature.		
Tennessee	216	20,197	312	.....	44,090	2,240	28,740	1,436	26,120	35,962	60,391	48,289	.....
Vermont		Legislature.			8,205	24,784	7,870	11,152	14,037	20,991	32,445	18,009	319
Virginia	3,189	2,861	8,489	416	26,752	12,101	33,609	11,451	30,261	23,368	42,501	43,893	.....
Total	105,321	155,872	44,282	46,587	647,231	509,097	687,502	530,189	761,549	736,656	1,275,017	1,128,702	7,059

* For Harrison, Webster, White, and others. † Unanimous for Jackson. ‡ Majority.

STATES.	1844.			1848.			1852.			1856.		
	Polk. [Dem.]	Clay. [Whig.]	Birney. [Ab.]	Taylor. [Wh.]	Cass. [Dem.]	V. Buren [F. S.]	Pierce. [Dem.]	Scott. [Wh.]	Hale. [F. S.]	Buchan'n [Dem.]	Fremont. [Rep.]	Fillmore [Am.]
Alabama	37,740	26,084	.....	30,482	31,363	.....	26,881	15,088	.....	46,739	.....	28,552
Arkansas	9,546	5,504	.....	7,588	9,300	.....	12,173	7,404	.....	21,910	.....	10,787
California	.....	.....	.....	.....	.....	.....	40,626	35,407	100	53,365	20,691	36,165
Connecticut	29,841	32,832	1,943	30,314	27,046	5,005	33,249	30,357	3,160	34,995	42,715	2,615
Delaware	5,996	6,278	.....	6,421	5,898	80	6,318	6,293	62	8,004	308	6,175
Florida	.....	.....	.....	3,116	1,847	.....	4,318	2,875	.....	6,358	.....	4,833
Georgia	44,177	42,100	.....	47,544	44,802	.....	34,705	16,660	.....	56,578	.....	42,228
Illinois	57,920	45,528	3,570	53,947	56,300	15,774	80,597	64,984	9,966	105,348	96,189	37,444
Indiana	70,181	67,867	2,106	69,907	74,745	8,100	95,340	80,901	6,929	118,670	94,375	22,386
Iowa	.....	.....	.....	11,084	12,093	1,126	17,763	15,856	1,604	36,170	43,954	9,180
Kentucky	51,988	61,255	.....	67,141	49,720	.....	53,806	57,068	265	74,642	314	67,416
Louisiana	13,782	13,083	.....	18,217	15,370	.....	18,647	17,255	.....	22,164	.....	20,709
Maine	45,719	34,378	4,836	35,125	39,880	12,096	41,609	32,543	8,030	39,080	67,379	3,325
Maryland	32,676	35,984	.....	37,702	34,528	125	40,020	35,066	54	39,115	281	47,460
Mass.	52,846	67,418	10,860	61,070	35,281	38,058	44,569	52,683	28,028	39,240	108,190	19,626
Michigan	27,759	24,337	3,632	23,940	30,687	10,389	41,842	33,859	7,237	52,136	71,762	1,660
Mississippi	25,126	19,206	.....	25,922	26,537	.....	26,876	17,548	.....	35,446	.....	24,195
Missouri	41,369	31,251	.....	32,671	40,077	.....	38,353	29,984	.....	58,164	.....	48,524
N. Hamp.	27,160	17,866	4,161	14,781	27,763	7,560	29,997	16,147	6,695	32,789	38,345	422
New Jersey	37,495	38,318	131	40,015	36,901	829	44,305	38,556	350	46,943	28,398	24,115
New York	237,588	232,482	15,812	218,603	114,318	120,510	262,083	234,882	25,329	195,878	276,007	124,604
N. Carolina	39,287	43,232	.....	43,550	34,869	.....	39,744	39,058	59	48,846	.....	36,886
Ohio	149,117	155,057	8,050	138,630	154,775	35,354	169,220	152,526	31,682	170,874	187,497	28,126
Penn.	167,535	161,203	3,138	185,513	171,176	11,263	198,568	179,174	8,525	230,710	147,510	82,175
Rhode Isl'd.	4,867	7,322	107	6,779	5,646	730	8,735	7,626	644	6,680	11,467	1,675
S. Carolina	Legislature.			Legislature.			Legislature.			Legislature.		
Tennessee	59,917	60,060	.....	64,705	58,419	.....	57,018	58,898	.....	73,638	.....	66,178
Texas	.....	.....	.....	4,509	10,668	.....	13,552	4,995	.....	31,169	.....	15,639
Vermont	18,041	26,770	3,954	23,122	10,948	13,837	13,044	22,173	8,621	10,569	39,561	545
Virginia	49,570	43,677	.....	45,124	46,586	9	73,858	58,572	.....	89,706	291	60,310
Wisconsin	.....	.....	.....	13,747	15,001	10,418	33,658	22,240	8,814	52,843	66,090	579
Total	1,337,243	1,299,068	62,300	1,360,099	1,220,544	291,263	1,386,578	1,601,474	156,149	1,838,169	1,341,264	874,534

STATES.	1860.				1864.		1868.	
	Lincoln. [Rep.]	Douglas. [Dem.]	Breckin'ge [Dem.]	Bell. [Con. U.]	Lincoln. [Rep.]	McClellan. [Dem.]	Grant. [Rep.]	Seymour. [Dem.]
Alabama	.....	13,651	48,831	27,875	.....	.....	76,366	72,088
Arkansas	.....	5,227	28,732	20,094	.....	.....	22,112	19,078
California	39,173	38,516	34,334	6,817	62,134	43,841	54,583	54,077
Connecticut	43,692	15,522	14,641	3,291	44,691	42,285	50,905	47,952
Delaware	3,815	1,023	7,347	3,864	8,155	8,767	7,623	10,980
Florida	.....	367	8,543	5,437	.....	.....	.....	.....
Georgia	.....	11,590	51,889	42,886	.....	.....	57,134	102,722
Illinois	172,161	160,215	2,404	3,913	189,496	158,730	250,308	199,143
Indiana	139,033	115,509	12,295	5,306	150,442	130,233	176,548	165,980
Iowa	70,409	55,111	1,048	1,763	89,075	49,596	120,399	74,049
Kansas	.....	.....	.....	.....	16,441	3,691	31,048	13,990
Kentucky	1,364	25,651	53,143	66,058	27,786	64,301	39,566	115,889
Louisiana	.....	7,625	22,681	20,204	.....	.....	33,263	80,235
Maine	62,811	26,693	6,368	2,046	61,803	44,211	70,498	42,460
Maryland	2,294	5,966	42,482	41,760	40,153	32,739	30,438	62,357
Massachusetts	106,533	34,372	5,939	22,331	126,742	48,745	136,477	59,408
Michigan	88,480	65,057	805	405	91,521	74,604	128,550	97,069
Minnesota	22,069	11,920	748	62	25,060	17,375	43,545	28,075
Mississippi	.....	3,283	40,797	25,040	.....	.....	.....	.....
Missouri	17,028	58,801	31,317	58,372	72,750	31,678	86,860	65,628
Nebraska	.....	.....	.....	.....	.....	.....	9,729	5,439
Nevada	.....	.....	.....	.....	9,826	6,594	6,[illegible]	5,313
New Hampshire	37,519	25,881	2,112	441	36,400	32,871	38,191	31,294
New Jersey	58,324	62,801	.....	.....	60,723	68,024	80,131	82,001
New York	362,646	312,510	.....	.....	368,735	361,986	419,883	429,883
North Carolina	.....	2,701	48,339	44,990	.....	.....	96,769	84,601
Ohio	231,610	187,232	11,405	12,194	265,154	205,568	280,298	238,606
Oregon	5,270	3,951	3,006	183	9,888	8,457	10,961	11,125
Pennsylvania	268,030	16,765	178,871	12,776	296,391	276,316	342,280	313,382
Rhode Island	12,244	7,707	.....	.....	13,692	8,470	12,993	6,548
South Carolina		Legislature.			.....	.....	62,301	45,237
Tennessee	.....	11,350	64,709	69,274	.....	.....	56,693	26,129
Texas	.....	.....	47,548	15,438	.....	.....	.....	.....
Vermont	33,808	6,849	218	1,969	42,419	13,321	44,167	12,045
Virginia	1,929	16,290	74,323	74,681	.....	.....	.....	.....
West Virginia	.....	.....	.....	.....	23,152	10,438	29,175	20,306
Wisconsin	86,110	65,021	888	101	83,458	65,884	108,857	84,707
Total	1,866,352	1,375,157	845,763	589,581	2,216,067	1,808,725	3,015,071	2,709,613

STATES.	1872.*			1876.*			1880.*		
	Grant. [Rep.]	Greeley. [Lib.R.]	O'Conor. [Dem.]	Hayes. [Rep.]	Tilden. [Dem.]	Cooper. [Gbk.]	Garfield. [Rep.]	Hancock. [Dem.]	Weaver. [Gbk.]
Alabama	90,272	79,444	.....	68,230	102,062	.....	56,178	90,687	4,642
Arkansas	41,373	37,927	.....	38,669	58,071	289	41,061	60,489	4,079
California	54,020	40,718	1,068	79,369	76,465	47	80,348	80,426	3,392
Colorado	.....	.....	.....	Legislature.			27,450	24,647	1,435
Connecticut	50,638	45,880	204	59,084	61,334	774	67,073	64,417	868
Delaware	11,115	10,206	487	10,752	13,381	.....	14,150	15,188	.....
Florida	17,763	15,427	.....	23,849†	22,923	.....	23,654	27,964	.....
Georgia	62,550	76,356	4,000	50,446	130,088	.....	52,648	102,522	481
Illinois	241,944	184,988	3,058	278,232	258,601	17,988	318,067	277,321	26,336
Indiana	186,147	163,632	1,417	208,011	213,526	9,533	232,164	225,528	12,986
Iowa	131,566	71,196	2,221	171,327	112,099	9,001	183,904	105,845	32,227
Kansas	67,048	32,970	596	78,322	37,908	7,776	121,520	59,789	19,710
Kentucky	88,766	99,995	2,374	97,156	159,690	1,944	104,550	147,999	11,498
Louisiana	71,663	57,029	.....	75,135†	70,508	.....	37,194	65,310	439
Maine	61,423	29,087	.....	66,300	49,823	663	74,069	65,171	4,408
Maryland	66,760	67,687	19	71,981	91,780	33	78,515	93,706	818
Massachusetts	133,472	59,260	.....	150,063	108,777	779	165,205	*111,960	4,548
Michigan	138,455	78,355	2,861	166,534	141,095	9,060	185,190	131,300	34,795
Minnesota	55,117	34,423	.....	72,962	48,799	2,311	93,908	53,315	3,267
Mississippi	82,175	47,288	.....	52,605	112,173	.....	34,454	75,750	5,797
Missouri	119,196	151,434	2,429	145,025	203,077	3,498	153,567	208,609	35,045
Nebraska	18,329	7,812	.....	31,916	17,554	2,330	54,979	28,523	3,858
Nevada	8,413	6,236	.....	10,383	9,308	.....	8,732	9,611	.....
New Hampshire	37,168	31,424	100	41,539	38,509	76	44,852	40,794	598
New Jersey	91,656	76,456	630	103,517	115,962	712	120,555	122,565	2,617
New York	440,736	387,281	1,454	489,207	521,949	1,987	555,544	534,511	12,373
North Carolina	94,769	70,094	.....	108,417	125,427	.....	115,578	124,204	1,126
Ohio	281,852	244,321	1,163	330,698	323,182	3,057	375,048	340,821	6,456
Oregon	11,819	7,730	572	15,206	14,149	510	20,619	19,948	249
Pennsylvania	349,589	212,041	.....	384,122	366,158	7,187	444,704	407,428	20,668
Rhode Island	13,665	5,329	.....	15,787	10,712	68	18,195	10,779	236
South Carolina	72,290	22,708	187	91,870	90,906	.....	58,071	112,312	586
Tennessee	85,655	94,391	.....	89,566	133,166	.....	107,677	128,191	5,916
Texas	47,406	66,500	2,499	44,800	104,755	.....	57,845	156,228	27,405
Vermont	41,481	10,927	593	23,838	20,254	.....	45,090	18,181	1,212
Virginia	93,468	91,654	42	95,558	139,670	.....	84,020	127,976	139
West Virginia	32,315	29,451	600	42,698	56,455	1,373	46,243	57,391	9,079
Wisconsin	104,997	86,477	834	130,668	123,927	1,509	144,397	114,634	7,980
Total	3,597,070	2,834,079	29,408	4,033,950	4,284,757	81,740	4,449,053	4,442,035	307,306

* Scattering: (1872) 5,606; (1876) 12,158; (1880) 12,576.

† Returning Board count. (See Returning Boards.)

cabinet officers; CONGRESS, SESSIONS OF, for the duration of congresses, the speakers of the house, and their parties; JUDICIARY, II., for justices of the supreme courts; the names of the various states for their political leaders; ELECTORAL VOTES.)—Presidential electors are chosen in such manner as the legislature of each state shall direct. Until about 1824 the general rule was that electors were chosen directly by the state legislatures, and choice by popular vote was exceptional. Since 1824 choice by popular vote has been the rule, except in South Carolina until 1868. (See ELECTORS.) The electoral votes for all the elections are elsewhere given. (See ELECTORAL VOTES.) The popular votes at the elections since 1824 are given in the tables shown on pages 1001, 1002. In each election the name of the successful candidate for president is placed first. (For full names and names of candidates for vice-president, see the names of the parties under the year.) —III. THE CONSTITUTION OF THE UNITED STATES.—1. *General Character of the Union.* The Union is an anomaly in at least one respect: it is the only great nation in which the location of sovereign power is, and has always been, a fairly disputed point. No one has any doubt as to the location of sovereign power in Russia, France or Great Britain; but in regard to the United States there are almost as many opinions as there are commentators. There is a general agreement that sovereign power is in "the people of the United States," by whose will the constitution, which governs the government, was established; but this only pushes back the difficulty one step further to an equally general disagreement about this "people of the United States." In this general disagreement there are three great divisions of opinion, as follows: 1st. The people of the United States is the people of the *several* states, each having sovereign control over its own life and action, its entrance to the Union, its continuance therein, and its departure therefrom. (See STATE SOVEREIGNTY, and the authorities under it.) This would make the Union continuously voluntary on the part of each state, and would make each state the sovereign and protector not only of its own life, but of the life of the Union within its borders. It is contradicted by the facts of our history, and fell at the first attempt to enforce it in practice. (See SECESSION.) 2d. The people of the United States is the people of the several states, holding sovereignty only as a unit, the people of those states which voluntarily remain united (including the doctrine of possible state-lapse); and the possession of sovereignty by the people as a mass is nothing but an hypothesis, and has no political consequences whatever, except as some person or persons may succeed in using sovereign power in the name of such people. This has been best elaborated by J. C. Hurd, as cited below. It is objectionable because, as Mr. Hurd not only acknowledges, but maintains, it makes the national government really sovereign. "Sovereign governments" are the very things to escape which the American people was organized; and if it should ever unwittingly become subject to one, it would very soon provide a new means of escape. 3d. The people of the United States is the national people, organized by its own general will into a nation, and divided by its own general will into states. The existence of nation and states alike is bottomed on the same foundation, the ultimate sovereignty of the whole people, which has as yet shown itself only in this attitude of protection. In other respects it rules only through its ministers, the state and national governments; and no crisis has yet proved too great to be met through one or other of these agencies. This view has been best elaborated by Jameson, as cited below. The objection to it is that the national people has never yet acted politically as a unit, but always under the state formation. Nevertheless, it has been adopted in this series of articles as apparently the least objectionable of all. If it is correct, the sovereign power of the United States depends for its strength upon its unanimity, and is least palpable when it is most nearly unanimous, and, consequently, strongest. As it is now practically unanimous on the questions of state and national existence, it is wholly impalpable, and agencies or ministers only are visible. Of course, so distant a sovereignty will appear to many to be worse than no sovereignty at all; but it seems to the writer that its distance is just the reason that the American people has always been satisfied with it, and that there is as yet no symptom of a desire to replace king Log by king Stork. At any rate, enough has been said to call attention to one of the most curious features of the American Union. (See STATE SOVEREIGNTY, NATION.)—In its first form the government of the United Colonies, or United States, was revolutionary, depending for its powers solely on the general obedience of the national people. It received no powers from state governments or state peoples, and asked for none; on the contrary, the states were at first consciously and confessedly dependent on it even for their existence and defense. As the danger from the enemy became less urgent, the authority of the revolutionary government waned, and that of the state legislatures increased, until they assumed the ungranted power to frame a national government by the articles of confederation. As no such power had been granted to them by their state peoples, it also could have been valid only by the general acquiescence of the national people in the surrender of power by their revolutionary government. The same objection holds good to the convention of 1787, as bottomed on the sovereign power of the states, either separately or collectively: there was no warrant in any state constitution or in the articles of confederation for the selection of delegates by the state legislatures, or for the action of congress in standing sponsor to the convention. It seems to have represented only the universal, and, consequently, sovereign, will of the people of the whole country, that the form of government should be changed, but that the change should

impair state rights as little as possible. Even in the ratifications, the same quiet pressure of the national will was the controlling factor. Without it, if the consideration and decision of each state had really been entirely autonomous, as it purported to be, the present constitution would never have gone into effect, for it would have been rejected by at least six states, Rhode Island, North Carolina, Massachusetts, New Hampshire, New York and Virginia. All these states ratified only in deference to the general will, as represented by heavy minorities in their own states and heavy majorities in the others. In this case, as in all others, the sovereign power avoided the use, or suggestion, of force, and only materialized itself so far as was absolutely necessary. If the constitution had been rejected, the sovereign power would have materialized itself further; very few men at the time doubted that, or wished to make the step necessary. That the states yielded to this sovereign power without the employment of force is no impeachment of the power of the sovereign. If that were so, every peaceful presidential election would make the sovereign power more doubtful. (See CONGRESS, CONTINENTAL; CONFEDERATION, ARTICLES OF; CONVENTION OF 1787; CONSTITUTION; STATE SOVEREIGNTY.) — Under this third form of government, the constitution of the United States, the country still continues. It restricts the power of the states in many points, and it grants many powers to the national government; and by one of the amendments, but still more by the whole spirit of the instrument, it maintains the states in all powers not forbidden, and forbids to the national government the exercise of all powers not granted by it. (See CONSTRUCTION.) The operation of its provision for admitting new states, with the successive acquisitions of new territory, has given the country for which the constitution was made its present shape. There are now (1888) thirty-eight states, eight organized territories, two unorganized territories, and a federal district. The states are self-governing commonwealths in all points reserved to them by the federal constitution, and their state governments take cognizance of everything not forbidden to them by the federal constitution or by their state constitutions. The territories are theoretically in absolute subjection to the federal government; but the consistent policy of the federal government has always been to grant self-government to them as rapidly as possible, in order to encourage their conversion into states. (See TERRITORIES; ANNEXATIONS; and the names and admissions of the states under CONSTITUTION, I.) — All through the state and territorial organizations runs the national organization, acting on individuals, however, not on states, with the exception of the judicial veto referred to hereafter. It is limited by the oath of its members to respect and obey the federal constitution, by the power of the judiciary to nullify or veto those of its acts which are unwarranted by the constitution, and by the general disposition of the people to punish by the ballot any unwarranted assumption of power. The last is incomparably the most important safeguard, without which the others would be worthless; and it is the only form in which the ultimate sovereignty of the United States exhibits itself. Attempts have been made to substitute for it the will of an individual state, but they have been failures (see NULLIFICATION); and it is now settled that the individual owes his privileges as a state citizen to the will of the whole people, not to that of his state. If the federal government assumes ungranted powers, its acts are void. The final decision upon their validity is entrusted to the supreme court in matters on which a case can be made up; in other matters, the decision is left to the voters in the presidential and congressional elections. It is, therefore, but partly true, that the supreme court is the arbiter of disputed constitutional questions. If a state government assumes ungranted powers, or if a state people in forming a state constitution, insert a provision in conflict with the federal constitution, these acts are also void; but in these cases the supreme court is the sole final arbiter. (See JUDICIARY.) — As a general rule, then, it must be admitted that the state must yield, in a conflict with the federal government, when the federal judiciary has finally pronounced against her, and that the state is subordinate, though not subject. But every unprejudiced observer must admit, that, in any such conflict, the state has a greater prospect of success than the federal government, even in the federal supreme court. (See *State Rights*, under STATE SOVEREIGNTY.) Even in the matter of the last two amendments to the federal constitution, carefully drawn for the express purpose of curbing state action, the federal judiciary in 1883 is interpreting them far more favorably to the states than any state court would have done in 1873. If the state should choose to carry the conflict further, into forcible resistance, her citizens are bound to take sides against her, and with the more direct representative of the general will. (See TREASON, ALLEGIANCE.) — *Division of Powers.* The federal government has been proved by experience to be an exceedingly simple and effective piece of machinery. It has served as a model for the constitutions of new states, and the constitutions of the original states have been so changed as to follow it. Its leading characteristic is its careful division of the powers of government into three departments. The power of legislation is given to two houses, co-ordinate in rank and power, but with different constituencies. The executive power is given to a single person, with a limited veto on the legislative: he is responsible to the legislative department by impeachment, but is not elected by it. The power to interpret the laws, and to veto such as are in conflict with the will of the people, as expressed in the constitution, is given to an organized judiciary. Most of the state constitutions follow this division of powers exactly, except for their restrictions on the powers of the legislative. (See RIDERS.) Where they differ

from it, it is mainly on three points: the election of the executive by the legislative, in default of a choice by popular vote; the greater or less limitation of the executive veto power (see VETO); or the election of judges by popular vote or by the legislative, and for a term of years, while the federal judges hold by appointment of the executive, and during good behavior. (See JUDICIARY, ELECTIVE; STATE CONSTITUTIONS.) — *Amendments.* Amendments are made in the same manner as the original constitution, by convention and ratification (see this subject fully treated under CONVENTION, CONSTITUTIONAL); or by proposition of congress and ratification by three-fourths of the state legislatures. In the states the same is true, except that the proposition is by the legislature or convention, and the ratification is by popular vote. There is no point in the state constitutions in which amendment is forbidden, and but one (Art. V.) in the federal constitution: "no state, without its consent, shall be deprived of its equal suffrage in the senate." (See also COMPROMISES, III., VI.) Its terms forbid the passage of any amendment to strike out this prohibition. It must be confessed that the terms of the articles of confederation, forbidding any amendment not ratified by all the state legislatures, were still more sweeping, and yet that a way was found to override their letter and spirit by the adoption of the constitution. But the single prohibition of the constitution has a far stronger safeguard in the universal will that it shall be maintained. (See, for amendments ratified and for amendments proposed, CONSTITUTION, III.) — *Citizenship.* From the beginning the constitution took citizens as it found them, made so by state laws, and only interfered to secure to the citizens of each state the privileges and immunities of citizens in the other states. It was and is possible, for example, for a person who has only declared his intention to become naturalized, to be a state citizen by state laws, and thus to vote at congressional and presidential elections. When the abolition of slavery had been accomplished, the fourteenth and fifteenth amendments were made parts of the constitution. There was at first a strong disposition to take them as having transferred from the states to the federal government the whole control of citizenship and suffrage. But the authoritative interpretation of them by the supreme court has since shown that they are exactly in the line of the original interference of the constitution; that they are restrictive, not constructive; and that they are to prevent unjust discrimination by the state, not to assume the state's former functions. (For a full discussion of this subject, see NATIONALITY, LAW OF; SUFFRAGE.) — 2. *The Federal Legislative; the Congress.* Congress, or "the congress," as it is properly called, is made up of two houses, the house of representatives and the senate. The house of representatives has (1888–5) 325 members, elected by the states in proportion to population. (See APPORTIONMENT.) The senate has 76 members, two from each state. Laws must be passed by a majority vote of both houses, and approved by the president, though the disapproval of the latter may be overridden by a two-thirds vote of both houses. (See VETO.) The legislative powers of congress are considered elsewhere. (See CONGRESS, POWERS OF.) The house has the sole power to prefer, and the senate to try, impeachments. (See IMPEACHMENTS.) The senate is an executive council in the matters of treaties and appointments. (See TREATIES, JAY'S TREATY, CONFIRMATION BY THE SENATE.) Each house has its own officers and rules, and its own distinctive features. (See, in general, CONGRESS; SENATE; HOUSE OF REPRESENTATIVES; CONGRESS, SESSIONS OF; PARLIAMENTARY LAW.) — 3. *The Federal Executive; the President.* The executive power is given to a president, elected by electors for a term of four years. (See ELECTORS AND ELECTORAL SYSTEM.) He is commander-in-chief of the army and navy; he has power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment; he makes appointments, and concludes treaties, with the concurrence of the senate; he takes care that the laws are faithfully executed, and is responsible to congress by impeachment. (See EXECUTIVE, MESSAGE, IMPEACHMENT, CONFIRMATION BY THE SENATE, TREATIES, JAY'S TREATY, TENURE OF OFFICE.) With him is elected a vice-president, who presides over the senate, and succeeds to the presidency in case of the death, resignation, removal or inability of the president. (See EXECUTIVE, V.) The list of presidents and vice-presidents is given elsewhere. (See ADMINISTRATIONS.) — *Departments.* The subordinates of the executive are divided into seven departments—the departments of state, the treasury, war, the navy, the interior, justice, and the postoffice. The heads of these departments form what is called the cabinet, though that title is wholly extra-constitutional. The cabinet functions of the heads of departments depend entirely on the right given to the president by the constitution to "require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices"; and "cabinet meetings," in the form which they have taken, depend on the president's will. The functions of the various departments and their heads are strictly defined by law (see ADMINISTRATIONS, and the articles on the various departments.) One department, that of agriculture, has been so constituted by law, while its head is not recognized as a cabinet officer. Each department has its own building at the national capital, the city of Washington, where its business is transacted and its records are kept. (See CAPITAL, NATIONAL.) Each department has its subdivisions, called bureaus. The most numerous are those of the department of the interior, as follows: Indian affairs, pensions, patents, public lands, census and education. In like manner customs, internal revenue, the currency, the coast survey, the lighthouses, and sta-

tistics, are under control of the treasury department. — The appointment and removal of the subordinate officials of the departments is, in general, the province of the president. (See TENURE OF OFFICE, CONFIRMATION BY THE SENATE.) In the practical execution of his powers, the president has come to rely upon the advice of heads of departments, members of congress, and leading politicians of his own party in the various states. The public service has thus come to be the cement for party organizations (see NOMINATING CONVENTIONS); and its efficiency has been seriously injured. (See SPOILS SYSTEM, PATRONAGE.) In 1883 the passage of the so-called Pendleton bill made a serious inroad into the system which had controlled appointments and removals for the preceding half century. It authorized the application, after July 16, 1883, of the system of appointments and promotions by examination to public offices in which there are fifty or more employés. (See CIVIL SERVICE REFORM.) — 4. *The Federal Judiciary.* The organization and powers of the supreme court, the circuit courts, the district courts and the territorial courts of the United States are given elsewhere. (See JUDICIARY.) The judges hold office during good behavior, and are responsible only through the long and doubtful process of impeachment. There is also a court of claims, which deals with claims against the United States; with an appeal to the supreme court. — 5. *The State Legislatures.* The organization of these bodies is given elsewhere. (See ASSEMBLY.) Their powers of legislation cover the whole field of subjects not prohibited to them by the federal constitution or their several state constitutions, so that, in general terms, they control all matters pertaining peculiarly and exclusively to their several states. They regulate the right of suffrage within their states, under certain limitations. (See SUFFRAGE.) They elect United States senators, and prescribe the manner of the election of presidential electors, and, in default of action by congress, of representatives also. (See ELECTORS, APPORTIONMENT, GERRYMANDER, HOUSE OF REPRESENTATIVES.) It is, therefore, not an uncommon event for the elections in a few doubtful legislative districts to rise to a national importance, since their result may decide the political complexion of a legislature which is to choose a United States senator, and his election may decide the political complexion of the United States senate and the general character of United States laws. A minor local election may thus be of the very greatest moment to the country at large. In matters which are peculiarly of state interest, the tendency is to limit both the duration and the powers of the legislature: the former by making sessions biennial; the latter by requiring general, instead of special, legislation. (See RIDERS; and, in general, see CAUCUS SYSTEM, PRIMARY ELECTIONS.) — 6. *The State Executive; the Governor.* When the colonies were transformed into states, at the beginning of the revolution, their executive was regularly styled president. The appropriation of this title to the national executive by the constitution led to the universal adoption of the title of governor for the state executives. At present all the state constitutions provide that "the executive power of the state shall be vested in a governor": some of them vary it by calling it the "supreme" or "chief" executive power; and two, Massachusetts and New Hampshire, give the governor the title of "his excellency." Massachusetts, New Hampshire and Rhode Island elect the governor for one year; New Jersey and Pennsylvania, for three years; and the other states, for either two or four years. (See the names of the several states and STATE CONSTITUTIONS.) The only qualifications are those of age (usually thirty years), residence and citizenship. The chief executive officers, under the governor, are the lieutenant governor, secretary of state, auditor or comptroller, treasurer and attorney general, regularly chosen by election, though some of them are appointed in some of the states. To these offices are frequently added others, such as superintendent of public instruction or public works, inspector of prisons, etc. In Florida and North Carolina these subordinate officers are the governor's cabinet, or council of state; in Maine, Massachusetts and New Hampshire, an advisory body, called a council, is elected by the people; in the other states there is no council, but in most of them the governor may call for his subordinates' opinions or advice in writing. A vacancy in the governor's office is generally filled by the lieutenant governor, president of the senate, and speaker of the house, in the order named.—The governor, as the representative of the state's physical force, has power to execute the laws, preserve the peace, suppress insurrection, and repel invasion. In this capacity he is given various titles, from the simple title of "commander-in-chief" to the higher distinction (in Rhode Island) of "captain-general and commander-in-chief of the military and naval forces of the state." He has the power of pardon or reprieve, though in many of the states the council, or a special board of pardons, shares the power with him. In most of the states he has a more or less limited veto power. (See VETO.) — 7. *The State Judiciaries.* The state constitutions agree in giving judicial powers to justices of the peace, to a supreme (or superior) court, and to such inferior courts as may be established by the constitution in some states, or by law in others. The inferior courts are usually circuit or district courts, county or parish courts under various names, probate, orphans', surrogate's or prerogative courts, and a great variety of minor criminal and city courts. A few states retain the court of chancery, together with a court of errors and appeals from both common law and equity courts; but in most of the states the supreme court has also equity jurisdiction. In Maine, Massachusetts, New Hampshire and Rhode Island, the supreme court is to give its opinion on constitutional questions whenever requested to do so by the executive or legislative. — The most marked tendencies in the his-

torical development of the state judiciaries have been toward a codification of the statutes, and an elective judiciary. (See JUDICIARY, ELECTIVE.) The former tendency has been formally resisted by a few states, but even in these it has had great influence upon the practice in the courts; while, in those states which have fully yielded to it, it has radically altered the practice. The latter tendency, to an elective judiciary, seems to be in some manner akin to the former, for the states which have resisted or succumbed to the one have generally done the same with the other. Both innovations are due to the advancing spirit of democracy, and it therefore seems probable that all the states will finally yield to both, though at different times and in different degrees. Codification has been adopted in part by congress for the federal judiciary, but the constitution has as yet proved an insuperable barrier to an elective federal judiciary. (See JUDICIARY, VII.) — The reader's attention has been directed, in another article (see *State Rights*, under STATE SOVEREIGNTY), to the vigorous individuality of life which characterizes the states, and which does not need the stimulant of a delusive "sovereignty." The American federal system has certainly proved a very powerful check to the tendency of a democracy to reduce all men to uniformity as well as political equality; and it can hardly be said that any part of the federal system has contributed more largely to state individuality than the state judiciaries. State constitutions have come to look somewhat as if they were cast in one mould, and state laws as if they were made after one pattern; but the state judiciary, which finally and authoritatively interprets both, retains and gives full force in the interpretation to every tradition, prejudice and peculiarity of the state life. State legislatures are naturally very prone to enact innovations only on the strength of their success in other states, and, perhaps, under very dissimilar circumstances; but that must be a very reasonable innovation indeed which can pass unscathed the gauntlet of the state courts, and make for itself a permanent place in its new location. The divergences of form are no less marked than the divergences in spirit. However similar the forms of the states may be in other respects, their courts exhibit the most bewildering diversity of form, name and jurisdiction. Lawyers are apt to complain of such a diversity, and to wish that courts and practice were uniform throughout the states. It is to be feared that the wish, if it were granted, would bring far more serious and pregnant evils in its train than those of the present diversity. — IV. STATISTICS. 1. *Area and Population.* Exclusive of Alaska, the land area of the United States is 2,970,000 square miles, and the water area 55,600 square miles; total, 3,025,600 square miles. Until 1880 the census made the total area 3,026,494 square miles; but careful remeasurements have altered the recorded areas of all the states and territories, and fixed the total as above. The most striking result of the remeasurement is the reduction of the area of California from 188,981 to 158,360 square miles. The area of Alaska can not be considered as even approximately ascertained. It has always been placed at 577,390 square miles, and is so given elsewhere (see ANNEXATIONS); but the areas of its six subdivisions, as estimated by the special agent for the census of 1880, make a total of but 531,409 square miles. The total area of the United States, on the first estimate of Alaska, is 3,602,990 square miles; on the second estimate of Alaska, 3,557,009 square miles. — The population in 1880 was 50,155,783, excluding Alaska, and was divided as follows: male, 25,518,820; female, 24,636,963— native, 43,475,840; foreign, 6,679,943—white, 43,402,970; colored, 6,580,793; Chinese, 105,465; Japanese, 148; Indians, 66,407. The population of Alaska is given by the special agent as 33,426: 430 white, 1,756 creole, and the rest Innuit and kindred tribes. The ratio of population to square miles of area was 17.29 in 1880; 13.3 in 1870; 10.84 in 1860; and 7.93 in 1850. The number of families in 1880 was 9,945,916, a ratio of 5.04 persons to a family. In 1870 the ratio was 5.09; in 1860 it was 5.28; in 1850 it was 5.56. The territories and Pacific states (except Oregon) have an excess of single men, and low family ratio. In the more eastern states, the lowest ratios of persons to a family are: New Hampshire, 4.32; Connecticut, 4.55; Vermont, 4.55; Maine, 4.58; Rhode Island, 4.59; Massachusetts, 4.70; and New York, 4.71; and the highest, West Virginia, 5.54; Minnesota, 5.45; Kentucky, 5.45; Tennessee, 5.38; Missouri, 5.38; Virginia, 5.36; and Texas, 5.35. There were 8,955,812 dwellings in 1880, or 5.6 persons to a dwelling. The densest urban population was in New York city, where there were 16.37 persons to a dwelling. The five cities which led in population were: New York city (1,206,299), Philadelphia (847,170), Brooklyn, N. Y. (566,663); Chicago, Ill. (503,185), Boston, Mass. (362,839). The one hundredth in rank was Springfield, Ill. (19,743). — The following table gives the land areas in square miles, the population, the ratio of population to square miles of land area, and the gross land and water areas, in the several states and territories in 1880 (territories in italics). The unorganized Alaska and Indian territories are not included in the ratio, and Alaska is not included in the areas.

STATES AND TERRITORIES.	Land Area.	Population.	Ratio.	Gross Area.
Alabama	51,540	1,262,505	24.50	52,250
Arizona	112,920	40,440	0.36	113,020
Arkansas	53,045	802,525	15.13	53,850
California	155,980	864,694	5.54	158,360
Colorado	103,645	194,327	1.87	103,925
Connecticut	4,845	622,700	128.52	4,990
Dakota	147,700	135,177	0.92	149,100
Delaware	1,960	146,608	74.80	2,050
District Columbia	60	177,624	2,960.40	70
Florida	54,240	269,493	4 97	58,680
Georgia	58,980	1,542,180	26.15	59,475
Idaho	84,290	32,610	0.39	84,800
Illinois	56,000	3,077,871	54.96	56,650
Indiana	35,910	1,978,301	55.09	36,350
Iowa	55,475	1,624,615	29.29	56,025
Kansas	81,700	996,096	12.19	82,080
Kentucky	40,000	1,648,690	41.22	40,400

(CONTINUED.)

STATES AND TERRITORIES.	Land Area.	Population.	Ratio.	Gross Area.
Louisiana	45,420	939,946	20.69	48,720
Maine	29,895	648,936	21.71	33,040
Maryland	9,860	934,943	94.82	12,210
Massachusetts	8,040	1,783,085	221.78	8,315
Michigan	57,430	1,636,937	28.50	58,915
Minnesota	79,205	780,773	9.86	83,365
Mississippi	46,340	1,131,597	24.42	46,810
Missouri	68,735	2,168,380	31.55	69,415
Montana	145,310	39,159	0.27	146,080
Nebraska	76,185	452,402	5.94	76,855
Nevada	109,740	62,266	0.57	110,700
New Hampshire	9,005	346,991	38.53	9,305
New Jersey	7,455	1,131,116	151.73	7,815
New Mexico	122,460	119,565	0.98	122,580
New York	47,620	5,082,871	106.74	49,170
North Carolina	48,580	1,399,750	28.81	52,250
Ohio	40,760	3,198,062	78.46	41,060
Oregon	94,560	174,768	1.85	96,030
Pennsylvania	44,985	4,282,891	95.21	45,215
Rhode Island	1,085	276,531	254.87	1,250
South Carolina	30,170	995,577	33.00	30,570
Tennessee	41,750	1,542,359	36.94	42,050
Texas	262,290	1,591,749	6.07	265,780
Utah	82,190	143,963	1.74	84,970
Vermont	9,135	332,286	36.38	9,565
Virginia	40,125	1,512,565	37.70	42,450
Washington	66,880	75,116	1.12	69,180
West Virginia	24,045	618,457	25.09	24,780
Wisconsin	54,450	1,315,497	24.16	56,040
Wyoming	97,575	20,789	0.21	97,890
Unorganized	69,880	.....	.....	70,550
Total	2,970,000	50,155,783	17.29	3,025,600

—*Increase of Population.* The decennial census has been a feature of the United States government since the establishment of the constitution. (See CENSUS, APPORTIONMENT.) Mr. Bancroft, taking the ground that the ratio of increase was about as constant before the year 1790 as after it, estimates the population of the colonies in the years 1750–90, as follows: 1780, 2,945,000; 1770, 2,312,000; 1760, 2,195,000; 1750, 1,260,000. The census records give the population, at intervals of ten years, and the increase per cent., as follows:

YEARS.	Population.	Increase per cent.
1880	50,155,783	30.0
1870	38,558,371	22.6
1860	31,443,321	35.6
1850	23,191,876	35.8
1840	17,069,453	32.6
1830	12,866,020	33.5
1820	9,633,822	33.1
1810	7,239,881	36.3
1800	5,308,483	35.1
1790	3,929,214	.....

—*Immigration.* No authentic record of immigration is available before 1819. Contemporary writers estimate immigration at 4,000 per annum up to 1794; and Dr. Adam Seybert, in 1818, considered 6,000 per annum, or 180,000 for the whole period 1788–1818, a liberal estimate. The act of March 2, 1819, required quarterly reports of immigrants by collectors of customs, and these have been brought together in the annual reports of the secretaries of state. (See EMIGRATION.) —*Centre of Population.* This is defined, in Walker's "Statistical Atlas," (1874), as "the point at which equilibrium would be reached were the country taken as a plane surface, itself without weight, but capable of sustaining weight, and loaded with its inhabitants, in number and position as they are found at the period under consideration, each individual being assumed to be of the same gravity as every other, and consequently to exert pressure on the pivotal point directly proportioned to his distance therefrom." On this basis the census bureau has calculated the position of the centre of population, at intervals of ten years, as follows. Its approximate location by important towns, and its westward movement during the preceding ten years, are also given.

YEARS.	N. Latitude.		W. Longitude.		Approximate Location.	Westward Movement
	Deg.	Min.	Deg.	Min.		
1790	39	16.5	76	11.2	23 m. E. Baltimore.	.....
1800	39	16.1	76	56.5	18 m. W. Baltimore.	41
1810	39	11.5	77	37.2	40 m. W. by N. W. Washington.	36
1820	39	05.7	78	33.0	16 m. N. Woodstock.	59
1830	38	57.9	79	16.9	19 m. W. S. W. Moorefield.	39
1840	39	02.0	80	18.0	16 m. S. Clarksburg.	55
1850	38	59.0	81	19.0	23 m. S. E. Parkersburg.	55
1860	39	00.4	82	48.8	20 m. S. Chillicothe.	81
1870	39	12.0	83	35.7	48 m. E. by N. Cincinnati.	42
1880	39	04.1	84	39.66	8 m. W. by S. Cincinnati.	56

It was, in 1880, in Kentucky, one mile from the Ohio, and one and a half miles southeast of the village of Taylorsville. —*Urban Population.* The following table shows the growth of the urban population of the United States: it gives, at intervals of ten years, the number of cities of 8,000 or more inhabitants, total population, and its percentage of the total population of the country:

YEARS.	No. of Cities.	Population.	Per ct.	YEARS.	No. of Cities.	Population.	Per ct.
1790	6	131,472	3.3	1840	44	1,453,994	8.5
1800	6	210,873	3.9	1850	85	2,897,586	12.5
1810	11	356,920	4.9	1860	141	5,072,256	16.1
1820	13	475,135	4.9	1870	226	8,071,875	20.9
1830	26	864,509	6.7	1880	286	11,318,547	22.5

—*School, Military and Voting Population.* The following table gives the population of school age (male and female, 5 to 17), military age (male, 18 to 44), and voting age (male, 21 and over), in the

several states and territories. (Territories are given in italics.)

STATES AND TERRITORIES.	5 to 17, both inclusive.		18 to 44, both inclusive.	21 and over.
	Male.	Female.	Male.	Male.
Alabama	213,998	207,330	213,192	259,884
Arizona	4,295	3,629	18,144	20,398
Arkansas	135,769	130,306	159,606	182,977
California	109,971	106,422	257,229	329,393
Colorado	18,462	17,910	86,004	93,608
Connecticut	78,179	77,333	127,590	177,291
Dakota	16,964	15,945	45,788	51,608
Delaware	21,806	20,869	30,361	38,298
Dist. Columbia	23,044	24,683	35,411	45,873
Florida	44,485	43,960	51,807	61,699
Georgia	259,468	252,087	275,815	321,438
Idaho	3,855	3,639	11,726	14,795
Illinois	474,811	468,842	651,310	796,847
Indiana	313,924	306,678	407,650	498,437
Iowa	258,558	251,552	333,890	416,658
Kansas	162,655	153,374	223,338	265,714
Kentucky	276,452	270,003	313,136	376,221
Louisiana	150,092	150,061	173,731	216,787
Maine	84,345	82,511	127,975	187,323
Maryland	140,107	139,305	182,609	232,106
Massachusetts	212,961	214,565	373,284	502,648
Michigan	235,391	228,991	371,140	467,687
Minnesota	119,703	117,872	174,681	213,485
Mississippi	195,885	190,251	203,080	238,532
Missouri	355,438	346,672	459,209	541,207
Montana	3,445	3,251	18,147	21,544
Nebraska	69,513	65,645	112,884	129,042
Nevada	5,691	5,653	25,967	31,255
New Hampshire	39,572	39,548	70,410	105,138
New Jersey	158,173	158,248	220,054	300,635
New Mexico	18,280	17,415	28,452	34,076
New York	667,961	669,957	1,050,775	1,408,751
North Carolina	230,232	221,932	241,140	294,750
Ohio	479,710	471,568	647,092	826,577
Oregon	25,566	24,462	48,783	59,629
Pennsylvania	633,588	626,798	853,972	1,094,284
Rhode Island	33,840	34,304	57,854	76,898
South Carolina	166,933	163,690	170,922	205,789
Tennessee	261,404	254,297	276,895	330,305
Texas	263,988	254,937	332,120	380,376
Utah	24,468	23,595	26,480	32,773
Vermont	43,974	42,296	64,162	95,621
Virginia	247,843	242,731	264,033	334,505
Washington	10,548	9,873	23,542	27,670
West Virginia	105,255	101,143	114,664	139,161
Wisconsin	204,594	201,284	256,434	340,482
Wyoming	1,930	1,824	9,751	10,180
Total	7,605,126	7,458,641	10,231,239	12,830,349

— *Education and Illiteracy.* The census of 1880 reports 225,880 public schools in the United States, including 16,800 separate schools for colored children, and 5,430 high schools or high school departments. Pennsylvania stands first with 18,616 schools, New York second with 18,615, Ohio third with 16,473, and Wyoming lowest with 55. The school buildings number 164,832. Pennsylvania stands first in this respect with 12,857 buildings, Ohio second with 12,224, New York third with 11,927, and Wyoming lowest with 29. The total number of teachers is 236,019; white male 96,099, white female 124,086, colored male 10,520, colored female 5,314. The aggregate of months of teachers' service was 1,539,303, at an average monthly salary of $36.21. The monthly average is highest in California ($76.54), and lowest in North Carolina ($21.27). The total number of pupils is 9,090,248: white male 4,687,530, white female 4,402,718, colored male 433,329, colored female 422,583; and the average daily attendance is 6,276,398. 5,715,914 white, and 560,484 colored. The receipts of the public schools, mainly derived from taxation, were $96,857,534; and the value of their school property was $211,411,540. (See, in general, EDUCATION AND THE STATE; EDUCATION, BUREAU OF.) — The following abstracts are from the report of the commissioner of education for 1880:

CLASSES.	No.	Instructors.	Students.
Colleges and universities	364	4,160	59,594
Scientific schools	83	953	11,584
Theological schools	142	633	5,242
Law schools	48	229	3,134
Medical schools	90	1,384	11,929
Dental schools	16	219	730
Schools of pharmacy	14	57	1,347

— The newspapers and periodicals number 11,314, of which 971 are issued daily, 8,633 weekly, and 1,167 monthly. The aggregate circulation per issue is 3,566,395 for the dailies, and 28,213,291 for the others. English is the language of 10,515 of them, and the others range from 641 in German to three in Indian, two each in Chinese, Polish, and Portuguese, and one each in Catalan and Irish. — Out of a total population of 36,761,607, of ten years old and upward, 4,923,451, or 13.4 per cent., are returned as unable to read, and 6,239,958, or 17 per cent., as unable to write. It must be confessed that these are uncomfortable figures for a republic based on manhood suffrage, but it must be taken into account that they are abnormally increased by the still prevailing illiteracy of the colored race. Of the 32,160,400 white persons of ten years old and upward, the number unable to write is 3,019,080, or 9.4 per cent.; while the corresponding figures for the colored race are a total of 4,601,207, of whom 3,220,878, or 70 per cent., are unable to write. There are 11,343,005 white males of twenty-one years old and upward (voters), and 886,659, or 7.8 per cent., of these are unable to write. There are 1,487,344 colored voters, and 1,022,151, or 68.7 per cent., of these are unable to write. These terrible percentages of colored illiteracy can only be regarded as survivals of antebellum conditions, and private benevolence is supplementing public energy in the effort to reduce them. The Peabody fund distributed $1,191,700 among the southern states for educational purposes during the years 1868–80, and the various missionary associations probably increased the amount to about $10,000,000. The following is a summary of the higher educational institutions in the southern states for the colored race.

CLASSES.	No.	Instructors.	Students.
Colleges and universities	15	119	1,717
Preparatory schools	36	120	5,237
Normal schools	44	227	7,408
Theological schools	22	65	800
Law schools	3	10	33
Medical schools	2	17	87
Schools for deaf, dumb and blind	2	18	122

— 2. ECONOMICS.—*Agriculture.* The total number of farms was 4,008,907 in 1880, against 2,659,985

in 1870, an increase of 50 per cent. The increase was altogether in farms of fifty acres and over; farms of less than fifty acres show a decrease, as follows:

CLASSES.	1880.	1870.	1860.
Under 3 acres	4,352	6,875	.....
3 to 10 acres	134,889	172,021	54,676
10 to 20 acres	254,749	294,607	162,178
20 to 50 acres	781,474	847,614	616,558
50 to 100 acres	1,032,910	754,221	608,876
100 to 500 acres	1,095,983	565,054	487,041
500 to 1,000 acres	75,972	15,873	20,319
Over 1,000 acres	28,578	3,720	5,364

It will be noticed that the changes for 1870–80 are in exactly the opposite direction to those of 1860–70. The average size of farms was 134 acres in 1880, against 153 acres in 1870, and 199 acres in 1860. The total number of acres in farms was 536,081,835 in 1880 (284,771,042 acres improved), against 407,735,041 in 1870 (188,921,099 improved), and 407,212,538 in 1860 (163,110,720 improved). The value of farms is put at $10,197,096,776 in 1880, $9,262,803,861 in 1870, and $6,645,045,007 in 1860. The value of farming implements and machinery is put at $406,520,055 in 1880, $336,878,429 in 1870, and $246,118,141 in 1860. Production of leading crops was as follows:

	1880.	1870.	1860.
Barley, bush	43,997,495	29,761,305	15,825,898
Buckwheat, bush	11,817,327	9,821,721	17,571,818
Indian corn, bush	1,754,591,676	760,944,549	838,792,742
Oats, bush	407,858,999	282,107,157	172,643,185
Rye, bush	19,831,595	16,918,795	21,101,380
Wheat, bush	459,483,137	287,745,626	173,104,924
Cotton, bales	5,755,359	3,011,996	5,387,052

(CONTINUED.)

	1880.	1870.	1860.
Wool, lbs	155,681,751	100,102,387	60,264,913
Hay, tons	35,205,712	27,316,048	19,083,996
Hops, lbs	26,546,378	25,456,669	10,991,996
Rice, lbs	110,131,373	73,635,021	187,167,032
Tobacco, lbs	472,661,157	262,735,341	434,209,461
Irish potatoes, bush	169,458,539	143,337,473	111,148,867
Sweet potatoes, bush	33,378,693	21,709,824	42,095,025
Cane sugar, hhds	178,872	87,043	230,982
Molasses, gals	16,573,273	6,593,323	14,963,996
Milk, gals	.....	235,500,599	.....
Butter, lbs	777,250,287	514,092,683	459,681,372
Cheese, lbs	27,272,489	53,492,153	103,663,927

There should be added to the wool production in 1880 about 85,000,000 pounds for the wool of "ranch" and slaughtered sheep, as estimated after special investigation. The value of live stock in 1880 was $1,500,464,609, against $1,525,276,457 in 1870 (the average value of the paper dollar in 1869–70 being 81 cents in gold), and $1,089,329,915 in 1860. The total number of animals was as follows:

	1880.	1870.	1860.
Horses	10,357,488	7,145,370	6,249,174
Mules and asses	1,812,808	1,125,415	1,151,148
Working oxen	998,841	1,319,271	2,254,911
Milch cows	12,443,120	8,935,332	8,585,735
Other cattle	22,488,550	13,566,005	14,779,273
Sheep	35,192,074	28,477,951	22,471,275
Swine	47,681,700	25,134,569	33,512,967

There should be added to the number of sheep in 1880 about 7,000,000 on ranches and public lands, as estimated after special investigation. — *Manufactures.* The general results of the census in 1880, 1870, and 1860, are as follows:

	1880.	1870.	1860.
Establishments	253,852	252,148	140,433
Hands employed:			
Males over 16	2,025,335	1,615,598	1,040,369
Females over 15	531,639	323,770	270,597
Children	181,921	114,698	.....
Capital	$2,790,272,606	$2,118,208,769	$1,009,855,715
Wages for the year	947,953,795	775,584,343	378,878,925
Value of materials	3,396,823,549	2,488,427,942	1,031,605,092
Value of products	5,369,579,191	4,232,325,442	1,885,861,676

Out of the 332 manufacturing and mechanical industries specified in the census report of 1880, the following are selected:

INDUSTRIES.	Establishm'ts.	Capital.	Hands.	Product.
Clothing, men's	6,166	$ 79,861,696	160,813	$209,548,469
Clothing, women's	562	8,207,273	25,192	22,004,794
Cotton goods	1,005	219,504,794	185,472	210,950,388
Mixed textiles	470	37,996,057	43,373	66,221,708
Silks	382	19,125,300	31,337	41,033,045
Hosiery and knit goods	359	15,579,591	28,895	39,167,227
Worsted goods	76	20,374,043	18,808	33,549,948
Woolen goods	1,990	96,095,564	86,504	160,606,721
Carpets	195	21,468,587	20,371	31,722,808
Dyeing textiles	191	26,223,981	16,698	32,297,420
Drugs and chemicals	592	26,598,458	9,545	36,173,658
Tanned leather	3,105	50,222,054	23,812	113,348,336
Iron and steel	1,005	220,971,884	140,978	296,537,685
Iron pipe	35	6,129,565	5,110	13,302,162
Agricultural implements	1,943	62,109,668	39,580	68,643,286
Fertilizers	364	17,913,660	14,898	33,650,795

(CONTINUED.)

INDUSTRIES.	Establishm'ts.	Capital.	Hands.	Product.
Foundry and machine shop	4,958	$154,519,484	145,351	$214,378,468
Flouring and grist mill	24,338	177,361,878	58,507	506,185,712
Furniture	4,843	38,669,764	48,729	68,037,902
Hardware	492	15,363,551	16,801	22,653,698
Glass	211	19,844,699	24,177	21,154,571
Planed lumber	1,208	17,612,923	15,289	36,803,356
Sawed lumber	25,708	181,186,122	147,956	223,268,729
Printing and publishing	3,467	62,983,704	58,478	90,789,341
Carpentering	9,184	19,541,358	54,138	94,152,139
Blacksmithing	28,101	19,618,852	34,526	43,774,271
Carriage and wagon	3,841	37,973,498	45,394	64,951,617
Wheelwrighting	10,701	10,641,080	16,108	18,892,858
Boots and shoes	17,972	54,358,301	133,819	196,920,481
Brick and tile	5,631	27,673,616	66,355	32,333,587
Shipbuilding	2,188	20,979,874	21,345	36,800,327
Slaughtering	872	49,419,213	27,297	303,562,413
Sugar and molasses	49	27,432,500	5,857	155,484,915
Tobacco (total)	7,674	39,995,292	87,587	118,670,166
Liquors (total)	3,152	118,037,729	33,689	144,291,941

The seven leading states are as follows, arranged according to capital:

STATES.	Establishm'ts.	Capital.	Hands.	Product.
New York	42,739	$514,246,575	531,533	$1,080,696,596
Pennsylvania	31,232	474,510,998	397,072	744,818,445
Massachusetts	14,352	308,806,185	352,255	631,135,284
Ohio	20,699	188,939,614	183,609	348,298,390
Illinois	14,549	140,652,066	144,727	414,864,673
Connecticut	4,488	120,480,275	112,915	185,697,211
New Jersey	7,128	106,226,598	126,088	254,380,236

These seven states lead in product also. For other aspects of this branch of the subject see CUSTOMS DUTIES, TARIFF, DISTILLED SPIRITS, EXCISE LAW, INTERNAL REVENUE. — *Mining, Fisheries, State Debts, Finance, Banking.* For these subjects see MINES; FISHERIES; DEBTS, NATIONAL, STATE AND LOCAL; FINANCE; COINAGE; BANKING IN THE UNITED STATES; CLEARING HOUSE. — *Commerce.* The following table gives the specie value of imports and exports of merchandise, 1861–83, each year ending June 30, and the excess of imports or exports:

YEARS.	Exports.	Imports.	Excess.
1861	$219,553,833	$289,310,542	$69,756,709 Import.
1862	190,670,501	189,356,677	1,313,824 Export.
1863	203,964,447	243,335,815	39,371,368 Import.
1864	158,837,988	316,447,283	157,609,295 Import.
1865	166,029,308	238,745,580	72,716,277 Import.
Total five years	939,056,072	1,277,195,807	338,139,825 Import.
Average	187,811,214	255,439,179	67,627,965 Import.
1866	348,859,522	434,812,066	85,952,544 Import.
1867	294,506,141	395,761,096	101,254,955 Import.
1868	281,952,899	357,436,440	75,483,541 Import.
1869	286,117,697	417,506,379	131,388,682 Import.
1870	392,771,768	435,956,408	43,185,640 Import.
Total five years	1,604,208,027	2,041,474,389	437,266,362 Import.
Average	320,841,605	408,294,877	87,453,272 Import.
1871	442,820,178	520,223,684	77,403,506 Import.
1872	444,177,586	626,595,077	182,417,491 Import.
1873	522,479,922	642,136,210	119,656,288 Import.
1874	586,263,040	567,406,342	18,876,698 Export.
1875	513,442,711	533,005,436	19,562,725 Import.
Total five years	2,509,203,437	2,889,366,749	380,163,312 Import.
Average	501,840,687	577,873,349	76,032,662 Import.
1876	540,384,671	460,741,190	79,643,481 Export.
1877	602,475,220	451,323,126	151,152,094 Export.
1878	694,865,766	437,051,532	257,814,234 Export.
1879	710,439,441	445,777,775	264,661,666 Export.
1880	835,638,658	667,954,746	167,683,912 Export.
Total five years	3,383,803,756	2,462,848,369	920,955,387 Export.
Average	676,760,751	492,569,674	184,191,077 Export.
1881	902,367,346	642,664,628	259,702,718 Export.
1882	750,542,257	724,639,574	25,902,683 Export.
1883	823,839,402	723,180,914	100,658,488 Export.

The percentage of the total exports and imports of all kinds carried by American vessels (see AMERICAN MERCHANT MARINE) was as follows: 1861, 65.2 per cent.; 1862, 50 per cent.; 1863, 41.4 per cent.; 1864, 27.5 per cent.; 1865, 27.7 per cent.; 1866, 32.2 per cent.; 1867, 33.9 per cent.; 1868, 35.1 per cent.; 1869, 33.1 per cent.; 1870, 35.6 per cent.; 1871, 31.8 per cent.; 1872, 29.1 per cent.; 1873, 26.4 per cent.; 1874, 27.2 per cent.; 1875, 26.2 per cent.; 1876, 27.7 per cent.; 1877, 26.9 per cent.; 1878, 26.3 per cent.; 1879, 22.9 per cent.; 1880, 17.6 per cent.; 1881, 16.2 per cent.; 1882, 15.5 per cent.; 1883, 16.3 per cent. — The following are the exports and imports of merchandise to and from the various countries of the world, for the year ending June 30, 1883:

Order.	COUNTRIES.	Exports.			Imports.	Total foreign commerce.	Per ct. of total.
		Domestic.	Foreign.	Total.			
		Dollars.	Dollars.	Dollars.	Dollars.	Dollars.	
1	United Kingdom (England, Scotland, Ireland)	420,433,473	4,990,701	425,424,174	188,622,619	614,046,793	39.69
2	France	55,965,191	2,717,032	58,682,223	97,989,164	156,671,387	10.13
3	Germany	64,340,490	1,829,439	66,169,929	57,377,728	123,547,657	7.98
4	West Indies:						
	Cuba	14,567,918	535,785	15,103,703	65,544,534	80,648,237	5.21
	British West Indies	8,241,622	260,531	8,502,153	8,736,112	17,238,265	1.11
	Porto Rico	2,116,499	48,209	2,164,708	5,477,493	7,642,201	.49
	Hayti	3,162,738	60,363	3,223,101	2,971,515	6,194,616	.40
	French West Indies	1,783,332	30,223	1,813,555	2,895,857	4,709,412	.30
	San Domingo	1,179,200	22,674	1,201,874	1,417,519	2,619,393	.17
	Dutch West Indies	579,690	9,922	589,612	882,058	1,471,670	.10
	Danish West Indies	694,565	7,561	702,126	384,003	1,086,129	.07
	Total	32,325,564	975,268	33,300,832	88,309,091	121,609,923	7.85
5	British North American Provinces:						
	Dominion of Canada—						
	Nova Scotia, New Brunswick, and Prince Edward Island	3,529,936	323,994	3,853,930	6,091,406	9,945,336	.64
	Quebec, Ontario, Manitoba, and Northwest Terr.	35,193,636	3,133,060	38,326,696	36,994,912	75,321,608	4.87
	British Columbia	1,993,933	243,551	2,236,484	1,207,840	3,444,324	.23
	Total	40,716,505	3,700,605	44,417,110	44,294,158	88,711,268	5.74
	Newfoundland and Labrador	2,114,500	48,643	2,163,143	446,718	2,609,861	.17
	Total	42,831,005	3,749,248	46,580,253	44,740,876	91,321,129	5.91
6	Brazil	9,159,330	92,764	9,252,094	44,488,459	53,740,553	3.47
7	Belgium	26,730,731	1,048,244	27,778,975	23,161,300	50,940,175	3.29
8	Netherlands	18,538,161	381,422	18,919,583	12,253,733	31,173,316	2.01
9	Mexico	14,370,992	2,216,628	16,587,620	8,177,123	24,764,743	1.60
10	Spain	16,815,708	115,579	16,931,287	7,794,345	24,725,632	1.60
11	China	4,079,522	800	4,080,322	20,141,331	24,221,653	1.57
12	Italy	10,114,548	199,010	10,313,558	11,909,658	22,223,216	1.44
13	Russia	19,123,248	18,503	19,141,751	2,599,995	21,741,746	1.40
14	British East Indies	2,185,611	193	2,185,804	19,467,800	21,653,604	1.40
15	Japan	3,375,885	549	3,376,434	15,098,890	18,475,324	1.19
16	British Possessions in Australasia	9,638,997	156,659	9,795,656	4,021,395	13,817,051	.89
17	United States of Colombia	6,719,787	149,184	6,868,971	5,171,455	12,040,426	.78
18	Hawaiian Islands	3,683,460	92,605	3,776,065	8,238,461	12,014,526	.78
19	Spanish Possessions other than Cuba & Porto Rico	315,942	8,532	324,474	10,617,563	10,942,037	.71
20	Argentine Republic	3,357,670	185,526	3,543,196	6,192,111	9,735,307	.63
21	Guiana:						
	British Guiana	1,973,422	61,734	2,035,156	5,946,429	7,981,585	.52
	Dutch Guiana	447,778	3,571	451,349	473,043	924,392	.06
	French Guiana	101,013	1,071	102,084	18,437	120,521	.01
	Total	2,522,213	66,376	2,588,589	6,437,909	9,026,498	.59
22	Venezuela	2,363,211	40,494	2,403,705	5,901,724	8,305,429	.54
23	Central American states	1,936,813	66,654	2,003,467	5,121,315	7,124,782	.46
24	Portugal	5,363,122	121,915	5,485,037	1,093,476	6,578,513	.43
25	Hong-Kong	3,766,231	11,528	3,777,759	1,918,894	5,696,653	.37
26	Uruguay	1,385,755	67,063	1,452,818	3,980,110	5,432,928	.35
27	Dutch East Indies	2,407,131	----------	2,407,131	2,645,917	5,053,048	.33
28	Denmark	4,442,077	66,799	4,508,876	302,886	4,811,762	.31
29	Austria	1,715,382	64,523	1,779,904	2,984,923	4,764,827	.31
30	Sweden and Norway	2,822,115	2,433	2,824,548	1,831,171	4,655,719	.30
31	British Possessions in Africa and adjacent islands	2,405,901	32,168	2,438,069	1,840,020	4,278,089	.27
32	Turkey	1,369,708	----------	1,369,708	2,168,962	3,538,670	.23
33	Chili	2,837,551	22,945	2,860,496	435,584	3,296,080	.21
34	Peru	487,360	6,534	493,894	2,526,918	3,020,812	.19
35	All other countries	4,293,752	118,453	4,412,205	7,618,103	12,030,308	.79
	Total	804,223,632	19,615,770	823,839,402	723,180,914	1,547,020,316	100.00

— The following table gives the quantity or value of imported merchandise for the year ending June 30, 1883, by classes, free and dutiable, ordinary duty received, and average rate of duty:

CLASSES.	Free.	Dutiable.	Duty received.	Average rate.
Breadstuffs, dollars	49,498	11,237,714	2,118,468	18.85 per cent.
Chemicals, etc., dollars	27,581,896	16,134,204	6,053,574	37.52 "
Cottons, dollars	802,248	32,359,344	12,234,371	37.81 "
Earthenware, etc., dollars		8,698,273	3,746,489	43.1 "
Fancy articles, dollars	444,018	24,589,140	6,716,509	27.31 "
Flax, dollars		23,088,891	7,584,343	32.85 "
Glass, dollars	379	7,597,897	4,182,617	55.05 "
Hemp and jute, dollars		12,615,293	2,565,560	20.34 "
Hides and skins, dollars	27,961,112	2,472	743	30. "
Iron and steel, dollars		40,837,376	16,590,504	40.63 "
Leather, dollars		12,653,722	3,770,547	29.8 "
Metals, n. e. s., dollars	6,578,215	24,085,708	7,298,985	30.35 "
Oils, dollars	1,564,680	1,045,051	421,077	40.29 "
Paper and books, dollars	500,727	4,974,252	1,417,199	28.49 "
Paints and colors, dollars		1,284,206	422,245	32.88 "
Rice and paddy, pounds	12,926,951	65,963,061	1,638,252	.0248
Salt, dollars	154,671	1,476,946	705,844	47.79 per cent.
Silk, dollars	14,042,696	33,307,112	19,654,946	59.01 "
Spices, dollars	336,467	1,682,163	873,886	51.95 "
Spirits and liquors, dollars		13,733,666	9,253,341	67.38 "
Sugars, pounds	114,132,670	1,927,685,706	44,517,851	.0231
Melada, pounds		3,925,205	73,598	.0187
Molasses, gallons	238,773	28,065,366	1,569,467	.0559
Tobacco, leaf, pounds		13,811,140	4,833,899	.35
Cigars, etc., pounds		787,393	2,732,264	$3.47
Tobacco, n. e. s., pounds		190,950	95,475	.50
Woods, dollars	4,565,064	9,530,364	1,708,096	17.87 per cent.
Wools, dollars		51,044,444	32,320,898	63 32 "
All other articles, dollars	55,753,233	58,657,956	14,568,656	24.84 "
Total and average duty	206,913,289	493,916,384	209,659,699	42.45 per cent.

— The following table gives the values of merchandise imported for consumption since 1867, the ordinary duty received, average rate, and consumption and duty per capita of estimated population:

YEARS ENDED JUNE 30—	Values of Merchandise entered for Consumption.		Average Rate of Duty received on Dutiable Merchandise *	Total ordinary Duty Received.	Consumption of Merchandise, free and dutiable, per capita.	Ordinary Duty, per capita, Received.
	Free of Duty.	Dutiable.				
	Dollars.	Dollars.	Per Cent.	Dollars.	Dollars.	Dollars.
1867	17,083,130	361,125,553	46.67	168,503,750	10,443	4,653
1868	15,147,618	329,661,302	48 63	160,309,941	9,372	4,357
1869	21,692,532	372,756,642	47.22	176,114,904	10,447	4,665
1870	20,214,105	406,131,905	47.08	191,221,769	11,057	4,959
1871	40,619,064	459,597,058	43.95	201,985,575	12,648	5,107
1872	47,683,747	512,735,287	41.35	212,080,727	13,802	5,232
1873	178,399,796	484,746,861	38.07	184,556,045	15,901	4,426
1874	151,694,834	415,748,693	38 53	160,185,383	13,241	3,738
1875	146,465,463	379,795,113	40.62	154,271,806	11,944	3,501
1876	140,561,381	324,024,926	44.74	144,982,442	10,252	3,199
1877	140,840,149	298,989,240	42.89	128,223,207	9,434	2,750
1878	141,339,059	297,083,409	42.75	127,015,185	9,137	2,647
1879	142,550,159	296,742,215	44.87	133,159,025	8,868	2,696
1880	208,049,180	419,506,091	43.48	182,415,162	12,514	3,637
1881	202,557,412	448,061,588	43.20	193,561,011	12,643	3,761
1882	210,721,981	505,491,967	42.66	215,617,669	13,565	4,084
1883	206,913,289	493,916,384	42.45	209,659,699	12,939	3,871

* The average rate of duty in this table is computed on the ordinary duty only.

— The following table gives the values of the principal classes of exports of domestic merchandise for the year ending June 30, 1883, and the percentage of each to the total:

Order	ARTICLES.	Values.	Per Cent. of total.	Order.	ARTICLES.	Values.	Per Cent. of total.
		Dollars.				Dollars.	
1	Cotton, and manufactures of:			11	Hops	5,616,370	.70
	Raw	247,328,721		12	Seeds	4,420,413	.55
	Manufactures of	12,951,145		13	Spirits of turpentine	4,366,229	.54
	Total	260,279,866	32.36	14	Drugs, chemicals, medicines and dye-stuffs	4,284,753	.53
				15	Coal	4,241,247	.53
2	Bread and breadstuffs	208,040,850	25.87	16	Furs and fur skins	3,935,608	.49
3	Provisions	107,388,287	13.35	17	Agricultural implements	3,883,919	.48
4	Mineral oils	44,913,079	5.58	18	Carriages, cars, carts, and parts of	3,508,405	.44
5	Wood, and manufactures of	26,793,708	3.33	19	Sugar and molasses:		
6	Iron, steel, and manufactures of	22,826,528	2.84		Sugar, refined	2,454,210	
7	Tobacco, and manufactures of	22,095,229	2.75		Sugar, brown, molasses, etc.	961,328	
8	Animals, living	10,789,268	1.34				
9	Leather, and manufactures of	7,923,662	.99		Total	3,415,538	.42
10	Oil cake	6,061,699	.75		All other classes	49,438,789	6.15

gold and silver bullion since 1850, and the excess of exports or of imports:

YEARS.	Exports.	Imports.	Excess Exports.	Excess Imports.
1860	$66,546,239	$ 8,550,135	$57,996,104	.....
1861	29,791,080	46,339,611	.....	$16,548,531
1862	36,887,640	16,415,052	20,472,588	.....
1863	64,156,611	9,584,105	54,572,506	.....
1864	105,396,541	13,115,612	92,280,929	.....
1865	67,643,226	9,810,072	57,833,154	.....
1866	86,044,071	10,700,092	75,343,979	.....
1867	60,868,372	22,070,475	38,797,897	.....
1868	93,784,102	14,188,368	79,595,734	.....
1869	57,138,380	19,807,876	37,330,504	.....
1870	58,155,666	26,419,179	31,736,487	.....
1871	98,441,988	21,270,024	77,171,964	.....
1872	79,877,534	13,743,689	66,133,845	.....
1873	84,608,574	21,480,937	63,127,637	.....
1874	66,630,405	28,454,906	38,175,499	.....
1875	92,132,142	20,900,717	71,231,425	.....
1876	56,506,302	15,936,681	40,569,621	.....
1877	56,162,237	40,774,414	15,387,823	.....
1878	33,740,125	29,821,314	3,918,811	.....
1879	24,997,441	20,296,000	4,701,441	.....
1880	17,142,919	93,034,310	.....	75,891,391
1881	19,406,847	110,575,497	.....	91,168,650
1882	49,417,479	42,472,390	6,945,089	.....
1883	31,820,333	28,489,391	3,330,942	.....

—Mr. Mulhall estimates the earnings or income of the world and leading nations for 1880 as follows, in millions of pounds sterling: World, 6,773; United States, 1,406; Great Britain, 1,156; France, 927; Germany, 851; Russia, 632; Austria, 460; Italy, 252; Spain, 186; Holland, 104. In his "Balance Sheet of the World for 1870–80," he gives the The figures are millions of pounds sterling:

NATIONS.	Capital. Million £.	Increase. Million £
Great Britain	8,960	630
United States	7,880	1,560
France	7,417	265
Germany	6,075	725
Russia	3,540	250
Austria	3,050	230
Italy	1,860	110
Spain	1,373	138
Holland	1,130	50

—*Railroads.* Following tables are from census report of 1880. The respective groups are composed of the following states and territories: (group I.) Maine, New Hampshire, Vermont, Massachusetts, Rhode Island and Connecticut; (group II.) New York, Pennsylvania, Ohio, Michigan, Indiana, Maryland, Delaware, New Jersey and District of Columbia; (group III.) Virginia, West Virginia, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina and South Carolina; (group IV.) Illinois, Iowa, Wisconsin, Missouri and Minnesota; (group V.) Louisiana, Arkansas and Indian Territory; (group VI.) Dakota, Nebraska, Kansas, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, California, Nevada, Oregon and Washington. Miles under construction are included in miles projected.

GROUPS.	Established and Operated Roads.					New Roads.		
	Road Completed.		Extensions.			Projected.		Under construc'n
	Companies.	Miles.	Projected. Companies	Projected. Miles.	Miles under construction.	Companies	Miles.	Miles.
United States	1,146	87,891	170	19,722	5,155	336	21,307	4,851
Group I.	149	5,948	12	319	106	9	289	168
Group II.	524	28,401	59	3,156	858	198	8,910	1,790
Group III.	153	14,592	34	2,486	876	37	2,869	987
Group IV.	178	23,134	25	2,754	871	48	3,432	797
Group V.	13	921	6	245	112	7	1,371	514
Group VI.	129	14,895	34	10,762	2,332	37	4,436	600

GROUPS.	Aggregate. Roads Completed, Extensions, and New Lines.				Miles completed and projected.	Miles completed and under construct'n
	Companies.	Miles completed.	Miles projected.	Miles under construction.		
United States	1,482	87,891	41,029	10,016	128,920	97,907
Group I.	158	5,948	608	269	6,556	6,217
Group II.	722	28,401	12,066	2,648	40,467	31,049
Group III.	190	14,592	5,355	1,813	19,947	16,405
Group IV.	226	23,134	6,186	1,668	29,320	24,802
Group V.	20	921	1,616	626	2,537	1,547
Group VI.	166	14,895	15,198	2,992	30,093	17,887

ASSETS.

GROUPS.	Permanent Investments.	Cash.	Other Assets.	Profit and Loss.	Total.
Group I.	$ 324,315,717	$ 4,932,389	$ 14,363,088	$12,971,056	$ 356,582,200
Group II.	2,325,194,656	31,552,373	142,042,650	57,638,961	2,556,428,640
Group III.	514,011,105	5,307,646	15,345,337	20,202,961	554,867,049
Group IV.	1,069,913,805	10,986,396	61,704,649	8,946,971	1,151,551,821
Group V.	52,997,871	1,634,662	2,560,568	336,820	57,529,921
Group VI.	896,012,653	6,798,647	56,746,226	22,397,601	981,954,527
Total	$5,182,445,807	$61,211,513	$292,762,468	$122,494,370	$5,658,914,158

LIABILITIES.

GROUPS.	Stock (preferred and common).	Funded Debt.	Unfunded Debt.	Profit and Loss.	Total.
Group I.	$ 191,619,196	$ 110,406,207	$ 34,975,709	$ 19,581,088	$ 356,582,200
Group II.	1,162,195,421	1,109,234,485	171,998 177	113,070,557	2,556,428,640
Group III.	227,506,389	240,174,976	68,377,681	18,808,008	554,867,049
Group IV.	560,848,636	491,632,564	60,460,308	38,610,318	1,151,551,821
Group V.	37,078,912	17,752,446	2,334,521	364,040	57,529,921
Group VI.	434,357,710	421,714,782	88,124,508	42,757,592	981,954,527
Total	$2,613,606,264	$2,390,915,402	$421,200,894	$233,191,598	$5,658,914,158

The total amount of permanent investments above is made up as follows: construction of roads, $4,112,367,176; equipment, $418,045,458; lands, $108,319,845; stock of other companies, $184,866,527; bonds of other companies, $158,988,605; telegraph lines and miscellaneous, $204,913,196: total, $5,182,445,807. The average per cent. profit upon the capital stock was as follows: Group I., 6.16; Group II., 6.92; Group III., 4.84; Group IV., 7.02; Group V., 5.91; Group VI., 4.86; general average for the United States, 6.82. — The summary of accidents includes 364 killed and 1,438 injured through causes beyond their own control, and 2,174 killed and 4,174 injured through their own carelessness (For a fuller treatment of the whole subject, see RAILROADS.) — *Canals.* The canals of the United States in operation in 1880 had a length of 2,515.04 miles, with 411.14 miles of slack water. Their cost of construction was $170,028,686; their gross income was $4,538,620; their total of expenses was $2,954,156; and their freight traffic amounted to 21,044,292 tons. The abandoned canals made up a total length of 1,958.56 miles, constructed at a cost of $44,018,166. — *Telegraphs and Telephones.* There were, in 1880, 110,726.65 miles of telegraph lines, 291,212.9 miles of wire, and 12,510 stations, employing 14,928 persons in all, 9,661 of whom were operators. The messages sent numbered 31,708,181, of which 3,154,398 were for the press, and 28,548,783 were for the public. Their gross receipts were $16,696,623.38, of which $13,512,116.17 came from messages; and the expenses were $10,218,281, leaving net receipts of $6,578,843.04, including deficits of some companies. Deducting charges of $604,841.27, there was a net income of $5,969,501.77, of which $4,136,749.75 went to dividends. The stock issued for cash was reported at $66,529,200. The total length of telegraph lines in 1883 is probably over 144,000 miles, not including private, railway, government, and other lines, as to which statistics are not obtainable. The telephone statistics were not complete in 1880: they aggregated 148 companies and private concerns, with 84,305 miles of wire, 54,319 receiving telephones, 48,414 subscribers' stations, and 3,338 employés. The total capital stock issued was reported at $13,358,720; debt, $1,247,067; receipts, $3,098,081; expenses, $2,373,703; net income, $770,516; and dividends, $302,730. The length of telephone wires in 1883 is estimated at about 100,000 miles. One company, the American Bell company, with a capital stock of $5,950,000, had in use by license, Jan. 1, 1883, 245,000 telephones, with 69,000 miles of wire. — *Tonnage.* Full statistics of the merchant service are given elsewhere. (See AMERICAN MERCHANT MARINE.) It seems proper to add here the figures for the three years following the close of that article, as follows:

YEARS.	Sail Tonnage.	Steam Tonnage.	Total.
1881	2,792,736	1,264,998	4,057,734
1882	2,810,107	1,355,826	4,165,933
1883	2,822,293	1,413,194	4,235,487

This was distributed as follows:

YEARS.	Foreign Trade.	Coastwise Trade.	Whale Fisheries.	Cod and Mackerel Fisheries.
1881	1,297,085	2,646,011	38,551	76,137
1882	1,259,493	2,795,776	33,802	77,863
1883	1,269,681	2,838,354	32,414	95,038

The new vessels built in 1882 and 1883 were as follows:

CLASSES.	1882.		1883.	
	Vessels.	Tons.	Vessels.	Tons.
Steam vessels	502	121,843	439	107,230
Sailing vessels	666	118,799	721	137,046
Canal boats	68	7,882	42	4,711
Barges	135	33,747	66	16,443
Total	1,371	282,270	1,268	265,430

— *Occupations.* The following table is from the census report of 1880:

	Persons.	Age and Sex.							
		All Ages.		10–15.		16–59.		60 and over.	
		Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female
Agriculture	7,670,493	7,075,983	594,510	584,867	135,862	5,888,133	435,920	602,983	22,728
Professional and personal services	4,074,238	2,712,943	1,361,295	127,565	107,830	2,446,962	1,215,189	138,416	38,276
Trade and transportation	1,810,256	1,750,892	59,364	26,078	2,547	1,672,171	54,849	52,643	1,968
Manufacturing, mechanical and mining	3,837,112	3,205,124	631,988	86,677	46,980	2,978,845	577,157	139,602	7,901
Total	17,392,099	14,744,942	2,647,157	825,187	293,169	12,986,111	2,283,115	933,644	70,873

The census report concludes that the figures for the first two classes are to some extent confused by reporting as "laborers" persons who should have been reported as "agricultural laborers." It has thus resulted that the second class shows much the greatest increase of the four classes since 1870. The number of farmers and planters is reported as 4,225,945; of "agricultural laborers," 3,323,876; of "laborers," 1,859,223. The particulars of some of the occupations under the various classes are as follows: clergymen, 64,698; domestic servants, 1,075,655: hotel and restaurant keepers and employés, 133,856; lawyers, 64,137; army and navy, 26,761; civil service, 115,531; physicians and surgeons, 85,671; teachers, 227,710; saloon keepers and bartenders, 68,461; bakers, 41,309; blacksmiths, 172,726; shoemakers, 194,079; butchers, 76,241; cabinet makers, 61,097; carpenters, 373,143; fishermen, 41,352; lumbermen, 43,382; printers, 72,726; tailors and milliners, 419,157; tobacco workers, 77,045. — *Valuation and Taxation.* The following table presents a summary of the census report on these subjects for 1880:

ASSESSED VALUATION.

DIVISIONS.	Real Estate.	Personal Property.	Total.
New England states	$1,896,201,787	$ 755,809,745	$2,652,011,532
Middle states	4,818,648,962	745,929,526	5,564,578,488
Southern states	1,677,847,248	693,076,021	2,370,923,269
Western states	4,584,048,089	1,603,218,596	6,187,266,685
Territories	60,020,889	68,192,740	128,213,629
Total	$13,036,766,925	$3,866,226,618	$16,902,993,543

Maryland and the District of Columbia are placed in the middle states, and Missouri and the Pacific states in the western states.

TAXATION.

DIVISIONS.	State.	County.	Minor Civil Divisions.	Total.
New England states	$ 4,246,713	$ 2,095,331	$35,668,173	$ 42,010,217
Middle states	11,980,328	14,851,961	74,634,058	101,466,347
Southern states	13,732,068	13,344,391	10,430,958	37,507,417
Western states	21,440,989	37,585,725	59,541,298	118,567,952
Territories	619,912	1,729,163	299,686	2,648,761
Total	$52,019,955	$69,606,571	$180,574,168	$302,200,694

There should be added to the taxation of minor civil divisions of the western states $10,457,783, the estimated amount of taxation so indefinitely reported as to be useless. The total taxation for the western states would then be $129,117,979, and for the United States $312,750,721. — *Debt.* This subject is fully discussed elsewhere. (See DEBTS, NATIONAL, STATE AND LOCAL.) — 3. GOVERNMENTAL. — *Army.* In November, 1882, the army of the United States numbered 25,186, as follows:

	Officers.	Enlisted Men.
Cavalry (ten regiments)	431	6,388
Artillery (five regiments)	280	2,498
Infantry (twenty five regiments)	877	10,767
Miscellaneous	574	3,381
Total	2,162	23,024

The last class included the engineer battalion, recruiting parties, ordnance department, hospital service, Indian scouts, West Point signal detachment, and general service. The force was commanded by one general, William T. Sherman, one lieutenant general, Philip H. Sheridan, three major generals, Winfield S. Hancock, John M. Schofield and John Pope, and six brigadier generals, O. O. Howard, Alfred H. Terry, C. C. Augur, George Crooke, Nelson A. Miles and Ranald S. Mackenzie. Gen. Sherman retired in November, 1883, and was succeeded by Gen. Sheridan. There were 66 colonels, 85 lieutenant colonels, 242 majors, 607 captains, 570 first lieutenants and 448 second lieutenants. The country is divided into three military divisions, each of which is divided into departments. The military division of the Missouri (Sheridan commanding) included the departments of the Missouri (Pope), Texas (Augur), Dakota (Terry), and the Platte (Howard). Its headquarters were at Chicago; its force was eight regiments of cavalry and twenty of infantry. The division of the Atlantic (Hancock) included the departments of the east (Hancock) and of the south (Col. H. J. Hunt). Its headquarters were at New York; its force was four regiments of artillery and two of infantry. The division of the Pacific (Schofield), included the departments of California (Schofield), the Columbia (Miles), and Arizona (Crooke). Its headquarters were at San Francisco; its force was one regiment of artillery, three of cavalry, and four of infantry. The assignments vary from time to time, and are only given in order to show the organization of the army. The pay of officers and men is increased according to their years of active service. The men receive from $13 a month and rations (first two years) to $21 a month and rations (after twenty years' service). The maximum pay of the principal classes of officers is as follows: general, $18,900; lieutenant general, $15,400; major general $10,500; brigadier general, $7,700;

colonel, $4,500; lieutenant colonel, $4,000; major, $3,500; captain $2,800; first lieutenant, $2,240; second lieutenant, $2,100. A deduction of two-sevenths will regularly give the pay for the first five years of service. The expenditures for the army, 1860–83, have been as follows:

1860	$ 16,472,202.72	1872	$ 35,372,157.20
1861	23,001,530.67	1873	46,323,138.31
1862	389,173,562.29	1874	42,313,927.22
1863	603,314,411.82	1875	41,120,645.98
1864	1,690,391,048.66	1876	38,070,888.64
1865	1,090,690,400.06	1877	37,082,735.90
1866	283,154,676.06	1878	32,154,147.85
1867	95,224,415.63	1879	40,425,660.73
1868	123,246,648.62	1880	38,116,916.22
1869	78,501,990.61	1881	40,466,460.55
1870	57,655,675.40	1882	43,570,494.19
1871	35,799,991.82	1883	48,911,382.98

— West Point, where the United States military academy is located, was a department of the division of the Atlantic until Sept. 1, 1882. The military academy was founded by act of March 16, 1802, and various subsequent acts have established professorships, and made the academy subject to the articles of war. In 1843 the present system of appointment was begun: it assigns one cadetship to each congressional district and territory, with ten appointments by the president. The number of cadets is limited to 312. There were, in 1882, seven professors, 145 cadets, and 204 enlisted men at West Point. — *Navy.* The navy of the United States is the subject of a separate article, in which the reader will find full statistics. (See NAVY.) — *Pensions.* Payments on this account were never large until the war of the rebellion. They never rose to more than $1,000,000 per annum until 1819, and from that time until 1865 they remained below $5,000,000 per annum. Since that time they have increased, particularly since the passage of the act of Jan. 25, 1879, for paying arrears of pensions to persons whose claims were barred by failure to apply within five years. The following are the payments for pensions, 1865–83:

1865	$16,347,621.34	1875	$29,456,216.22
1866	15,605,549.88	1876	28,257,395.69
1867	20,986,551.71	1877	27,963,752.27
1868	23,782,386.78	1878	27,137,019.08
1869	28,476,621.78	1879	35,121,482.39
1870	28,340,202.17	1880	56,777,174.44
1871	34,443,894.88	1881	50,059,279.62
1872	28,533,402.76	1882	61,345,198.95
1873	29,359,426.86	1883	66,012,573.64
1874	29,038,414.66		

The number of pensioners on the rolls, June 30, 1883, (increase for year, 17,961), is shown in the table at the top of the opposite column:

Army	
Navy	
War of 1812	
Total	

— *Patents.* T
steadily increa
year was 1876,
tions, 2,697 ca
The following t
and issues sinc

YEARS.	
1840	
1850	
1860	
1870	
1880	

— *Postoffice.* I
length of 353,
operation, 110,
by steamboat, a
The whole nu
during the yea
107,348; the w
43.632,547. Th
bered 4,440,82
numbered 8,807
foreign money o
business of the
at intervals of t

YEARS.	No. P office
1790	
1800	
1810	2,
1820	4,
1830	8,
1840	13,
1850	18,
1860	28,
1870	28,
1880	42,
1881	44,
1882	46,
1883	47,

— *Debt.* The hi
national debt,
DEBTS, FINANC
detailed stateme
the treasury dep

TITLES.	Rate.	Redeemable.	Outstand
Loan of July 12, 1882	.08	Option, U. S.	$ 299,09
Funded loan of 1891	.04½	Sept. 1, 1891.	250,00
Funded loan of 1907	.04	July 1, 1907.	737,62
Refunding certificates	.04		318
Navy pension fund	.08		14,00
Debt on which interest has ceased			6,645
Debt bearing no interest			555,91
Unclaimed Pacific R. R. interest			
Total			$1,863,50

Debt, Dec. 1, 1883	$1,509,785,060.85

The non-interest bearing debt was as follows:

Old demand notes: acts of 1861 and 1862	$ 58,800.00
Legal tender notes: acts of 1862 and 1863	346,681,016.00
Certificates of deposit: act of 1872	14,465,000.00
Gold certificates: acts of 1863 and 1882	85,982,920.00
Silver certificates: act of 1878	101,782,811.00
Fractional currency	6,990,303.31
Total	$ 555,910,850.31

This statement of net debt shows a reduction of $41,306,146.63 since June 30, 1883, and of $179,129,399.87 since June 30, 1882. The highest point touched by the debt was on August 31, 1865, when the interest-bearing debt was $2,381,530,294, with annual interest of $150,977,697 ($4.29 per capita); and the debt, less cash in the treasury, was $2,756,431,571 ($78.25 per capita). The table at the top of the opposite column gives the net debt for preceding years since 1860, the debt per capita, the annual interest, and interest per capita. (Under the article DEBTS

YEARS.	Debt, less Cash.	Debt per Capita.	Annual Interest.	Interest per Capita.
1860	$ 59,964,402	$ 1.91	$ 3,443,987	$ 0.11
1861	87,718,960	2.74	5,092,630	0.16
1862	505,312,752	15.45	22,048,709	0.67
1863	1,111,350,737	33.31	41,854,148	1.25
1864	1,709,452,377	50.21	78,853,487	2.32
1865	2,674,815,356	76.98	137,742,617	3.97
1866	2,636,036,163	74.32	146,068,196	4.12
1867	2,508,151,211	69.26	138,892,451	3.84
1868	2,480,853,418	67.10	128,459,198	3.48
1869	2,432,771,873	64.42	125,523,198	3.32
1870	2,331,169,956	60.46	118,784,060	3.08
1871	2,246,994,068	56.81	111,949,330	2.83
1872	2,149,780,330	52.95	103,988,463	2.56
1873	2,105,462,060	50.49	98,049,304	2.35
1874	2,104,149,158	49.10	98,796,004	2.31
1875	2,090,041,170	47.44	96,855,690	2.19
1876	2,060,925,340	45.48	95,104,369	2.10
1877	2,019,275,431	43.31	93,160,643	2.00
1878	1,999,382,280	41.67	94,654,472	1.97
1879	1,996,414,905	40.42	83,773,778	1.69
1880	1,919,326,748	38.26	79,633,981	1.58
1881	1,819,650,154	35.22	75,018,695	1.45
1882	1,675,023,474	31.72	57,360,111	1.09

—Receipts and expenditures of the United States, excluding loans and interest on debt, for the six years ending June 30, 1883, have been as follows:

RECEIPTS.

YEARS.	Customs.	Internal Revenue.	Public Lands.	Miscellaneous.	Total.
1877	$130,956,498	$118,630,408	$ 976,254	$18,437,432	$269,000,587
1878	130,170,680	110,581,625	1,079,743	15,931,830	257,763,879
1879	137,250,048	113,561,611	984,781	22,090,745	273,827,184
1880	186,522,065	124,009,874	1,016,507	21,978,666	333,526,610
1881	198,159,676	135,264,386	2,901,863	25,156,268	360,782,298
1882	220,410,730	146,497,595	4,753,140	31,863,784	403,525,250
1883	214,706,496	144,730,368	7,955,864	30,904,853	398,297,581

ORDINARY EXPENDITURES.

YEARS.	Civil and Miscellaneous.	War.	Navy.	Indians.	Pension.	Total.
1877	$56,252,067	$37,082,736	$14,959,935	$5,277,007	$27,963,752	$141,535,497
1878	53,177,704	32,154,148	17,365,301	4,629,280	27,137,019	134,463,452
1879	65,741,555	40,495,661	15,125,127	5,206,109	35,121,482	161,619,935
1880	57,508,850	38,116,916	13,536,985	5,945,457	56,777,174	171,885,383
1881	65,476,573	40,466,461	15,686,672	6,514,161	50,059,280	178,204,146
1882	57,219,751	43,570,494	15,082,046	9,736,747	61,345,194	186,905,233
1883	68,678,020	48,911,382	15,283,437	7,362,590	66,012,573	206,248,006

To these items of ordinary expenditure is to be added the interest on the public debt, which was $59,160,131 for 1883, making a total expenditure of $265,408,137. This, with $1,299,312 from the treasury accounts of 1882, left a surplus revenue of $134,178,756, which was applied to the redemption of the public debt. — The principal officers of the United States government were as follows, July 1, 1883: President, Chester A. Arthur, of New York; president of the senate, and acting vice-president, George F. Edmunds, of Vermont; secretary of state, F. T. Frelinghuysen, of New Jersey; secretary of the treasury, Charles J. Folger, of New York; secretary of the interior, Henry M. Teller, of Colorado; secretary of war, Robert T. Lincoln, of Illinois; secretary of the navy, William E. Chandler, of New Hampshire; postmaster general, Walter Q. Gresham, of Indiana; attorney general, Benjamin H. Brewster, of Pennsylvania; commissioner of agriculture, George B. Loring, of Massachusetts. All these belong to the republican party. In the congress of 1883–5 the relative strength of political parties is as follows: In the senate there are thirty-eight republicans, thirty-six democrats, and two "readjusters" (from Virginia), who will regularly act with the republicans. In the house of representatives there are 194 democrats and one independent democrat, 120 republicans and two independent republicans, six readjusters, one greenbacker, and one vacancy (July 1, 1883). If a vote for president should devolve on the house of representatives, voting by states, in 1885, there would be twenty-two democratic states, fourteen republican states, one (Virginia) readjuster, and one (Florida) divided. — It is hoped that the bibliographies under the

articles referred to above will be sufficient to give the reader a guide to both sides of political questions, and that these articles, with the subsidiary articles referred to under them, will cover the field of American political history. Reference is particularly suggested to the following articles: ANTI-FEDERAL PARTY, DEMOCRATIC-REPUBLICAN PARTY, FEDERAL PARTY, WHIG PARTY, REPUBLICAN PARTY, ANTI-MASONRY, AMERICAN PARTY, LIBERAL REPUBLICAN PARTY, GREENBACK PARTY, the names of the presidents, and the names of the states. In the following list it is only intended to give the general authorities, and the special authorities for the last section of the article. The latter, government publications, are obtainable on application to the proper officer at Washington. (I.) 1–6 Bancroft's *History of the United States;* 1, 2 Hildreth's *History of the United States;* 1, 2 Bryant and Gay's *History of the United States;* Force's *Tracts relating to the Colonies*, and *American Archives;* Hazard's *Historical Collections;* Anderson's *Discovery by the Norsemen;* Kohl's *Discovery of America;* Da Costa's *Northmen in Maine;* Hakheyt's *Divers Voyages touching the Discovery of America;* Helps' *Spanish Conquest of America;* Robertson's *History of America;* Parkman's *France and England in America;* Neill's *English Colonization in America;* Burke's *European Settlements in America;* Nicholls' *Life of Cabot;* Edwards' *Life of Raleigh;* Lodge's *English Colonies in America;* Doyle's *English Colonies in America; Holmes' Annals of America;* Grahame's *History of the United States* (to 1783); Palfrey's *History of New England;* Marshall's *History of the Colonies;* Chalmers' *Annals of the Colonies*, and *Revolt of the Colonies;* Walsh's *Appeal from the Judgments of Great Britain;* Gordon's *History of the Independence of the United States;* 1 Pitkin's *History of the United States;* Frothingham's *Rise of the Republic;* Scott's *Constitutional Liberty in the Colonies;* Pownall's *Administration of the Colonies;* 1 Story's *Commentaries;* H. Sherman's *Governmental History of the United States;* Poore's *Federal and State Constitutions* (for charters). (II.) 7–10 Bancroft's *History of the United States;* 3–6 Hildreth's *History of the United States* (to 1820); von Holst's *Constitutional History of the United States;* 2 Pitkin's *History of the United States* (to 1797); Ramsay's *History of the United States* (to 1814); Schouler's *History of the United States* (to 1820); 3, 4 Bryant and Gay's *History of the United States;* McMaster's *History of the American People;* J. C. Hamilton's *History of the Republic of the United States;* Tyler's *History of American Literature;* Holmes' *Annals of America;* Bradford's *History of the Federal Government* (to 1840); Tucker's *History of the United States* (to 1840); Spencer's *History of the United States* (to 1857); *Statesman's Manual;* Sumner's *Politics in the United States*, 1776–1876 (*N. A. Rev.*, Jan. 1876); Bishop's *History of American Manufactures; Journals of Congress* (1774–89); *Annals of Congress* (1789–1824); *Register of Debates in Congress* (1824–37); *Congressional Globe* (1833–72); *Congressional Record* (1872–83); Benton's *Abridged Debates of Congress* (1789–1850); *Statutes at Large; Revised Statutes of the United States;* Niles' *Weekly Register* (1811–36); Porter's *Outlines of the Constitutional History of the United States;* Sterne's *Constitutional History of the United States;* Johnston's *History of American Politics; Tribune Almanac* (1838–83); Appleton's *Annual Cyclopædia* (1861–83); Spofford's *American Almanac* (1878–83); McPherson's *Political Manuals;* Greeley's *Political Text Book* (1860), and *American Conflict;* Cluskey's *Political Cyclopædia* (1860); Benton's *Thirty Years' View;* Young's *American Statesman;* Stephens' *War Between the States; Democratic Review* (1841–52); *Whig Review* (1844–52); Skinner's *Issues of American Politics;* Winsor's *Reader's Hand-Book of the Revolution;* Foster's *Monthly Reference Lists* (1883); C. K. Adams' *Manual of Historical Literature.* (III.) Story's *Commentaries;* Kent's *Commentaries;* Duer's *Constitutional Jurisprudence;* Hurd's *Law of Freedom and Bondage*, and *Theory of our National Existence;* Brownson's *American Republic;* Mulford's *The Nation;* Jameson's *Constitutional Convention;* "Centz"'s *Republic of Republics;* Tucker's *Blackstone's Commentaries;* Curtis' *History of the Constitution;* Bancroft's *History of the Constitution;* Elliot's *Debates;* De Tocqueville's *Democracy in America;* Cooley's *Constitutional Limitations, Treatise on Taxation*, and *Constitutional Law;* Sedgwick's *Statutory and Constitutional Law;* Pomeroy's *Constitutional Law;* Bump's *Notes of Constitutional Decisions;* Farrar's *Manual of the Constitution; The Federalist;* Paschal's *Annotated Constitution;* Desty's *Federal Citations;* Abbott's *Digest of United States Statutes and Reports*, and *United States Digest;* Brightly's *Digest of Federal Decisions;* Myer's *Index to Supreme Court Reports;* Rapalje's *Federal Reference Digest;* McCrary's *Law of Elections;* Brightly's *Election Cases;* Rorer's *Inter-State Law;* Dillon's *Municipal Corporations; The Municipalist* (1869); Morse's *Citizenship;* Ford's *American Citizen's Manual;* Lamphere's *United States Government;* Seaman's *American System of Government;* Hough's *American Constitution;* Poore's *Federal and State Constitutions;* Barnes' *Ante-bellum Constitutions* (with *post-bellum* changes); Bowen's *Constitutions of England and America.* (IV.) In general, *Compendium of the Tenth Census* (1880); *ib.*, 1850, 1860, 1870; in particular, Walker's *Statistical Atlas of the United States* (1874); *Annual Report of the Commissioner of Education* (1880); *Report of the Department of Agriculture;* issues of the Bureau of Statistics for 1882 and 1883, particularly *Statistical Abstract of the United States*, and Reports on *Foreign Commerce, Imported Merchandise*, and *Imports, Exports, Immigration and Navigation;* Poor's *Railroad Manual* (1882); *Report of the Register of the Treasury* (for tonnage); *Reports of the General of the Army*, and *Secretary of War; Official Army Register; Reports of Commissioner of Pensions, Commissioner of Patents, Postmaster General*, and *Secretary of the Treasury* (1883). ALEXANDER JOHNSTON.

UNITED STATES OF COLOMBIA. (See NEW GRENADA.)

UNITED STATES PENSION LAWS AND THE PENSION LAWS OF OTHER COUNTRIES. A pension is defined by Webster to be an annual allowance of a sum of money to a person by the government in consideration of past services. In theory at least a pension is an arbitrary payment of money by the money-giving power in a country—in this country, congress; in another, the crown or parliament—for what it considers services. A secondary definition, historically the primary one, in Webster, shows us the aspect in which a pension used to be regarded: "An allowance or annual payment considered in the light of a bribe." The more modern idea is to consider it in the light of a payment on an insurance policy. We will briefly consider how these different ideas about a thing called by the same name arose. — After a man or set of men have done any signal service to their country, it has in every country and in every age been thought only right and just that the popular appreciation and thanks should be expressed in something more than words. And consequently, after such services have been rendered, whether in peace or war, it seems perfectly proper for the country, by its representatives, to vote a pension or any other reward that may seem fit, whether it is to a class of men, an army or an individual. For instance, in this country, pensions in general have, at least until quite recently, been looked upon as un-American and unrighteous. But after every war of any consequence statutory provision has been made for the payment of pensions and bounties to those who have been wounded in it, or to the families of those who have died in it, and this without objection. Special acts of congress also have at every period of our history been passed, giving pensions where needed and deserved. — Such pensions as these have been, as we have said, at all times natural and proper. It can be easily understood, that in the old days of monarchical independence and independent bounty, the step from this class of pensions to gifts for what the crown called services—that is, personal service or complaisance rendered or to be rendered—was a very short and easy one. And so a door was opened for a vast amount of corruption and bribery. Salaries had to be paid to those who took up the profession of courtiers, just as to any officers of government. The king was the state, and his personal servants were civil servants, and were to be provided for for life as such. When Neckar assumed the administration of the French finances, the public pension list of France amounted to twenty-seven million livres; the private one had to be kept a secret. Every one knows what a shameful use was made of this privilege in England in the times of Charles II., and how from that time for a long period of history the free use of pensions was the only method by which cabinets and governments in that country could hold their own; members of parliament became civil servants too, and had to have their salaries and provisions for life. Finally, the abuses became so great as to force a reform, and an act was passed forbidding any pensioner or placeman to occupy a seat in parliament. Even now, cabinet officers and holders of offices of emolument under the government, when they accept the position, have to resign their seat in parliament. Finally, the subordinate clerks of government began to claim such provision, and while by a gradual process these arbitrary powers were curtailed in nearly all European countries, the principle of pension giving was enlarged, and subjected to statutory provisions. More and more officers of government and classes of officers were embraced in pension-giving systems. — Mr. Dorman B. Eaton, in his book on the "English Civil Service," sketches the rise of the system in England, and we may take his remarks to illustrate the growth of such a system, and his reasoning as to the difference among different kinds of pensions, as an example of the arguments by which the growth has always been aided. — In 1809 an English statute provided for superannuation allowances to persons in the excise service, reciting, "Whereas no provision is made by law for persons employed in the revenue of excise, to the great discouragement of such officers and other persons, and to the manifest injury of the revenue." In 1810 a law proves a fact already suggested, that the voluntary contributions of those in certain branches of the service had provided a sort of retiring allowance by creating a fund in the nature of an insurance fund. This act is known as 50 Geo. III., ch. 117. The same law also provides for annual statements of persons in the public service, and of their salaries, pensions and allowances. It also establishes a system of superannuation allowances. Other laws from time to time were passed on the subject. In 1859 they were finally revised by 22 Vict., ch. 26. "An act to amend the laws concerning superannuation, and other allowances to persons having held civil offices in the public service." The allowance is given "to all persons who have served in an established capacity in the permanent civil service of the state, whether their remuneration be computed by day pay, weekly wages or annual salary." There is to be granted "to any person who shall have served ten years and upward, and under eleven years, an annual allowance of ten-sixtieths of the annual salary and emoluments of his office; for eleven years, and under twelve years, an annual allowance of eleven-sixtieths of such salary and emoluments; and in like manner a further addition to the annual allowance of one-sixtieth in respect of each additional year of such service, until the completion of a period of service of forty years, when the annual allowance of forty-sixtieths may be granted; and no addition shall be made in respect of any service beyond forty years." There is then a provision for computing the amount of superannuation to persons holding professional and other special offices not

embraced by the foregoing provisions. There are also provisions for granting allowances at discretion up to a fixed limit in cases of exceptional merit, severe bodily injury, disability in the service, abolition of offices, etc. Where the pensioner is under sixty, evidence of infirmity incapacitating him from discharging his duties, and of the probable permanence of such infirmity, must be given; and, even when these facts are established, he is liable to be required to serve again at any time before the age chosen as a limit. But persons (§ 12) retain the right to superannuation on transfer to other employment under the crown. All allowances are to be paid free of taxes. The system is made in principle analogous to pensions in military life. On the other hand, a deduction may be made from such allowances against any person when "his defaults or demerits in relation to the public service appear to justify such diminution. The act further provides, that no person (save a few especially excepted) shall be deemed to be in the civil service in such a sense as to entitle him to any superannuation or retiring allowance, unless he has been admitted to the civil service with a certificate from the civil service commissioners. This being the act under which pensions are now given in England, it has been rather more fully recited than in Mr. Eaton's book. Mr. Eaton further distinguishes between these superannuation allowances and pensions granted by crowns or administrations. Those allowances are really a part of the compensation of the office, of the conditions on which he entered public service, and are not, therefore, given on any theory of a gratuity or of favor. Looked at from the side of the government, they are regarded as presenting an ingenious and just method of receiving a good quality of service at the most reasonable rates; and from the side of the officer, as an inducement to greater economy, at the opening of official life, in order to secure, by reason of what he then forbears to receive, a certain provision for his declining years. The pension proper (in civil life) is a different matter altogether; being the bribe of the crown or administration for political effect, or its favor bestowed upon some person deemed fit for its charity or deserving of its honor, and often irrespective of such person being or having been in the public service. There was an available pension fund apparently in the discretion of the crown for political purposes until 1880, in spite of various statutes. In that year all the pension lists were consolidated. In 1837 Queen Victoria ascended the throne; and, by an act passed in her first parliament, the right of the crown to grant pensions was limited to about six thousand dollars a year (in addition to the previous list), and they can only be granted in that amount "to such persons as have just claims on the royal beneficence, or who by their personal services to the crown, by their performance of duties to the public, or by their useful discoveries in science and attainments in literature and the arts, have merited the gracious consideration of their sovereign and the gratitude of their country." (1 Vict., ch. 11.) — There are nine classes of civil pensions in England: 1, annuities; 2, compensation allowance; 3, compassionate allowance; 4, hereditary pensions; 5, political pensions; 6, pensions; 7, retiring allowances; 8, special pensions; 9, superannuation allowances: and the amount thus spent was in 1881 over twenty millions. The oldest pension is to the heirs of Sir Thomas Clarges. The date is put at 1673. Nearly a million dollars have been paid to him and his heirs, and over three and a half millions to the duke of Marlborough and his heirs. — In France, pensions are awarded to civil, military and naval officers, to ecclesiastics, and to those distinguished in literature, science and the arts; also to the widows and children of high officials. In 1874 thirty-six thousand francs were awarded to aged and infirm ecclesiastics. Pensions for long services are given to non-commissioned officers and privates in the army who have served twenty-one years in the infantry, or twenty-four years in the cavalry, or sooner in case of disability from wounds, loss of health, etc. — In Germany the military pension list was, in 1874, 37,996,878 marks. — We will now briefly consider the advantages and disadvantages of a pension system, with especial reference to the United States, and then go somewhat into detail concerning the pension laws and system now existing here. — In our consideration of the general theory of pensions, we may withdraw one class from discussion. That is the first class we have spoken of: those which, combined with the wish of men to live without working, originated all the other kinds; what are called in France national recompenses, granted by legislative or kingly acts for distinguished services. As we have already said, these have always been granted, whether to armies or individuals, and so long as such are carefully scrutinized, and the merits for which they are given are first weighed in the balance and found worthy, no objection can be raised. They should be given, too, if the primary object should die, only to his dependent relatives, and not to his children after they attain a self-supporting age. It follows from this, that military pensions should be granted after any especial service or war, and with immediate reference thereto. And besides these, if any one enters the government service where there is a pension in existence already, he has a right to demand the pension. That does not affect the question whether such system should be abolished for the future, or the question whether any should ever be introduced. — Leaving these matters, therefore, out of the question, what we are to discuss is the advisability, or otherwise, of a pension system as a part of the method by which a government agrees to pay its servants, civil or military, for services not yet rendered. — 1. There is an objection in theory to a government's either creating an insurance fund for the benefit of, or promising to confer a gift on, its agents, civil or military, for future services, by any statutory provision. It is not within the province of government, as that province has been

tect its citizens' rights and to transact the clerical business of the state as a whole. There may be many things the government does now which do not come within this rule; but because it is difficult or not advisable to remove those already there, is no reason why, if the theory be true, still more exceptions should be added to the list. But, it is said, the government may hire a clerk or a soldier at so much a year to do certain duties. Has it not a right to choose its own manner of paying? may it not each year subtract so much from the salary, telling its servant, "If you work for me for a certain number of years without conducting yourself so badly as to get turned out, you shall get the proceeds of this investment that is made for you; and if you do get turned out, it will go to others who serve out their time"? Or, looking at it in another light, may it not, when the clerk or soldier enters its employ, say, "If you work for me for so many years, and I don't meantime dismiss you, I will at the end give you so much in every future year, and you need do no more work for it"? — It will readily be seen, that here, in a very finely drawn line, comes up the old question as to the powers of a government. Shall a government be "strong" or "weak"; paternal and grandmotherly, or not? shall it build and run railroads and telegraph lines, subsidize and regulate industries and arts and society, and institute social reforms? or shall it let all these things arrange themselves, so far as the rights of its citizens remain unimpaired, and confine itself closely to the business as we have defined it? The moment discretion is given a legislature or other governing body, to create and distribute funds for servants who may become invalid; or to confer in the future benefits on other servants if they perform good service; or to make any arrangement other than one of a strictly business nature, whether it be to establish an insurance fund or otherwise; that moment it takes to itself new powers, and these seem to us to be dangerous in their tendency, as liable to abuse. Their utility in fact we will deal with next. There are a great many arguments on both sides of the theory of the government question, and this is not the place to examine them. (See GOVERNMENT INTERVENTION, and other articles.) Each individual looks at it from his own standpoint. Here the writer can only express his personal opinion, that for a government to do anything more than pay its servants so much for so much work on an ordinary business or cash basis, is wrong in theory and outside its proper powers. — 2. *Utility.* It is admitted, that if it can be proved that any great advantage would accrue to the state by the introduction of such a system, that would in some degree atone for its wrongfulness in theory; but it is submitted that that fact can not be proven, and the balance of evidence tends to prove the reverse. — To put the question broadly, do public servants perform better work for the public if they have a pension in prospect? They ought not to; doubt. It is therefore not the duty of government to try and get them to work harder by promise of a higher, even if it be a deferred, reward. But, as Gen. Washington said to a committee of Congress, Jan. 29, 1778, in urging the adoption of a half-pay system for the army, "A small knowledge of human nature will convince us that with far the greater part of mankind interest is the governing principle, and that almost every man is more or less under its influence. * * Few men are capable of making a continual sacrifice of all views of private interest or advantage to the common good. It is in vain to exclaim against the depravity of human nature on this account: the fact is so; the experience of every age and nation has proved it; and we must, in a great measure, change the constitution of man before we can make it otherwise. No institution not built on the presumptive truth of these maxims can succeed." Mr. Eaton has taken, as the motto for his book on civil service, already quoted from, a saying of John Locke's: "I think every one, according to the way Providence has placed him in, is bound to labor for the public good so far as he is able." We may notice the different ways of looking at a thing which a practical and a theoretical statesman have, and pass on to the point we wish to make, which is rather, can the public get better servants by giving so much annual salary and a pension at the end of a certain period, or by giving a higher annual salary and no pension? For no pension fund can be instituted on sound principles if the salaries are to be as high as if there were no pensions. In France, a few years since, the amount derived from the pension fund was only one-third of the amount of pensions to be paid, proving the existence of a vicious system. — The advantages of the system are very well put by Mr. Worthington C. Ford: "In the administration of government, there is employed a large number of public servants, servants of many grades, who give their time and energies to the performance of their duties. As a rule, and the exceptions are to be found only in the higher positions, the salary these servants receive is their only resource. Let the government be overthrown, or let the offices be abolished, and these men are thrown upon the world to obtain their living in other occupations through whatever capacity they have developed in the public employ. Nor are these the only chances of hardship that they must fear. Sickness and infirmity may come upon them and render them incapable of performing any task whatever. They have the alternative then of becoming a burden on their relations or a charge upon the state or locality in which they reside. In order to prevent this, and in consideration of long and faithful service, most governments have instituted a system of pensions. This is all the more necessary where the salary of public employés is somewhat lower than those that can be obtained in other walks of life. It

might be added that this is rarely the case, and it is certainly not so in the United States, where, through a variety of causes, many of which were intended to have but a temporary effect, the salaries of public servants are very much higher than those obtained for the same kind of labor in trade and industry." "In theory nothing could be more just than such a system. As the right to a pension is generally guarded by some restrictions, such as age, time of service, position in the civil service, special disability, etc., it is practically a premium offered to such as will perform the necessary conditions, and so insures a better class of public officers. It encourages a strict performance of duty on the part of the employé, and inspires him to discharge the functions of his office to the best of his ability in order that he may in the end secure this reward. It holds out to him the promise of a competence in his old age or in the event of any infirmity that might make him unfit for labor, and gives him the encouragement that after his death his family will not be left wholly in want. He more cheerfully gives the best of his years to toil and fatigue when conscious that the benefits derived from his labor will not end with his death or incapacity. A pension is not, in such cases, a charitable donation, nor a gift bestowed without any return. It is, as I have said, rather an insurance fund; a gift, if you please, but one that is earned by honest toil and by a devotion to the employer's interest." But Mr. Ford adds: "The expediency or necessity of civil pensions has never been recognized in this country. The pay is good, and there is always an abundance of applications for positions. The introduction of civil service rules has made the occupants of positions more certain of retaining them during good behavior, and has thus given a reason even for reducing salaries. * * Whenever a special case of hardship occurs in the civil service it is usually treated by a special enactment of congress."* The three general objects which, we are told, are gained by a pension fund, are, therefore: 1, increased happiness on both sides; 2, economy—smaller wages are given, and the balance accumulated, but it is not every one who comes to get his pension, and therefore by the pensions of so many is the government a gainer; 3,

* In justice to Mr. Ford it should be added, that he draws a distinction between pensions granted to civil servants of the government and those granted to military and naval servants, and this distinction is manifestly a just one to make. While the dangers of corruption attending the liberal use of civil pensions are many, and in fact might be said to be inseparable from the system, there exist strong reasons for granting allowances for military and naval service when there exist also the proper safeguards against abuse. If there be any principle recognized and established in this country it is that pensions must be confined to those who were separated by the nature of their service from the great mass of the community, and who devoted themselves exclusively to military duties; who laid aside the character of a citizen, and became a soldier; who, in abandoning the pursuits, extinguished also the habits, of private life. But, in bestowing military pensions, it should be recognized that provision should be made only for those who, being unable to support themselves, are necessarily thrown upon public or private charity. "It would not, I think," wrote Attorney General Rush in 1815, "be going too far to say that in every case where an officer or private loses his health while in service, to such a degree as to be disabled from performing his duty any more, he is contemplated, *prima facie*, as an object of this charitable relief from the legislature." And more recently the expediency of military and naval pensions was defended in congress as follows: "The service which the soldier renders may be voluntary, but it is not a service which he may give or withhold at pleasure, but one which, if not offered, may be compelled by the strong arm of the government. The recognition by the state of the distinguished military services of its citizens in its support and defense in the form of a pension, though sometimes granted as a charity, or as an act of grace, is generally given in fulfillment of some promise made by the government, or inducement held out to the soldier either at the time or after his enlistment. It is not given to every man who performs military service, however distinguished and meritorious that service may be, but to those only who receive wounds or contract disease while in the line of duty. The purpose and design of the government is to make the soldier good, as far as money can do it, for the injuries he received, or in other words, to make up to him as much as he could have earned at his trade or vocation if he had not been wounded or had not contracted the disease. Under this rule—and in my judgment it is both just and magnanimous—no man is entitled to a pension for military service except those who have received disabling wounds or injuries during the war, and the widows, minor children and dependent relatives of those who were killed or who have since died from the effects of such service. This is the humane policy recognized and acted upon by every civilized country on the globe. It has been truly said that every pensioner is, in one sense, a burden upon his fellow-citizens, either directly or indirectly; and no reason can exist for imposing such a burden on behalf of men who did only their plain, simple duty as citizens, and received no material injury in its performance. A disabled soldier is not a pauper for taking a pension. A well man would be nothing else if he were to accept one. For this reason I do not deem it right or expedient to select out any particular class of soldiers, or men who rendered any particular service, or suffered any peculiar hardships and privations, and pension them, regardless of whether they can show any pensionable disability or not. Under the lenient rules adopted by the present commissioner of pensions, every soldier who was wounded or contracted disease while on active duty in the field, or during confinement in rebel prisons, can, if not already pensioned, apply for and receive one now under the general law. It is impossible for congress to grade and adjust pensions to the different degrees of suffering and hardship endured in the service. All that we can do is to grant them in cases where the evidence shows there is a pensionable disability; but if we should go beyond this rule we should be simply pensioning a large number of men, who, while they endured great suffering and privations, received no material injury, and are now able to earn their living. In this connection I desire also to say that I would not create a civil pension list by granting pensions to men who are injured in the civil service of the government. They go into that service voluntarily, and can not be compelled to enter it against their will, and can leave when they please. When they assume the duties they take all the risks, and are paid for doing so. I believe pensions should only be granted to men who have been injured in the military or naval service of the country; and, without stopping here to elaborate the point, I will simply say that in my judgment we are not called upon in granting pensions to break down the barriers set up by our fathers between the military and civil service, and launch out into a sea which I fear would prove shoreless and bottomless." Nor is it any condemnation of such pensions to point out the great frauds that have arisen under various systems. That is the fault of the laws. "The state has in time of war a fundamental right to the money, the services, and, if need be, the life of every citizen, without other compensation than the security and protection it affords him at all times. The pension laws are not passed to secure to the maimed survivor of the war, or to the helpless dependents on those who lost their lives in the struggle, a right existent independently and in the nature of things, but as a voluntary and fitting assumption of care over those who, in the service of the nation, have lost the ability to care for themselves. It is doubly

points are involved in the general question of utility. — In reply to this argument let us quote Mr. Bentham, when discussing his proposition, that such pensions are needless, and therefore given in waste. In his "Constitutional Code," under the head Finance, he says: "Labor applied directly to a man's own use, or indirectly in exchange for an equivalent given by an individual in return for it, is one source of subsistence: labor employed for an equivalent in the service of government, that is, of the public at large, is another source. In the first case, generally speaking, no such allowance of reward, after service has ceased, has place. In the case of him whose subsistence is derived from dealings with the public at large, as in the case of a wholesale or a retail trader, a master manufacturer, an artisan, or a manufacturer, it is impossible. In the case of habitual service rendered by contract to an individual there is no custom for it. The case of incapacity produced by age or disease is a case equally open to expectancy in both instances. From the time of his embarking in his profit-seeking occupation a man makes for all such contingencies such provision as his means enable him, and his prudence disposes him, to make. For the securing to individuals any such extraordinary supply at the expense of the public there is, if there be any difference, less demand in the case of an occupation pursued by the rendering of service to the public for hire, than in the case of him whose subsistence as above is derived from commercial dealings with individuals. In the case of a public functionary a man's income is completely certain; certain as to its existence, certain as to its quantity. In the other case it is altogether uncertain in both respects." — Another objection is, that there is a tendency, under a promise of pensions and rewards, in government servants to endeavor to secure the approbation of their immediate superiors in ways outside the duties of their office for a long enough time or in a sufficiently intense degree for them to obtain the reward. And *vice versa* in the case of the superiors toward their inferiors and superiors both. It is to their interest to remain together for the given time, and as long as they approve of each other reciprocally they are certain of their pension. This gives rise to a class and privileged feeling among the employés, which in turn causes an inattention to and carelessness of the interests of private individuals, more noticeable, and perhaps largely on this account, in the public offices in Great Britain than here, where the government servants have been, if anything, too independent of their official superiors and too dependent on extra-official protection. Mr. Eaton urges, as a reason in its favor in his book, that "the provision it makes for old age and misfor-

demoralizing and doubly shameful that beneficent laws like these should be made the cover of fraud and robbery—it not only despoils the public treasury and unjustly burdens the shoulders of the tax-paying masses, but it delays and often fatally prejudices the cause of really deserving applicants."

cipline easier, actually enables the state to purchase the services of its officers at a less cost to the public treasury. The allowances for special merit and the deductions for bad conduct are based on records kept in the departments, and they are considered to have a salutary influence (analogous to promotions, prize money and brevet rank in the naval and military service) in stimulating honorable exertions in the public interest." This is our objection put in another way. It creates an *esprit du corps* among the young people in a circumlocution office like that in an army. The longer the clerks are there the more they become, superiors and inferiors, knit together in interests as against the outside world. An official class, or even aristocracy, is created. — If a pension is to be obtained at the end of a term of years, the nearer that end comes the harder and more ungrateful it becomes for a superior to dismiss an inferior, often in disregard of the wishes of his own superiors, especially in countries where a free press and a popular assembly give the inferior opportunity for revenge and retaliation. In other words, it may tend to permanence in office, but the permanence is not of a healthy kind, and is not so dependent merely on good work as it would otherwise be. — Again, it is to be remembered that the people filling the positions go into them at their own request and wish, and they give so much work for so much money. When they first enter, if they find themselves underpaid they may resign, and go into another business. In every country there are more applicants for government positions than there are positions for them to occupy. It is not necessary, therefore, that any more favorable pay should be given to such employés than to those in another occupation. Nor is there any reason on account of the nature of the work. And in this country, at any rate, the clerks in the public offices would strongly object to any pension fund being instituted if their salary should be lowered in consequence. Most American clerks are quite capable of investing their surplus income themselves, and they would say that they did not need to have the government, and the government had no right to, do it for them. — Again, it causes poor work in a great many cases. Many men will cling on after their time for usefulness is entirely over, merely to get their pension, or a larger one than they would get if they were to then retire. This often happens in England, although the commissioners do their best to prevent it. We have in this country recently had an example in a very high place, where a justice of the United States supreme court, long past any ability to do any work, insisted on keeping his place until his pension should accrue, and so doing a great injury to the business interests of the country. — In this country it is very doubtful whether any salaries could be lowered for such a purpose, and so there would be very little economy. The salaries of the United States judges were not lowered when pen-

sions were extended to them. Besides, if our other suggestions are true, if the service became less effective on account of such a system, it would be poor economy to introduce it just to gain a few lapsed pensions. The making money out of its employés in such a way by the government in this country would only create disgust and disaffection on the part of the employés; and, through them, of the public. — Again, there are computed to be over one hundred thousand civil servants in the employ of the national government in this country, besides the ordinary employés, messengers and lower servants employed about a government office and building, numbering perhaps as many more. This fact alone ought to be enough to deter any one from making any attempt to introduce such a system here. — The principle suggested by its advocates is to institute a pension fund, like any insurance fund. "The average life of the persons who are to share in the benefits of the fund should be accurately determined, in order to learn how large a proportion of the total number will be able to perform all the requirements, and be able in the end to obtain their portion. This involves a determination of the death rate, the probability of life. From these data may be found the actual sum that must be set aside each year in order that the pensions falling due may be met. If, to take a simple example, it is found that the average number of persons entitled to a pension of say $500 each year is three, at least $1,500 must annually be obtained from the pension fund. If such a system were instituted here it would probably be carried on much as the naval pension fund is. The secretary of the navy, as trustee, invests so much of the fund then in the United States treasury as may not be required for the payment of the naval pensions for the then current fiscal year, together with the interest of the preceding year, and he gets 3 per cent. on it. Under section 4759 the privateersman fund is maintained. Two per cent. on the net amount after deducting all charges and expenditures of the prize money arising from captured vessels and cargoes, and on the net amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States, shall be secured and paid to the collector or chief officer of the customs at the port where such vessel comes, or with the United States consul or agent, if out of the United States. And the moneys arising thereupon are pledged by the government of the United States as a fund for the support and maintenance of the widows and orphans of such persons as may be slain or wounded, etc., on board of the private armed vessels of the United States, in any engagement with the enemy. The secretary of the navy is trustee to assign and distribute this fund according to law. (Rev. Stat., secs. 4753, 4754.) — The history of pension legislation in the United States forms a most interesting and curious chapter, and in no other nation has the principle of rewarding military and naval service been carried to such a limit as by congress. Early in the revolution it was seen that the discipline of the troops depended much upon the characters of the officers placed over them; so congress recommended to the several states that they should use their utmost endeavors to appoint in the service men of honor and of known abilities. On Oct. 7, 1776, as an encouragement for men of that class to enlist as commissioned officers, their monthly pay was increased, and somewhat later it was resolved that those who should continue in the service till the end of the war should receive half pay for seven years from the establishment of peace. This applied only to military service, and was more in the nature of a bounty than a pension; still it contained the germs of a pension system. Meantime, however, owing to the difficulties which arose from the inability of congress to fulfill its obligations save in a greatly depreciated paper currency, it became evident that few officers could remain, even if willing, in active service till the end of the war, without making great personal sacrifices. And, although Washington prepared a scheme of half pay and pensionary establishments, and strongly urged upon congress the necessity of making some provisions, the matter dragged, opposed by some as tending to create a standing army, and by others, because they thought the states should be first consulted. The result was a compromise measure. All military officers, commissioned by congress, who should continue in the service during the war, and not holding any office of profit in the states, should be entitled to receive half pay for seven years after the war, provided that this gratuity should extend to no officer who should not take an oath of allegiance to the United States, and actually reside within the same. The provisions of this act were in 1780 made to apply to the widows and orphans of such officers as had died in service. Non-commissioned officers were to receive a specific reward of $80 at the end of the war. This measure, however, did not allay the discontent of the officers, and in 1780 an act was passed granting half pay for life to officers who served till the close of the war. It is curious to find a law passed three years later commuting this half pay for life into full pay for five years, and reciting, that "as the officers of the several lines under the immediate command of his excellency General Washington, did, by their late memorial, transmitted by their committee, represent to congress, that the half pay granted by sundry resolutions, was regarded in an unfavorable light by the citizens of some of these states," etc. In 1780 some of the states had already made provisions for their officers. For example, Pennsylvania granted half pay for life, and the result was that the troops from this state were in excellent condition, few resignations being made, while in the quotas of other states resignations were frequent. — But it would be a mistake to imagine that the results of these laws were at all in proportion to the promises they contain. When in 1783 half pay for life was commuted into full pay for five years, certificates bearing 6 per

cent. annual interest were issued, and because of the refusal of the states to fulfill the requisitions of congress, the value of these certificates became greatly depreciated, falling until they could command but one-eighth of their nominal value. The army was disbanded, and the officers were compelled by their necessities to part with their certificates for whatever they could obtain. At the end of eight years the principal and interest were funded at 3 per cent., but the paper was now chiefly in the hands of speculators, and it was not until nearly forty years had elapsed that congress undertook to do justice to the revolutionary officers. When the matter came up for settlement in 1826, out of 2,480 commissioned officers (exclusive of foreigners) who came out of the war, only 230 were alive. In all that time there existed a deeply rooted opposition to pensions, as a system of favoritism by which those in power made provision, at the public expense, for their friends and followers. — Up to this point, however, we have been concerned only with the officers of the army. In 1785 congress recommended to the states the propriety of making adequate provision for invalids. In 1788 it was further resolved that "each state shall have credit in its general account with the United States, for such sums as may become due to invalids." Subsequent laws, both of a public and a private character, were passed applying to invalids, and in the organization of the army a like provision was incorporated. By 1806 a general system of pensions had been framed, and in 1808 the United States assumed the state pension obligations. From that time until 1818 the principle was settled that all persons disabled in the course of military or naval service should be provided for at the public expense, whether they had served in the land or sea service of the forces of the United States, or any particular state in the regular corps, or the militia, or as volunteers. The law, however, was surrounded by many safeguards against fraud, and a pension was to be allowed only for disabilities incurred in the service. So limited and confined was it that the abuse arising under it was comparatively unimportant. Abuse, however, there was, and in 1804 it called out the saying that "the revolutionary claimant never dies; he is immortal." — In 1818 the first departure from this conservative policy was made, and was followed by others in 1820 and 1823. On March 18, 1818, an act was passed granting pensions to all who had served in the army of the revolution "for a period of nine months or longer at any period of the war"; and "who, by reason of reduced circumstances, shall stand in need of assistance from their country for support." Here the principle which limited the granting of pensions to such as were disabled in actual service was abandoned, and the length of service and the poverty of the pensioner are made the conditions on which pensions were hereafter to depend. It was doubtless the intention of the framers of the bill to have its provisions apply only to those who had during the revolution given up their private pursuits and devoted themselves exclusively to military service, and not to men who had rendered casual service; and in support of this view it may be said, that, as originally introduced, the bill would cover the demands of those who had served for three years, and who stood in need of assistance from the government for their support. During the passage of the bill the three years' requirement was displaced by one of nine months, and in that form the measure became a law. It was estimated that the annual charge upon the treasury would amount to about $160,000, but the results proved that this estimate was far from correct, and that the door had been opened to frauds so extensive that they became unimportant only in the light of subsequent pension legislation. 27,948 persons applied for the benefit of the act of 1818—a number greater than that of Washington's army at any period of the war, and exceeding the whole number of soldiers that could by the established rate of mortality be supposed to be alive in 1818. The claims of upward of 18,000 were admitted, and it was afterward discovered that fully one-third of this number had no legal claim to government bounty. The money required to pay these claims was between two and three millions annually; the appropriations for this branch of expenditure being in the first year under the act, $1,847,900, and in the next, $2,766,440. Then congress interfered, as the country was becoming alarmed. Men who had never served at all, or for very short periods, men who had given away their property to their children, or conveyed it in trust for their benefit; in short, every one who was old enough to have served in the revolution found little difficulty in getting himself placed on the pensions list. To correct this open scandal a law was passed May 1, 1820, which retained the "nine months" and "indigent circumstances" requirements, but provided greater safeguards against fraud by requiring every applicant to submit a schedule of his property and to take the necessary oaths. This caused 6,000 names to be stricken from the list. In 1829 an attempt to pass what was known as the "mammoth pension bill" called out a vigorous protest from Mr. Hayne. Its effects, he said, would be to open the door of the treasury to "mere sunshine and holiday soldiers, the hangers-on of the camp, men of straw, substitutes who never enlisted until after the preliminaries of peace were signed." — An act of June 7, 1832, was followed by more extensive frauds, and this was adverted to in the president's message for 1834. The provisions of the pension laws had by this time been extended so as to apply to wars other than the revolution, and in subsequent years they were made to include all military service wherever rendered. A list of the wars will be found at the end of this article. The results of legislation are shown in the following brief statement contained in a report to congress made in 1834: "There are supposed to be now living about 42,600 persons who receive pensions or gratuities

from the government under different laws. Of these about 8,900 are invalid pensions, 10,500 come under the act of 1818, 700 under that of 1828, and 27,500 under the law of June 7, 1832. The amount expended in the previous year reached three millions of dollars." — It would be unprofitable even to attempt to trace minutely the effects of the many laws relating to pensions passed between 1832 and 1860. Enough has been said to show that the tendency of such legislation was to pass from a strictly defined and on the whole well-guarded system, to one which allowed extensive frauds, and in reality gave the government's bounty to the undeserving. As the laws were more generally applied, and included a greater and greater number of subjects, the opportunity for fraud was ever present, and was not allowed to pass unnoticed. — The rebellion, however, gave rise to some pension legislation which deserves more than a cursory notice, because it gives ample proof of the tendency of such laws to run into wasteful expenditure, and also to become a political engine, a device for gaining the votes of the "soldier" population. It may be premised that pensions were offered early in the war to secure volunteers; and further, as every such volunteer was subjected to a medical examination, and was—at least theoretically—allowed to serve only when sound in body, it followed, that, if he were not sound at the end of the war, he must have been disabled or become diseased while in service. This fact becomes important in the light of legislation after the close of the war. — Since the rebellion the following are the more important laws relating to the granting of pensions to soldiers and their families: July 14, 1862; July 4, 1864; March 3, 1865; June 6, 1866; July 25, 1866; July 27, 1866; July 7, 1870; July 8, 1870; June 6, 1874; June 18, 1874; June 20, 1874; June 22, 1874 (consolidation act); Aug. 15, 1876; Feb. 27, 1877; Feb. 28, 1877; March 3, 1877; March 8, 1878; March 9, 1878; June 17, 1878; June 18, 1878; June 20, 1878; Jan. 25, 1879 (arrears of pensions act); March 1, 1879; June 9, 1880; June 16, 1880; Feb. 26, 1881; Aug. 7, 1882; and in addition to these, countless bills of a public or private nature became laws or were rejected. Under these laws the most liberal provisions were made for those who had suffered, directly or indirectly, while in the army during the rebellion. It is doubtful whether any other nation has provided so liberally for its disabled soldiers and seamen, or for the dependent relatives of the fallen. "If any person, whether officer or soldier, belonging to the militia of any state, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of and provided for at the public expense." (Revised Statutes, § 1689.) This principle has governed the pension legislation of the country almost from the beginning (1792). The government undertook to make good, as far as possible, the loss of health or members, when such loss was incurred strictly in its military or naval service, and to furnish regular pecuniary aid to the families of those whose lives or health were thus sacrificed. From a very simple impulse of justice has sprung an entire system of rewards, or rather of recompense, which has grown to proportions little anticipated by those who framed the first laws. In place of laws for particular emergencies, cautiously limited to retrospective action, we now have statutes which regard on an equal plane all branches of the service, regulars, volunteers and militia, and further providing for the future as well as for the past. The few simple and efficacious safeguards which were imposed upon the earlier laws have been abolished, or so modified as to be, to all intents and purposes, null and void, and step by step, as the system was expanded, its benefits have largely fallen to the undeserving, to professional schemers for public plunder. And of this the arrears of pensions act is a notorious example, the history of which throws a strong light upon the methods of shrewd lobbyists who thrive upon the necessities of others. Briefly stated, that history is as follows: The laws then in force, it was claimed, were faulty, and it was expedient to abolish certain inequalities which the pension system was believed to contain. Under the existing acts certain restrictions or limitations were imposed upon the time within which application for a pension should be made. If a man was unable to secure the necessary papers and proofs required by the practice of the bureau within the appointed time, his pension could not be granted until the defects were remedied and the proper documents filed in the department. It thus happened, that, while many obtained pensions beginning from the date of discharge or disability, a large number of others, who were equally deserving, had their claims for many years delayed, and when allowed drew their bounty from the date of the issue of the proper documents, and not from the date of discharge or disability. The law prevented any dating back, and it was claimed that as a simple act of justice this defect should be remedied and the operation of the system made more equal. "By the act of July 14, 1862, the first on the subject of pensions growing out of the war of the rebellion, it was provided that if the soldier made application within one year after his discharge, his pension should commence with the date of such discharge, but if he failed to make his application until after the expiration of the year, then his pension, when granted, should commence with the date of such application. This was a statute of limitations of one year, and deprived the crippled soldier of one year's pension money or more, if, for any reason, he was not prompt in presenting his claim within the time prescribed. It was a vicious principle with which to begin our pension system. No government can afford to higgle with its preservers over the price of their blood, nor is it a becoming thing to thrust a contemptible statute of limitations, the last resort of a dishonest debtor, into the faces of the maimed who are living, or of the widows and orphans of the dead, in full payment of the most

history of the world. By subsequent acts amendatory of the act of 1862, the statute of limitation, or the time within which to file an application so as to carry a pension from the date of discharge or death, was extended first to three and then to five years, and it stood at this latter period in January, 1879. The arrears act was designed to eliminate from the then existing law that meanest form of defense to a debt ever interposed by an individual or a government, the defense of the statute of limitations. It destroyed the detestable argument so often heard, that the lapse of time can pay an honest debt; that if you can successfully evade the payment of a claim for a certain number of years, either through your own ingenuity or the ignorance and helplessness of your impoverished creditor, the claim becomes an old claim; then, in the pompous and stupid parlance of the day, a stale claim, and that at this point it is to be considered paid and wiped out." — It would, however, be a mistake to suppose that the law arose from such philanthropic motives as the sentences just quoted from a speech in defense of it would indicate. In fact, it was nothing more than a piece of selfish and interested legislation, originated by a ring of pension claim agents who made a living by trading upon the necessities of deserving pensioners, and it was by their efforts more than by any other influence, that the arrears act was hurried through congress. In 1871 the total number of applications filed was 48,969; in 1872, 26,896; in 1873, 18,303; in 1874, 16,784; and in 1875, 18,704. The claim agents saw that their business was falling off, and took measures for increasing it. In 1875 and 1876 they had begun their peculiar methods, and were flooding the country with blank petitions. The commissioner of pensions said, in his report for 1878: "A comparatively small number of professional claim agents and claim firms at Washington and some other points of the country, through the intervention of sub-agents, and by extensive advertising, employing for that purpose in some instances sheets issued in the form of periodical newspapers purporting to be published in the interest of the soldiers, the columns of which contained matter in which apparent anxiety for the soldiers' welfare and appeals to their love of gain were cunningly intermingled, always representing the advertisers as in the enjoyment of special and peculiar facilities for the successful prosecution of claims, and usually adding the suggestion that no charge would be made unless a pension should be obtained." The result of this activity was to bring before congress a host of petitions praying for further legislation. Already a measure providing for arrears of pensions had been introduced into the 44th congress, but it was killed in committee, and in the next congress a like measure promised to experience the same fate, when it was unexpectedly taken up and passed under a suspension of the rules without debate, and apparently without having been considered by the senate in the same unceremonious manner, and in the short debate there is an absence of any effort to discover what would be the effects of the bill should it become a law. Making an estimate based upon a communication from the commissioner of pensions prepared three years previously, it was stated that the arrears might amount to nineteen or twenty millions annually. The secretary of the interior thought that $41,000,000 would be all that was needed to meet the provisions of the new law, and accepting this estimate, the secretary of the treasury asked for authority to issue bonds to that amount. This estimate was prepared, however, after the measure was passed and had received the signature of the president. The pension bureau never made an estimate of the cost of the arrears bill until after it had become a law. Such was the loose manner of framing and discussing an important law. — The truth, however, was soon seen. The practical operation of the law was to offer a bonus of $1,000 down, in addition to subsequent periodical payments, to all persons who might thereafter file and prosecute to a successful issue, pension claims against the government. Even while the bill was in the hands of the president, its real results were beginning to be foreshadowed. Secretary Sherman told his associates in the cabinet that it would require an expenditure of $150,000,000. On Jan. 25, Secretary Schurz read in a cabinet meeting a letter from the commissioner of pensions, saying that the bill would require an immediate expenditure of $36,000,000, and largely increased annual requisitions. In spite of these damaging statements the president, Mr. Hayes, signed the bill. In February, 1879, Secretary Schurz addressed a letter to congress calling attention to the vast sum probably involved by the arrears act, and urging upon that body, in the most emphatic terms, the necessity of adopting legislation to protect the government against the frauds which the new measure would be sure to encourage. At once the flood gates were opened. In his report for the year ending June 30, 1879, a date less than six months after the passage of the act, the commissioner said that the new claims of invalids, widows, minor children and dependent relatives, had come in at "an unprecedented rate." The claims of invalids, he said, were more than double in number those of any previous year, except 1866 (just at the close of the war), and nearly double that year, while other claims were large in an almost equal proportion. Furthermore, at the time the arrears act was passed there were about 100,000 unsettled claims which were regarded as alive and pending; besides these, there were not less than 80,000 on the files which had been rejected for one reason or another. Among these claims, which were on the files and had not been admitted, were about 45,000 which were counted as dead claims, the claimants having abandoned their prosecution, or died leaving them unsettled. The arrears act not only brought in new original claims at the rate of 10,290 per

month for the whole period of seventeen months from February, 1879, to June 30, 1880—while the average from July 1, 1878, to Feb. 1, 1879, was only 1,597 per month—but it revived from thirty thousand to forty thousand old cases which were on the rejected files. The drain on the treasury was greatly increased. The largest annual disbursement previous to the passage of this act was in 1871, and amounted to about thirty-three millions. In 1878 it was $26,844,415; in 1879, $33,780,526; in 1880, $57,240,540; and in 1881, $50,620,538. In this last year the commissioner estimated that the act would consume, sooner or later, more than $510,000,000. This piece of legislation, which is little else than a gigantic swindle, has remained unchanged in spite of efforts to overturn it. It was conceived for private advantage, and carried through without consideration or debate, and by means of political pressure. It is the old story of the prætorian guards repeated; the soldiers' votes formed the main object to be secured by its passage. — One more point deserves attention, as showing the great stimulus exerted by pension legislation. When the bill granting pensions to all the survivors of the war of 1812, and to the soldiers' widows, was before congress, it was generally asserted and believed that the number of persons entitled to such pensions, about seventy years after the war, must necessarily be small. The armies of the United States in 1812–14 had not been large, and the number of people who attain the age of eighty or ninety years can never be very large. Yet in the table we give, we find more than 7,000 survivors and more than 24,000 widows drawing pensions! "Either the war of 1812 must have had a mysteriously vitalizing effect upon those in any way engaged in it, or the passage of the pension bill must have resuscitated a large number of those who, in the ordinary course of nature, had died years ago." And in his report for 1882 the commissioner of pensions makes some interesting speculations regarding the pension population of the country. "The proposition is as follows: How many persons are there now living who served in the army during the late rebellion, or who bore a pensionable relation to those who served, who have not yet applied for a pension? The adjutant general of the United States reports the following aggregate of enlistment for the different periods of service:

60 days	2,045	9 months	89,899
3 months	108,416	1 year	398,706
100 days	85,807	2 years	44,400
4 months	42	3 years	2,028,630
6 months	26,118	4 years	1,042
8 months	373	Aggregate	2,780,178

Taking this as a basis of my calculation, I have endeavored to ascertain the number of individual enlistments; that is, excluding second, third, fourth, and subsequent enlistments of the same person. The result of my investigation and estimate upon this point shows an aggregate of 2,049,969 different individuals who enlisted for greater or less periods during the war. To this number should be added the number of persons serving in the regular army and navy at the commencement of the war, viz., 16,422. So that the grand total of individual persons who entered the service during the war may be approximately stated to be 2,063,391. Up to July 1, 1882, there have been filed by army invalids, 450,890 applications for pensions. Up to the same date there have been filed 294,277 applications on behalf of the service of deceased soldiers. There have been filed by navy invalids 7,633, and by those representing deceased sailors, 3,294. This makes an aggregate of those who have applied for pension of 756,119 out of the whole number who enlisted, as before stated. As near as I can ascertain, there are about 86,800 representatives of deceased soldiers who have not yet applied for pension, and 1,000,469 survivors of the war who have not yet applied for pension, and 220,000 who died during and since the war, who left no pensionable relatives surviving them. * * The general proposition, however, is presented, with the best available information at hand, that there is a surviving soldier population of a little over ten hundred thousand, out of which claims for pension in the future may be made by those who incurred pensionable disabilities."—In the United States special acts have, as we have said, with great frequency been passed for pensioning any person not falling within the provisions of the law in force at any given time. For instance, cap. 43, approved June 17, 1844: "Be it enacted, etc., that the secretary of war be and he is hereby authorized and directed to pay to Milly, an Indian woman of the Creek nation, and a daughter of the prophet Francis, a pension at the rate of $96 per annum, payable semi-annually, during her natural life, as a testimonial of the gratitude and bounty of the United States, for the humanity displayed by her in the war of 1817 and 1818 in saving the life of an American citizen who was a prisoner in the hands of her people, and about to be put to death by them," etc. In another case Baron de Steuben was granted a pension of $2,500 a year during life; "which said annuity shall be considered in full discharge of all claims and demands whatever of the said Frederick William de Steuben against the United States." Many of these private acts granted pensions to private individuals who had, like Milly, the Creek woman, performed some act of heroism. They did not fall within the provisions of the pension laws, and form the first exceptions to the rule that in the United States there are no civil pensions. Up to 1869, so far as the writer is aware, such form the only exception. In that year (Statutes at Large, vol. xvi., p. 45), a bill was passed to increase the United States judges, and it provided, among other things, that "any judge of the United States, who, having held his commission as such at least ten years, shall, after having attained the age of seventy years, resign his office, shall thereafter, during the residue of his natural life, receive the same salary which was by law payable to him at the time of his resignation." — Since then, a new precedent has been

created as to ex-presidents' widows. First, Mrs. Lincoln was given one, then Mrs. Garfield, then Mrs. Polk and Mrs. Tyler. The life-saving department has had a pension arrangement made by law for a certain definite period. The internal revenue servants and the railway mail servants also have had endeavors for a pension system made in congress in their behalf. Employés in the quartermaster's and paymaster's departments have received them. Also nurses, and in one case the widow of a professor in the naval academy. The New York municipal police have also had a pension system introduced for their benefit, recently. Many bills have been introduced for such purposes, the most sweeping being Senator Edmunds', in the 47th congress. Its object was to allow all officers who may retire or be retired, one year's pay; after fifteen years of service, two years' full pay; after twenty years, a pension of half pay; after twenty-five years, two-thirds pay; after thirty years, three-fourths pay; after thirty-five years, four-fifths pay; and after forty years, full pay. — The subject of civil pensions has already been discussed. It is not contended that so far any but very excusable departures from the rules thus far in force in this country have been made, but every new departure from the same should very closely examined and criticised as long as the rule remains in force. If, after a full discussion, it shall be decided to put in force a system of civil pensioning, it will be an interesting, but at the same time a dangerous, experiment. —The existing provisions of the pension laws are too numerous to be given in this article, and the reader must be referred to the manuals prepared under the authority of the bureau. A word, however, as to the practice of the department. The applicant for a pension first sends a declaration, of which he can get a blank form from the office, giving the necessary dates and figures and circumstances, in detail. His identity must be shown by the testimony of two credible witnesses, who must appear before the officer. Then, on receiving this, the interior department makes application to the adjutant general and surgeon general or to the navy department, as the case may be, for the applicant's record and evidence as to the disability. If there be none, the applicant must obtain the affidavit of a commissioned officer who had personal knowledge of the facts. If there is no record even that there was a disability, the applicant must obtain the evidence of the surgeon by whom he was treated, and must prove that his own habits had no agency in the production of such disability. If the disability arises from disease, he must, in addition, get evidence from his physician setting forth the history of his disease and disability since its first appearance. The administrator or executor of a soldier is not entitled to arrears if the deceased had filed no application. If claimant died pending application, the pension, when granted, does not belong to the estate, but to the widow or children. If there are none, then the pension lapses, except that the expenses of the claimant's last sickness may be paid. Death is to be presumed in cases where more than two years elapse since the date of the soldier's supposed death in action. No pension in hand or to come, or in whosever hands it is, is liable to attachment, levy or seizure by or under any legal or equitable process whatever. No pensioner may have more than one pension at a time. Helplessness means (act of 1876) dependence on another, and also inability to gain a subsistence by one's own exertions. The abandonment of her minor child by the widow forfeits her title to a pension. Any pledge, mortgage, sale, assignment or transfer of any right, claim or interest in any pension, which has been or may hereafter be granted, shall be void and of no effect. No pension money will be paid to any agent or attorney of the pensioner, and no agent is to recognize any warrant or power of attorney, except in the case of insane or Indian pensioners or those under disabilities. (Act of Aug. 7, 1882.) All pensioners must have been loyal during the war of the rebellion. At the outbreak all the pensioned in other wars who were in the insurgent states were cut off, and also those in the northern states known to be disloyal. In 1867, widows who could prove their loyalty during the war were restored. A pardon by the president does not restore the right to the former or any pension. As to what constitutes disloyalty, it has been held that compulsory service with the rebels does not. Making clothes and tents for them, does. Applying to the confederate congress for a federal pension does not. —On the next page we give a table of the pension claims filed and allowed since 1861. —There are fifty-eight agencies in the United States. Payments are made quarterly, and there is a biennial examination of the pensioners. New York contains the most pensioners, then Pennsylvania, then Ohio; the commissioners have said that there is not a single county or parish in the United States without its pensioner. The average age of our soldiers in 1863 was only twenty-six, and so this state of affairs is likely to continue for some time. Formerly the Washington office kept an alphabetical list of the rejected and admitted pensioners and of the claims filed, but this was found very cumbersome, and now all names are indexed according to their companies and military organizations. In the course of making the change (November, 1880) more than 3,000 duplicate claims for pensions were found, and fifty-three cases in which two pensions had been granted the same person. These new records consist of 176 volumes, of 250 pages each, and have claims for pensions on account of service in 2,268 regiments, 194 battalions, 706 independent companies, 208 batteries, and 46 staff corps. Besides this, the old three-fold invalid, widows and bounty lands divisions were abolished, and everything was arranged by states. The commissioners have therefore evolved a method by which the government may be better protected from fraud, and this they submit every year to

NUMBER OF PENSION CLAIMS FILED AND ALLOWED EACH YEAR SINCE JULY, 1861, AND THE NUMBER OF PENSIONERS AT THE CLOSE OF EACH YEAR SINCE JULY 1, 1860.

FISCAL YEAR.	Army. Applications filed.		Navy. Applications filed.		Army & Navy. Claims allowed.		War of 1812. Applications filed.		War of 1812. Claims allowed.		Total No. of Applications filed.	Total No. of Claims allowed	No. of Pensioners on the Roll.		
	Invalids.	Widows.	Invalids.	Widows.	Invalids.	Widows.	Survivors.	Widows.	Survivors.	Widows.			Invalids	Widows.	Total.
1861	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	4,337	4,299	8,636
1862	1,362	1,000	60	65	413	49	.....	.....	.....	.....	2,487	462	4,341	3,818	8,159
1863	26,380	22,377	290	285	4,121	3,763	.....	.....	.....	.....	49,332	7,884	7,821	6,970	14,791
1864	20,263	32,627	365	324	17,041	22,446	.....	.....	.....	.....	53,599	39,487	23,479	27,656	51,135
1865	27,299	44,464	455	466	15,212	24,959	.....	.....	.....	.....	72,684	40,171	35,880	50,106	85,986
1866	35,799	28,732	350	375	22,883	27,294	.....	.....	.....	.....	65,256	50,177	55,652	71,070	126,722
1867	15,905	20,265	250	332	16,589	19,898	.....	.....	.....	.....	36,758	36,482	69,565	83,618	153,183
1868	7,292	13,099	170	207	9,460	19,461	.....	.....	.....	.....	20,768	28,921	75,957	93,686	169,643
1869	11,035	14,496	290	245	7,292	15,904	.....	.....	.....	.....	26,066	23,196	82,859	105,104	187,963
1870	12,991	11,400	260	200	5,721	12,500	.....	.....	.....	.....	24,851	18,221	87,521	111,165	198,683
1871	8,887	8,985	190	142	7,984	8,399	20,741	5,074	198	81	43,969	16,562	93,394	114,101	207,495
1872	8,857	6,755	240	178	6,468	7,244	6,546	3,815	17,504	3,117	26,391	34,333	113,954	118,275	232,229
1873	8,728	6,427	248	120	6,551	4,073	1,481	1,299	3,186	2,942	18,303	16,052	119,500	118,911	238,411
1874	9,302	5,608	228	151	5,937	3,152	787	713	563	810	16,734	10,462	121,628	114,613	236,241
1875	11,936	5,294	310	178	5,760	4,736	425	571	240	416	18,704	11,152	122,989	111,832	234,821
1876	17,030	5,264	344	130	5,360	4,376	319	436	73	168	23,522	9,977	124,229	107,898	232,127
1877	16,532	5,269	271	97	7,282	3,861	198	348	57	126	22,715	11,326	128,723	103,381	232,104
1878	18,812	6,661	300	131	7,414	3,550	2,786	15,897	817	181	44,587	11,962	131,649	92,349	223,998
1879	36,885	9,767	599	215	7,242	3,379	811	8,891	2,548	18,177	57,118	31,346	138,615	104,140	242,755
1880	110,673	25,602	1,361	559	10,176	4,455	295	2,976	284	4,630	141,466	19,545	145,410	105,392	250,802
1881	18,455	10,527	515	225	21,394	3,920	109	1,285	115	1,965	31,116	27,394	164,110	104,720	268,830
1882	29,004	10,349	472	211	22,946	3,999	85	818	26	698	40,989	27,664	182,633	103,064	285,697
1883	35,039	11,878	777	251	32,014	5,308	61	770	23	822	48,776	38,162	206,042	97,616	303,658
Total	488,356	306,941	8,365	5,088	245,210	206,716	34,594	42,893	25,634	33,378	886,137	510,986	.....	.....	.....

Note.—In the "Total number of pensioners on the roll" the survivors are included under the head of "Invalids."

congress, which, with equal regularity, pigeonholes it. This is to have a number of pension commissions all over the country, consisting each of one surgeon and one pension clerk, appointed from Washington, whose duty it shall be in each case to go to any place in their district from which a claim has been forwarded, and there to summon the claimant and his witnesses, and such other witnesses as they themselves may wish or as may volunteer their testimony, and to examine such evidence thus furnished, and report thereon to Washington. The advantages of this system are, that: 1. "The testimony and proceedings will be public and reliable, facilitating prompt and liberal decisions, and the treasury will be protected from fraud." The claimants' expenses will be rather diminished. 2. "The medical examination will be made by an unprejudiced government surgeon. No one will be made a victim of the ignorance, prejudice or carelessness of a neighborhood surgeon." 3. There need be no more special agents' investigations. "The publicity of the proceedings will operate to restrain fraudulent claims, and give the government a guarantee against their success." The neighbors of any claimant are likely to come forward to expose any fraud in such a matter. Now, the honest claimants who are not able to fill a want in their evidence get injured, while the dishonest ones who fill such a gap by fraud succeed. There will therefore be less perjury, forgery and false personation under such a scheme. The old, and present, scheme "provides for the settlement of claims on *ex parte* testimony exclusively, given by witnesses who are entirely unknown to the office, and whose affidavits are almost universally prepared by claim agents, who can receive no compensation for their services unless the claim is allowed." The examining surgeon is usually the neighborhood practitioner, whose professional interest it is to please the claimant at the expense of the government. (Commissioner's Report, 1877.)—The following table shows the annual expenditure of the government of the United States on account of pensions, from March 4, 1789, to June 30, 1883 (by calendar years to 1843, and by fiscal years, ended June 30, from that time):

1791	$ 175,813.88	1827	$ 976,138.86
1792	109,243.15	1828	850,573.57
1793	80,087.81	1829	949,594.47
1794	81,399.24	1830	1,363,397.21
1795	68,673.22	1831	1,170,665.14
1796	100,843.71	1832	1,184,422.40
1797	92,256.97	1833	4,589,153.40
1798	104,845.33	1834	3,364,285.30
1799	95,444.03	1835	1,954,711.32
1800	64,130.73	1836	2,862,797.96
1801	73,533.37	1837	2,672,162.45
1802	85,440.39	1838	2,156,057.29
1803	62,902.10	1839	3,142,750.51
1804	80,092.80	1840	2,603,562.17
1805	81,854.59	1841	2,388,434.51
1806	81,875.53	1842	1,378,931.33
1807	70,500.00	1843	839,041.12
1808	82,576.04	1844	2,032,008.99
1809	87,833.54	1845	2,400,788.11
1810	88,744.16	1846	1,811,097.56
1811	75,043.88	1847	1,744,883.63
1812	91,402.10	1848	1,227,496.48
1813	86,989.91	1849	1,328,867.64
1814	90,164.36	1850	1,866,885.02
1815	69,656.06	1851	2,293,377.23
1816	188,804.15	1852	2,401,858.78
1817	297,374.43	1853	1,756,306.30
1818	890,719.90	1854	1,232,665.00
1819	2,415,389.85	1855	1,477,612.33
1820	3,208,376.31	1856	1,296,229.65
1821	242,817.25	1857	1,310,380.58
1822	1,948,199.40	1858	1,219,768.30
1823	1,780,588.52	1859	1,222,222.71
1824	1,499,326.59	1860	1,100,802.32
1825	1,308,810.57	1861	1,084,599.73
1826	1,556,598.83	1862	852,170.47

1863	1,078,518.30	1869	28,470,021.78	1875	[illegible]	1881	[illegible]
1864	4,985,473.90	1870	28,340,202.17	1876	28,257,395.69	1882	61,345,193.95
1865	16,347,621.34	1871	34,443,894.88	1877	27,963 752.27	1883	66,012,573.64
1866	15,605,549.88	1872	28,533,402.76	1878	27,137,019.08	Total, including nearly	
1867	20,936,551.71	1873	29,359,426.86	1879	35,121,482.39	$10,000 in warrants outstanding in 1866	$724,658,382.78
1868	23,782,386.78	1874	29,038,414.66	1880	56,777,174.44		

LIST OF WARS OF THE UNITED STATES.

WARS.	Commenced.	Ended by Treaty, etc.	No. of Men Enlisted.
Revolutionary	April 11, 1775	April 11, 1783	*289,715
French	July 9, 1798	Sept. 30, 1800	----------
Tripoli	June 10, 1801	June 4, 1805	----------
Indians (Gen. St. Clair)	1790	Aug. 5, 1795	2,843
Indians (Gen. Harrison)	Sept. 11, 1811	Nov. 11, 1811	650
England	June 18, 1812	Feb. 17, 1815	†527,654
Seminoles	Nov. 20, 1817	Oct. 21, 1818	5,911
Black Hawk	April 21, 1831	Sept. 21, 1832	5,081
Cherokees	1836	1837	3,936
Southwestern Indians	1836	1836	2,808
Florida Indians	Dec. 23, 1835	Aug. 14, 1842	41,122
Creek Indians	May 5, 1836	Sept. 30, 1837	13,418
Canada, New York frontier disturbances	1838	1839	1,128
England, Aroostook boundary question	1838	1839	two regt's.
Mexico	April 24, 1846	July 4, 1848	‡100,460
War of rebellion	April 12, 1861	April 9, 1865	2,780,176

* 57,623 pensioned. The last (Sam'l Cook, of Clarendon, N. Y.) died May 20, 1866. † 25,490 pensioned up to 1880. ‡ 11,398 pensioned.

— AUTHORITIES. *Army and Navy Pension Laws to* 1861, Robert Mayo, M. D., 4th ed.; Mayo & Moulton's *Treatise on the Pension Laws*, Washington, 1861; *A Manual of the Pension Laws of the U. S.*, Henry C. Harmon, Washington, 1867; *A Manual of Pensions, Bounty and Pay*, George W. Raff, Cincinnati, 1864; *The War Claimants' Guide*, George W. Raff, Cincinnati, 1866; *Practice under the Pension, Bounty and Prize Laws of the U. S.*, Robert Sewell, New York, 1864; *A Digest of the Laws of the U. S. governing the granting of Army and Navy Pensions, etc.*, compiled by order of the Commissioner of Pensions, Calvin B. Walker, deputy commissioner, Washington, 1881; *Civil Service in Great Britain*, Dorman B. Eaton, New York, 1880; *The Annual Reports of the Commissioner of Pensions and the Secretary of the Interior; The Congressional Record;* Dumont on *Pensions*, Bentham's translation.

DAVID A. WELLS, and
EUSTACE CONWAY.

UNITED STATES SURPLUS MONEY, Distribution of, among the States. The secretary of the treasury (Ingham), in his report to congress, in December, 1829, estimated that the revenues of the government for that year would amount, including the balance on hand on Jan. 1, to $30,574,666; and the expenditures to $26,164,595, of which $9,841,011 was on account of principal and $2,563,994 on account of interest of the public debt. He also estimated that the public revenue for the next five years would be such as to leave free for application to the payment of the public debt about twelve millions yearly. The amount of debt becoming due or payable during the next five years was $48,522,869. The surplus, after paying this indebtedness, would be twelve millions. The secretary did not favor a sudden change in the tariff, but recommended such gradual changes as would reduce the revenues to correspond with the existing expenditure. President Jackson, in his message to congress in 1829, said: "After the extinction of the public debt, it is not probable that any adjustment of the tariff, upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the government without a considerable surplus in the treasury beyond what may be required for its current service. As, then, the period approaches when the application of the revenue to the payment of debt will cease, the disposition of the surplus will present a subject for the serious deliberation of congress, and it may be fortunate for the country that it is yet to be decided. Considered in connection with the difficulties which have heretofore attended appropriations for purposes of internal improvement, and with those which this experience tells us will certainly arise whenever power over such subjects may be exercised by the general government, it is hoped that it may lead to the adoption of some plan which will reconcile the diversified interests of the states, and strengthen the bonds which unite them. Every member of the Union, in peace and in war, will be benefited by the improvement of inland navigation and the construction of highways in the several states. Let us, then, endeavor to attain this benefit in a mode which will be satisfactory to all. That hitherto adopted has, by many of our fellow-citizens, been deprecated as an infraction of the constitution, while by others it has been viewed as inexpedient. All feel that it has been employed at the expense of harmony in the legislative councils. To avoid these evils, it appears to me that the most safe, just and federal disposition which could be made of the surplus revenue, would be its apportionment among the several states according to their ratio of representation: and should this measure not be found warranted by the constitution, that it would be expedient to propose to the states an amendment authorizing it. I regard an

appeal to the source of power, in cases of real doubt, and where its exercise is deemed indispensable to the general welfare, as among the most sacred of all our obligations." It thus appears that President Jackson regarded as unconstitutional the appropriation of money for internal improvements by congress, and, in view of the anticipated surplus, suggested that its distribution among the states would enable them to make such improvements, without the assistance of congress. He intimated that such a distribution would be constitutional, but if there was any doubt on this point, an amendment would remove the difficulty. — During the session of congress of 1829–30, the duties on tea, coffee, cocoa, salt, and also on tonnage, were reduced, but the reductions were not sufficient to exhaust the surplus after the debt then maturing should be paid. In his message for December, 1830, President Jackson referred to this subject as follows: "In my first message I stated it to be my opinion that it is not probable that any adjustment of the tariff, upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the government without a considerable surplus in the treasury beyond what may be required for its current services. I have had no cause to change this opinion, but much to confirm it."— The secretary of the treasury, in his report for 1832, says: "After Jan. 1, 1833, no part of the public debt, except the remaining fragments of the unfunded debt, of which only small portions are occasionally presented, will be redeemable before the following year; and, though there will be in the treasury during the year ample means to discharge the whole debt, they can be applied only to the purchase of stock at the market prices." The whole public debt was virtually extinguished by Jan. 1, 1835, on which date the balance of available funds in the treasury was $5,586,232. It was estimated that for the year 1835 the receipts from all sources would be twenty millions: but the actual receipts were $35,430,087, receipts from the sale of the public lands during that year having greatly increased. In 1834 these receipts were only $4,857,600, but in 1835 they were $14,757,600. The receipts from the sales of public lands in 1834–5–6 were $44,492,381, and the total receipts from this source, from 1796 to 1834, had been but $44,595,000. The balance left in the treasury at the beginning of the year 1833, was $2,011,777; in 1834, $11,702,905; in 1835, $8,892,858, and on Jan. 1, 1836, $26,749,803. — In view of this large balance, and its probable large increase by Jan. 1, 1837, the act of June 23, 1836, was passed, authorizing the distribution of the surplus among the states. As has been seen, this method of disposing of the surplus was favorably suggested by President Jackson in his message for 1829, and again indorsed by him in his message for 1830. In 1836, however, the views of the president appear to have changed. Secretary Woodbury, in his report for 1835, disapproved of the distribution of the surplus among the states, intimating that it was unconstitutional. He said: "The people themselves, it is believed, can best manage all their own money, which they and their representatives think may not be wanted for public purposes; and it would seem to be far preferable to leave it originally in their possession, than to withdraw it for the expensive operation of returning it substantially to the place whence it came, and that probably in a manner not conformable to the constitution, till after the delay of procuring an amendment to it; and even then not expedient, because calculated injudiciously to strengthen the general government, and to render the states more dependent on a great central power for yearly and important resources. Indeed, a reduction in the price of public lands, whose unusually large sales the past year are the source of most of the present surplus, would, if their sales should not thereby be much increased, seem another mode far more natural to obviate the present difficulty. But, before adopting it, this and various other considerations must be weighed, and it must be fully considered whether all the revenue anticipated from them at their present prices would not be necessary, after the great reductions in the tariff in 1842, and whether a resort to a higher tariff would not then become indispensable, if the average receipts from lands or customs should, from any new legislation, become then much diminished below the estimates which have been submitted on the present occasion." This change in the opinion of the administration from 1829 to 1836 was probably owing to the hostility of the president to the bank of the United States, resulting in the veto of the bill for renewal of its charter on July 10, 1832, and the removal of the United States deposits from the bank by order of the secretary of the treasury of Sept. 26, 1833. (See BANKING IN THE UNITED STATES.) — In 1835 and 1836 the revenues of the government were deposited with the state banks, the favorites of the administration, and the distribution of the surplus at this time among the states would have deprived these banks of the deposits. In his message to congress of 1836, after the passage of the act of June of that year, regulating the public deposits, and providing at the same time for the distribution of the surplus in the treasury on Jan. 1, 1837, President Jackson said: "Without desiring to conceal that the experience and observation of the last two years have operated a partial change in my views upon this interesting subject, it is nevertheless regretted that the suggestions made by me in my annual message of 1829 and 1830 have been greatly misunderstood. At that time the great struggle was begun against that latitudinarian construction of the constitution which authorizes the unlimited appropriation of the revenues of the Union to internal improvements within the states, tending to invest in the hands, and place under the control, of the general government, all the principal roads and canals of the country, in violation of state rights, and in derogation of state authority. At the same time the condition of the manufacturing interest was such as to create an apprehension that

accumulation of a considerable surplus after the payment of the national debt. In view of the dangers of such a surplus, and in preference to its application to internal improvements, in derogation of the rights and powers of the states, the suggestion of an amendment of the constitution to authorize its distribution was made. It was an alternative for what were deemed greater evils—a temporary resort to relieve an overburdened treasury, until the government could, without a sudden and destructive revulsion in the business of the country, gradually return to the just principle of raising no more revenue from the people, in taxes, than is necessary for its economical support. Even that alternative was not spoken of but in connection with an amendment of the constitution." — In the meantime Jackson, in his attack on the bank of the United States, had been bitterly opposed by Clay, Calhoun, Webster, and a majority of both houses of congress, by whom many of his acts were regarded as an exercise of arbitrary power. In his first message in 1829 he recommended that the bank of the United States should not be rechartered. In January, 1832, the bank's memorial for recharter was presented both in the house and senate, and, after some debate, the bill for the recharter passed both houses. This bill was vetoed, on July 10, by the president, and the recharter of the bank was made one of the issues of the campaign of 1832. Henry Clay was defeated, and Jackson reelected, and the latter claimed that the result was an indorsement of his policy against the bank. — During the summer of 1832, Jackson, as a measure of hostility against the bank, conceived the project of the removal of the United States deposits. Benton, in his "Thirty Years' View," (vol. i., p. 377), says: "General Jackson was not the man to tolerate these illegalities, corruptions and indignities. He therefore determined on ceasing to use the institution any longer as a place of deposit for the public moneys; and accordingly communicated his intention to the cabinet, all of whom had been requested to assist him in his deliberations on the subject. The major part of them dissented from his design; whereupon he assembled them on the 22d of September, and read to them a paper containing his views on this subject. This paper concludes as follows: 'Under these convictions he feels that a measure so important to the American people can not be commenced too soon; and he therefore names the first day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the state banks can be made.'"— Secretary Duane refused to carry out the wishes of the president without a previous reference to congress. Roger B. Taney, then attorney general, was made secretary of the treasury, and issued the order for removal of the deposits on Sept. 26, 1833. The opponents of the administration, looking at the surplus revenue, regarded the proposi- president of a portion of an immense patronage. — The deposit of the public money in the pet banks had been followed by great financial distress, continuing during the year 1834; and previous to and during that year propositions were frequently made in the public press for distribution of the surplus revenue among the states as a measure of relief. These propositions were first in the form of a distribution of the revenue from public land, then a distribution of the public lands themselves, and finally the distribution of both land and customs revenues. — During the session of 1835, on motion of Mr. Calhoun, a select committee, consisting of Calhoun, Webster, Benton, Bibb, Southard and King, were appointed to inquire into the extent of executive patronage, the increase of public expenditures, and the number of persons employed or fed by the executive government. The committee assumed that there would be an annual surplus of nine millions for the next eight years. It regarded the disposal of this surplus as a problem to be solved with great difficulty, but one which was important to determine, lest the executive should greatly increase his power by depositing the public funds with the favorite banks. The committee accordingly "reported a resolution so to amend the constitution that the money remaining in the treasury at the end of each year till Jan. 1, 1843, deducting therefrom the sum of $2,000,000 to meet current and contingent expenses, shall annually be distributed among the states and territories, including the District of Columbia; and, for that purpose, the sum to be distributed to be divided into as many shares as there are senators and representatives in Congress, adding two for each territory and two for the District of Columbia; and that there shall be allotted to each state a number of shares equal to its representation in both houses, and to the territories, including the District of Columbia, two shares each. Supposing the surplus to be distributed should average $9,000,000 annually, as estimated, it would give to each share $30,405, which, multiplied by the number of senators and representatives from a state, will show the amount to which any state will be entitled." This resolution was opposed by Benton, who represented the administration in the senate. He argued that the customs revenues could be largely reduced by changes in their methods of collection; that the revenues from the sale of land could be made to disappear by selling these lands at nominal prices to the people. If, after this, there should still be a surplus, he advocated its use in the construction of fortifications to protect the coasts and frontiers of the country. The proposition of the committee to amend the constitution to authorize the distribution was never brought to a vote. In the spring of 1836, the following paragraph appeared in the "Philadelphia National Gazette": "The great loss of the bank has been in the depreciation of the securities, and the only way to

regain capital is to restore their value. A large portion of them consists of state stocks, which are so far below their intrinsic worth that the present prices could not have been anticipated by any reasonable man. No doubt can be entertained of their ultimate payment. The states themselves, unaided, can satisfy every claim against them; they will do it speedily, if congress adopt the measures contemplated for their relief. A division of the public lands among the states, which would enable them all to pay their debts, or a pledge of the proceeds of sales for that purpose, would be abundant security. Either of these acts would inspire confidence, and enhance the value of all kinds of property."—A bill for the distribution of the revenues was introduced in the senate, and supported both by Mr. Clay and Mr. Webster. It was opposed by Mr. Benton, who introduced an antagonistic bill devoting the surplus revenues to public defenses. The bill passed the senate by a vote of 25 to 20. Being sent to the house for concurrence, it became evident that it could not pass that body, as a majority of its members regarded the project in its form of a distribution as unconstitutional. The friends of the measure in the senate determined to change its form so as to remove the difficulty. Instead of a distribution it was to be a deposit, and the faith of the states was to be pledged to the return of the money. — There was another bill in the senate for regulating the deposit of public moneys with the state banks, and the proposition in the form of a deposit with the states became sections thirteen and fourteen of this bill, which passed with only six dissenting votes. It passed the house by a large majority, 155 to 88. In the form of distribution it had no chance of passing the house. "It was approved by the president," Benton says, "but with a repugnance of feeling and a recoil of judgment which it required great effort of friends to overcome." Probably, if he had returned it with his veto, it would have had two-thirds of each house in its favor. — The following is a copy of the 13th and 14th sections of the act of June 23, 1836: "An act to regulate the deposits of the public money. Section 13. That the money which shall be in the treasury of the United States, on the first day of January, eighteen hundred and thirty-seven, reserving the sum of five millions of dollars, shall be deposited with such of the several states, in proportion to their respective representation in the senate and house of representatives of the United States, as shall, by law, authorize their treasurers, or other competent authorities, to receive the same on the terms hereinafter specified; and the secretary of the treasury shall deliver the same to such treasurers, or other competent authorities, on receiving certificates of deposit therefor, signed by such competent authorities, in such form as may be prescribed by the secretary aforesaid; which certificates shall express the usual and legal obligations, and pledge the faith of the state for the safe keeping and repayment thereof, and shall pledge the faith of the states receiving the same, to pay the said moneys, and every part thereof, from time to time, whenever the same shall be required by the secretary of the treasury, for the purpose of defraying any wants of the public treasury, beyond the amount of the five millions aforesaid: *Provided*, that if any state declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other states, agreeing to accept the same on deposit in the proportion aforesaid: *And provided, further*, that when said money, or any part thereof, shall be wanted by the said secretary, to meet appropriations by law, the same shall be called for, in ratable proportions, within one year, as nearly as conveniently may be, from the different states with which the same is deposited, and shall not be called for, in sums exceeding ten thousand dollars, from any one state, in any one month, without previous notice of thirty days for every additional sum of twenty thousand dollars which may at any time be required. Section 14. *And be it further enacted*, That the said deposits shall be made with the said states in the following proportions and at the following times, to wit: one-quarter part on the first day of January, eighteen hundred and thirty-seven, or as soon thereafter as may be; one-quarter part on the first day of April, one-quarter part on the first day of July, and one-quarter part on the first day of October, all in the same year." — In his message for December, 1836, President Jackson objected to the method of distribution provided in the law, viz., according to representation, and advocated a method founded on the population of each state. — On Jan. 1, 1837, the surplus in the treasury, after reserving the five millions required by law, was $37,468,859.97, and the apportionment among the several states is shown by the following table:

STATES.	No. of electoral votes.	Amount to be deposited during the year 1837	Amount of each Installment.
Maine	10	$1,274,451.02	$318,612.75
New Hampshire	7	892,115.71	223,028.93
Massachusetts	14	1,784,231.43	446,057.86
Rhode Island	4	509,780.41	127,445.10
Vermont	7	892,115.71	223,028.93
Connecticut	8	1,019,560.81	254,890.20
New York	42	5,352,694.28	1,338,173.57
New Jersey	8	1,019,560.81	254,890.20
Pennsylvania	30	3,823,353.06	955,838.26
Delaware	3	382,335.31	95,583.83
Maryland	10	1,274,451.02	318,612.75
Virginia	23	2,931,237.34	732,809.03
North Carolina	15	1,911,676.53	477,919.13
South Carolina	11	1,401,896.12	350,474.03
Georgia	11	1,401,896.12	350,474.03
Alabama	7	892,115.71	223,028.93
Mississippi	4	509,780.41	127,445.10
Louisiana	5	637,225.51	159,306.38
Missouri	4	509,780.41	127,445.10
Kentucky	15	1,911,676.53	477,919.13
Tennessee	15	1,911,676.53	477,919.13
Ohio	21	2,676,347.14	669,086.78
Indiana	9	1,147,005.92	286,751.48
Illinois	5	637,225.51	159,306.38
Arkansas	3	382,335.31	95,583.83
Michigan	3	382,335.31	95,583.83
Total	------	$37,468,859.97	$9,367,214.98

Mr. Woodbury to congress, of January 3, 1837. — It will be noticed, that, by the law authorizing the deposit of the surplus, each state was required to authorize its treasurer by law to receive the deposit and to give certificates of deposit therefor. The necessary forms for carrying out this plan were prepared by the secretary of the treasury, and may be found in Ex. Doc. and Reports of Committees, 1st Sess. 25th Congress, Doc. No. 30. —All of the states named in the foregoing table of apportionment passed laws authorizing the receipt of the deposit, and some took the opportunity of instructing their representatives to protest against, or to endeavor to obtain changes in, some of the features of the law. The legislature of the state of New Hampshire, by resolution, declared that any distribution of surplus was unconstitutional. They instructed their delegates to vote for a reduction of revenue and against any measure for relinquishment, by the United States, of the sums on deposit with the states. The legislature of the state of Indiana requested its senators and representatives to use their exertions to procure the passage of an act of congress for the relinquishment on the part of the United States of all claims of surplus revenue deposits under act of June 23, 1836. These resolutions show conclusively that these states regarded the money received as a deposit to be likely to be recalled, and not as a gift. — The first three installments were paid to the states as nearly as possible on the following dates, viz.: one-fourth on Jan. 1, 1837, one-fourth on April 1, and one-fourth on July 1, following. The sums were paid by transfers from the deposit banks. On Nov. 1, 1836, the secretary of the treasury notified the banks of the requisition which would be made upon them to meet the installments due, on Jan. 1, to the several states. On Feb. 18, 1837, he gave similar notification in reference to the next three installments. Forms of the letters sent to each of the deposit banks are given, also, in Document 30, Sept. 26, 1837, before referred to. The installments payable on Jan. 1, April 1, and July 1, were transferred to the states on or near those dates. They amounted in all to $28,101,645, and proportionate amounts were deposited with and receipted for by each state. — In May, 1837, the financial pressure became so great that the banks generally suspended specie payments. The fifth section of the act of June 23, 1836, for regulating deposits of public money, provided that no bank shall be selected or continued as a place of deposit of public money which shall not redeem its notes and bills on demand in specie. On May 1, 1837, the number of the deposit banks was 88, distributed by states as follows:

Maine	8	New Jersey	3
New Hampshire	4	Pennsylvania	3
Vermont	2	Delaware	2
Massachusetts	6	Maryland	2
Connecticut	3	District of Columbia	1
Rhode Island	2	Virginia	3
New York	16	North Carolina	1
Alabama	1	Indiana	1
Mississippi	2	Illinois	1
Louisiana	2	Michigan	2
Tennessee	2	Total	88

The number of deposit banks on Nov. 1, 1836, was 89. Their capital was $77,576,449; United States deposits, $49,377,986; other deposits, only $26,573,479.* — The difficulties arising from the necessity of discontinuing as public depositories those banks which refused to pay specie, made it apparent that it would be very inconvenient, if not impossible, to transfer the fourth installment of the deposit with the states. Further legislation was deemed necessary in this emergency, and an extra session of Congress was called by President Van Buren. Congress met on Sept. 4. Among other reasons for the extra session, the president in his message mentioned, that "questions were also expected to arise in the recess in respect to the October installment of those deposits, requiring the interposition of congress." — Secretary Woodbury, in a report made on the safe keeping of the public moneys, on Sept. 23, in answer to a resolution of the house of representatives, said: "This last mode [viz., deposit with selected state banks] ceased by operation of law during the last spring, except in relation to five or six deposit banks which have continued to redeem their notes in specie. The direct losses sustained under it appear to be large. But, in the end, they are not considered likely to amount to anything, though the disappointments, delays and injuries under it, must, it is manifest, in several cases be great. The indirect losses to the public creditors and contractors have been considerable, and are difficult to be computed." From this it will be seen that only six out of the eighty-eight banks designated as public depositories on May 1, could be used as such in September. — Benton says, in relation to these payments: "The deposit with the states had only reached its second installment when the deposit banks, unable to stand a continued quarterly strain of near ten millions to the quarter, gave up the effort, and closed their doors. The first installment had been delivered on Jan. 1, in specie or its equivalent; the second in April, also in valid money; the third one, demandable on July 1, was accepted by the states in depreciated paper; and they were very willing to receive the fourth installment in the same way." —The secretary's report shows that there would be a deficiency in the revenues to meet expenditures of over ten millions of dollars, which would render it necessary either to recall some of the money deposited with the states, or to postpone the payment of the fourth installment due on Oct. 1. The secretary mentioned the inconvenience of paying the fourth installment, arising from the difficulty of transferring from the west and southwest, where the money received from sales of public lands had accumulated. The lack of revenue

* For statement of resources and liabilities of these banks see Report of Comptroller of the Currency, 1876, p. 42.

was his principal reason for urging the withholding or postponement of the fourth installment. Believing the money would be immediately necessary to the government, he thought it would be less inconvenient to withhold payment than to pay and immediately recall. — On Sept. 11, 1837, Mr. Silas Wright, from the senate committee on finance, reported a bill which provided "that the transfer of the fourth installment of deposits directed to be made with the states, under the thirteenth section of the act of June 23, 1836, be and the same is hereby postponed until further provision by law." The bill was brought up for consideration on the 14th, when he said, that, according to the report of the secretary of the treasury of the 28th ult., there was then in the treasury subject to draft, available and unavailable, but $8,100,000. If the expenses of the month of September were deducted, which were estimated at two and a half millions, there would be in the treasury, subject to draft on Oct. 1, less than six millions without the transfer of a dollar to the states toward the October installment. If the October installment was to be transferred to the states, all the means in the treasury on the day when that installment was made transferable would not be equal to two-thirds of the amount, and money must be borrowed upon the credit of the United States to supply the deficiency. The largest portion of the funds in the treasury was wholly unavailable; they were in the western and southwestern banks, and experience had already shown, that the drafts of the treasurer upon these banks would not be received in payment by the public creditors, neither would the states, other than those in which the banks were located, take these drafts, and give their obligations for a repayment of the amount in money in pursuance of the provisions of the deposit law. The transfer to the states, therefore, could not be made, even to the amount of the funds in the treasury subject to draft, by reason of the character of the funds to be drawn upon. The whole means in the treasury on the first day of October next would be from three and a half to four millions less than the transfer required. If congress should insist upon this transfer, it must authorize a loan of money upon the public credit in order that that money when loaned, may be deposited with the states for safe keeping. Mr. Webster thought that it was a mere question of convenience, the distributed money would go to all the people, and any deficiency in the treasury must be supplied by all the people. He thought the most convenient way was to pay the installment, and provide for the necessities of the treasury by other means. Mr. Preston opposed the bill on the ground that many states had already appropriated the money, and had undertaken public works on the strength of it, etc. Mr. Crittenden, of Kentucky, opposed it on the same ground. By other senators the deposit act was treated as a contract which the United States was bound to carry out. Mr. Buchanan proposed an amendment, the effect of which, it was urged, was to change the character of the deposit act and make it a distribution measure. By the act it was the duty of the secretary of the treasury to call for a return of the deposit when needed by the federal treasury. The amendment superseded this, and enacted that the deposits should remain until called for by congress. Mr. Niles pointed out the effect of this amendment. He said the majority of those who voted for the deposit act did so because it was a deposit and not a distribution, and merely withdrew the public moneys from the banks and deposited them with the states. The amendment would change the deposit to a loan, or, more properly, a grant, to the states. Mr. Buchanan's amendment, however, passed by a vote of 32 to 12, and thus the recall of the deposits already made was taken from the hands of the secretary and placed with congress. — In the house of representatives the disposition to regard the deposit act as a contract was even stronger than in the senate. Mr. Caleb Cushing argued that it had all the features of a contract, that it was a "contract of deposit." It was a contract in honor, and, as far as there could be a contract between the United States and the states, a contract in law. On the other hand, it was argued very forcibly that neither in honor nor in law was there any reason for paying the fourth installment when there was no surplus in the treasury. Mr. Halsey, on the same side, said, "In reference to the deposit act, if a contract, it was a contract based alone upon the distribution of an existing surplus, not wanted for the ordinary or extraordinary expenditures of the government. The structure was reared upon that rock, and was so understood at the time the statute was enacted. The money to be distributed was out of a surplus fund. Where was there a surplus fund? There was none." The opponents of the bill, apart from the argument of contract, mainly founded their arguments on the fact that the states had been induced to undertake public works and other engagements by the promise of the money, and the inconvenience to which they would be put by withholding the fourth installment. It was justly observed by their opponents, that the states should have regulated their action by the actual terms of the law of congress, to which they agreed when they accepted the deposits. The opposition to the bill was persistent, the debate was long, and many members were participants, among whom were Adams of Massachusetts, Fillmore and Sibley of New York, Bell of Tennessee, and Wise of Virginia. It finally passed the house by the close vote of 119 to 117. A motion to reconsider was made by Mr. Pickens, and carried. On reconsideration, Mr. Pickens moved to amend so that, instead of postponing the payment indefinitely until further action by congress, it be postponed to Jan. 1, 1839, a day certain. This amendment was agreed to and concurred in by the senate, and the bill finally passed in that form. — The effect of the postponement of the payment to a fixed day has been held by some to bind the United States

to such a payment; and the making the withdrawal of the first three installments received by the states dependent on an act of congress, has, by the same kind of construction, been regarded by some as altering what was originally a deposit to a gift. — As Jan. 1, 1889, approached, it became apparent that there would be no funds in the treasury available for the deposit of the postponed installment. The secretary of the treasury, in his report for December, 1888, stated that the available balance on Jan. 1, 1889, would be $2,765,342 only, and at the date of the report the treasury notes outstanding amounted to over $7,754,560. He said, "It will be perceived by these statements that no surplus balance will probably exist either on Jan. 1, 1889, or during that year, to be deposited with the several states for safe-keeping as a fourth installment under the deposit act of June 23, 1836." Since Jan. 1, 1889, there has never been a time when the United States had in its treasury a surplus over and above all its debts and estimated expenditures. The amount deposited in the first three installments with the states, has always been carried as funds of the treasury unavailable; and, under the terms of the acts relative to its deposit, it could now be recalled at any time by an act of congress. — General John A. Dix, secretary of the treasury, in a letter to the chairman of the committee on ways and means, of Jan. 18, 1861, called attention to the fact that "there are deposited with twenty-six of the states, for safe-keeping, over twenty-eight millions of dollars belonging to the United States, for the payment of which the promise of these states is pledged by written instruments on file in this department. The annual statement of receipts and expenditures for the year ending June 30, 1860, represents this amount as part of 'the balance in the treasury' on that day. * * I refer to this final resource as an available one, should the public exigencies demand it. It is not doubted that the greater portion of the amount so deposited would be promptly and cheerfully paid should an exigency arise involving the public honor or safety. If, instead of calling for these deposits, it should be deemed advisable to pledge them for the repayment of any money the government might find it necessary to borrow, loans contracted on such a basis of security, superadding to the plighted faith of the United States that of the individual states, could hardly fail to be acceptable to capitalists." (See UNITED STATES NOTES.) — It is easy to see that there can be no constitutional authority for the claim that this money, already in the possession of the states, irrevocably belongs to them, since, according to the constitution, it is still in the treasury of the United States. The only method of taking money out of the treasury is by an appropriation by congress, upon which the secretary of the treasury is authorized to issue his warrant, and no such method was ever adopted in relation to this money. The whole object and intention of the act was to deposit the surplus, not distribute it, as it has been seen that a distribution act was known at the time to be unconstitutional. Upon the delivery of the money the treasurer of each state gave to the United States, not a receipt, but a *certificate of deposit*, subject to the future requisition of the government. The amount of the deposit has always been held among the "unavailable funds of the treasury," and is annually so reported among other like funds, as may be seen by reference to page 388, Finance Report, 1882, and previous reports. But whether a deposit or a distribution, no constitutional method has been taken to authorize the payment of the money out of the treasury. Moreover, it was a deposit of surplus and surplus only, and when the surplus did not exist was suspended by act of congress until a certain date; and, when at that date there was still no surplus, the deposit was again withheld by the executive, and, on the same principle, has been withheld ever since. Congress at any time can authorize the withdrawal of the whole amount from the states, and it doubtless could authorize the perpetual withholding of the fourth installment in view of the fact that at some time in the future, after the national debt is paid, there may be a surplus similar to that which existed Jan. 1, 1877. — Benton, in his Thirty Years' View, thus refers to the use made of the deposits by the different states: "All sorts of plans were proposed for the employment of the money; and combinations, more or less interested or designing, generally carried the point in the universal scramble. In some states a pro rata division of the money per capita was made; and the distributive share of each individual, being but a few shillings, was received with contempt by some, and rejected with scorn by others. In other states it was divided among the counties, and gave rise to disjointed undertakings of no general benefit. Others, again, were stimulated, by the unexpected acquisition of a large sum, to engage in large and premature works of internal improvement, embarrassing the state with debt, and commencing works which could not be finished." — A claim has been made within a few months (1884) upon the secretary of the treasury, under authority of an act passed by the legislature of the state of Virginia for the deposit of the amount of the fourth installment ($732,809.33) under the act of June 23, 1836. A similar claim has also been made by the treasurer of the state of Arkansas, through Senator Garland of that state, to which the secretary replied, on Oct. 8, 1888: "I find that the tradition of this department for over a dozen years has been to consider that act as obsolete, or at least not imperatively effective during a season of large public federal indebtedness. I can for the present follow in the path of my predecessors in the office of the secretary of the treasury. It is not improbable that I may ask the attention of congress to the matter in the next annual report from this department." JOHN JAY KNOX.

UNIVERSAL SUFFRAGE. (See SUFFRAGE.)

UNIVERSITIES. *Purport of this Article.* In Europe the university has its definite character,

well understood by educated men, although it is not easy to define its functions within the limits of a single sentence. In the United States, on the contrary, the word is used carelessly, as if it were quite unimportant to remember its real significance. Sometimes it is applied to a strong institution which combines the four traditional faculties; and sometimes to schools of a very low grade, or to those which promote but a single department of knowledge. There are indications in many parts of this country that the true idea is hereafter to be more clearly recognized; generous gifts for such purposes have been made by states and individuals; and legislation has been sought in order that the university may hereafter be developed on a proper basis. In this epoch of munificent foundations, it is of the utmost importance that correct ideas should prevail among us; for, otherwise, the United States will remain behind the other countries of christendom in the highest department of education. — *Meaning of the Word.* Something may be gained by retrospect. The word university, which, in these days and in all the modern languages of Europe, has an educational meaning, was primarily a word of wider use. In its Latin origin it signified the entirety, the whole, the unit made up of individuals; thus *universitas incolarum oppidi* meant the community—*universitas canonicorum*, the company of canons. It was nearly equivalent to our word society or corporation. Gradually it was restricted to a society of teachers and scholars, and more especially a society in which several faculties were combined. Hence it came to signify an association in which all branches of knowledge were taught, especially the highest educational body in a city or country—the supreme "high school." Sometimes *universitas* pointed to the governing authority of the corporation, while in contrast *studium generale* indicated its teaching function. *Societas magistrorum et discipulorum* was early employed as an almost synonymous phrase. In modern times the buildings, libraries, museums and other possessions of the corporation are often spoken of as the university. But in all legitimate uses of the word the idea has never been lost sight of, that the university is an organization for advanced instruction in the chief departments of knowledge; it is a high school in which the principal arts and sciences are taught. An essential element in its plan is comprehensiveness, or breadth; it is a unit made up of many constituents; a confederation under a sovereignty. — *To be distinguished from other Words.* Hence it is acknowledged by the best authorities, that a single faculty, whether of law, medicine, theology or philosophy, does not constitute a university. Such a faculty, however far its instructions may be carried, is too narrow to claim legitimately the title which belongs to a different and broader organization. Universities must also be distinguished from learned societies (like the Royal society, the French institute, the American academy, etc.), in which no instruction is offered; and they should never be confounded, as they often are in this country, with colleges (corresponding to the German *gymnasia*, or the French *lycées*), in which youth are trained by well-known methods for the higher work of more advanced students. The university (like Oxford and Cambridge) may well include one or more colleges in its organization, as the greater includes the less, but the higher authority of the greater should always be recognized—as it is, for example, by such titles as these: Trinity college in the university of Dublin; the university of McGill college in Montreal; the college of agriculture in the university of California; and Adelbert college in the Western Reserve university at Cleveland. — In every true university, all departments of learning should find a congenial home as members of one family governed by one authority. Within their precincts, pupils trained for freedom by preparatory discipline should be encouraged to go forward in the pursuit of science, as deep as they will, as far as they can. The dangerous effects upon the mind of an individual, of his devotion to a single subject, will be counteracted by living among men who attach equal, if not superior, value to very different studies. With occasional exceptions, it may be stated, as a rule, that the self-taught man suffers from disadvantages which the society of other scholars tends to remove. Association in studies of a superior character, under some recognized combining and coordinating authority, is the most efficient method which is known for the development of talents, and also for the promotion of knowledge. Hence, under all phases of organization, the purpose of the university has remained the same; namely, to collect, weigh, perpetuate and disseminate systematic knowledge on important subjects, by the employment of eminent scholars in the instruction of properly qualified youth. — *Origin of Universities.* It is commonly said that universities had their origin in the thirteenth century, but this date can not be considered exact, nor can any one foundation claim unquestioned priority. The faculty of philosophy can be traced as far back as the sixth century, when its courses included the *trivium* (grammar, logic, rhetoric), and the *quadrivium* (music, arithmetic, geometry, astronomy), the seven liberal arts, of which a liberally educated man should be the master (*artium magister*). A mnemonic hexameter* thus recalls the sequence:

GRAMM. loquitur; DIA vera docet; RHET. verba colorat;
MUS. canit; AR. numerat; GEO. ponderat; AST. colit astra.

In the eleventh and twelfth centuries, when the dawn of better things began to follow the mediæval darkness, schools of law grew up (as at Bologna), and of medicine (as at Salerno), and of theology in the monastic foundations. The first clear indications of the general study of philosophy are seen in Paris, where at length the four faculties began to co-operate in the government of students, and where, in 1209, the word university was employed in connection with the affair of

* Quoted by Hallam, Lit. Eur., i., 26.

leges had been growing up for many years, perhaps (though not certainly, nor even probably) since the days of King Alfred. The university of Paris early exerted an influence upon the organization of other high schools. Its methods, its regulations, its usages, were adopted in distant countries, and may now be traced in the history of English, Scotch, German and American foundations. — *Modern Notions of the University.* From this retrospect, let us turn to some of the modern statements of the proper scope of a university. Discussions on this subject have been rife in Germany, France and Italy, but for our purposes citations will only be drawn from British writers: for it is on the basis of English educational experience that American high schools have been organized. — In an article which was published in October, 1837, by Sir William Hamilton, the Scotch philosopher, the following remark is found: "We shall find no difficulty in proving that university, in its proper and original meaning, denotes simply *the whole members of a body* (generally incorporated) *of persons teaching and learning one or more departments of knowledge;*† and *not* an institution privileged to reach a determinative circle of sciences, and to grant certificates of proficiency (degrees) in any fixed and certain departments of that circle (faculties)."— In his efforts for the foundation of a Catholic university in Ireland, John Henry Newman, now cardinal, published, in 1852, a series of "Discourses on the Idea of a University," which begin with this sentence: "The view taken of a university in these discourses is the following: That it is a place of *teaching* universal *knowledge*. This implies that its object is, on the one hand, intellectual, not moral; and on the other, that it is the diffusion and extension of knowledge rather than the advancement. If its object were scientific and philosophical discovery, I do not see why a university should have students; if religious training, I do not see how it can be the seat of literature and science."— In 1868, during the discussions which related to the reorganization of Oxford, Goldwin Smith, then about to withdraw from his connection with that university, wrote as follows: "Experience seems to show that the best way in which the university can promote learning and advance science is by allowing its teachers, and especially the holders of its great professorial chairs, a liberal margin for private study; by this, by keeping its libraries and scientific apparatus in full efficiency and opening them as liberally as possible, by assisting, through its press, in the publication of learned works which an ordinary publisher would not undertake, and by making the best use of its power of conferring literary and scientific honors." —While the proposal was under consideration to some interesting evidence from the German renascence, saying, among other things: "The renascence age was in its way singularly alive to the uses of associated study; and if I may speak of different times, I may say in passing that there is no side of modern university life better worth not only preserving, but developing, than that of *combination in study*. Between teachers and learners, the laboratory and the seminary; among learners, their own associations connected with the studies of their academical life—are the real and necessary supplements of the lecture room." And again: "A well-organized system of university education should carefully lead from a common basis of sound general training to the several main branches of study, and in these again leave room for the closer pursuit of special lines of research."— In a consideration of the "Future of English Universities," Professor James Bryce (1883) urges that these foundations should aim to attract and educate the whole nation [meaning all classes of the nation]. Secondly, he argues that "it is their business to offer to all comers the best possible teaching on every subject—that is, to attract the most learned, skillful and energetic men, give them a platform to speak from, set them to teach, both by public oral instruction and by showing pupils how to study, and give them every motive of honor and interest for doing their best as teachers." Thirdly, he speaks of what can be done for the advancement of letters and sciences; and finally, he calls attention to the importance of "bearing a part in movements for improving the education and raising the culture of those who can not come to the university as students."— This modern conception of the university is most completely worked out in the German empire and in Austria, where, under the control of each state (Austria, Prussia, Baden, Saxony, etc.), the system of public instruction is crowned by one or more universities. Those Germans only can gain access to the lecture rooms who bring the certificates of thorough preparatory discipline, though foreigners are welcomed on terms less rigid. The ultimate authority is the government, which is bound to supply the requisite financial support, has the appointment of professors, and prescribes the general regulations. But within these limitations the professors are free to give such instruction and by such methods as they think wise, and their wishes are usually, if not always, considered by the sovereign authority in the state. In fact, the professorships make the university. As a rule, the universities have four faculties—philosophy, law, medicine and theology. Sometimes there are two divisions—Catholic and Protestant—in the faculty last named; and, in a very few instances, the faculty of philosophy has been subdivided, but the general sentiment at the present time is adverse to such sections. — The universities of Switzerland, Sweden, Norway, Holland, Russia, etc., are largely influ-

* The disciples of this philosopher were condemned for heresy by a council held in Paris in 1209.

† The fault of this definition is that it might include a kindergarten, or a school of Choctaw.

UNIVERSITY

enced by the example of Germany and Austria. The development of universities in England has been quite different. Oxford and Cambridge have perpetuated the idea of collegiate discipline under university control; but, whatever may be the nominal rule, actually the colleges control the university. The Scotch universities have other peculiarities. Ireland has still a different system. France, again, has an organization of its own. Until 1875 (when a law was passed making university education free), there was but one university in France, and that had control, under the government of the state, of all the faculties. It has lost its exclusive powers, but is still an administrative, teaching and examining authority, with jurisdiction over the public foundations, not alone in Paris, but throughout the state. — *The Essentials of a University.* Gathering up the experience of the past, and comparing it with what is now in progress, it is safe to say that these are the essentials of a university which shall be worthy of its noble name. The first requisite is a superior staff of teachers—men gifted with unusual powers, proficient in particular departments of learning, trained to habits of exact inquiry, and skilled in the art of presenting what they know. It is the business of such men to inspire as well as to inform their pupils; to show the right method of study, as well as to bring forth ascertained results. This function is best exercised by meeting students face to face. A library can never take the place of an assembly of living teachers, though books are made efficient by the teacher's presence. Even in the advancement of knowledge, experience has shown that the most successful agents are superior teachers engaged in the tuition of superior scholars. The university must therefore, in the second place, bring together a company of pupils qualified to profit by the guidance of the professors. For both, in the third place, books, collections, instruments and buildings must be liberally provided. Fourthly, examinations must be held, in order to ascertain what progress has been made in study. The bestowal of academic degrees and prizes should be made to stimulate intellectual exertion, and to protect the public against pretentious ignorance. In the fifth place, universities may be called upon to pronounce opinions for the benefit of the public upon important matters in dispute. Sixthly, universities should promote the publication of learned treatises which would not otherwise see the light, either by the maintenance of a printing press, or by giving their corporate sanction to works of unusual importance. — *University Education in America.* The condition of university education in America can not be understood without reference to our history. The earliest settlers in New England and in Virginia brought with them the idea of a liberal education as it was provided at the beginning of the seventeenth century by the English universities. At least ninety university men had immigrated to New England prior to 1648, about three-fourths of them being from Cambridge, and one-fourth from Oxford.* At that period in England college life completely overshadowed university life. Residence within academic walls, tutorial discipline, ecclesiastical obligations, were much more important elements in the system than the bringing together of eminent professors and requiring attendance upon their lectures. Harvard, Yale, and William and Mary, the three foundations of the seventeenth century, were colleges in the definite and restricted English sense, though they exercised the right to confer degrees, even in faculties where no instruction was provided. Their younger sisters, in New York, New Jersey, Pennsylvania, New Hampshire and other states, were planned upon the New England model. Down to the close of the revolutionary war the highest schools of the colonies were colleges, and nothing but colleges. The year of the peace, 1783, was marked by the foundation of a medical faculty in connection with Harvard college, but it was more than thirty years before the faculties of law and theology were added. In New Haven, also, the medical faculty was the first addition to the college faculty, in 1813, and several years later came the faculties of theology and law. Gradually the college faculties of Harvard and Yale have been greatly expanded, and now correspond closely with the German faculties of philosophy, although engaged in the instruction both of graduate and undergraduate students. It thus appears that the two foundations which have become at the present time the most completely organized universities in this country, include a group of faculties grafted upon a college stock. The same mode of development is in progress elsewhere, with more or less success. For want of a better name, this type may be called "the collegiate university." As the foundations were laid in the interests of the church, the term ecclesiastical university might be thought more appropriate. It is still the form of development preferred by many of those who have watched the steady and successful growth of the older institutions. — But it is not the only type. As early as 1812, the state of Maryland authorized the college of medicine (incorporated four years before) to annex to itself "the other three" colleges or faculties, viz., law, divinity, and arts and sciences. Of these faculties two have continued until now. Upon a similar plan, in 1826, the university of Virginia was organized by Thomas Jefferson, who disregarded the historic foundation of William and Mary for an institution of much broader scope. He brought out the continental notion of a university as quite distinct from the college. He did not favor the ecclesiastical organization which prevailed in the original American establishments; but induced the state, as a purely civil government, to give name, funds and authority to the university of Virginia. The success of this institution had much influence, especially in the new states, where, however, the traditions of New England were still powerful. Thus

* So ascertained by Prof. F. B. Dexter.

many other parts of the Union. The bestowal of public lands for university education has greatly helped this class of institutions, but for a long time to come there is likely to be friendly rivalry between the advocates of colleges under ecclesiastical or denominational control and the friends of freer and more comprehensive universities under legislative control. — A third type of university organization is beginning to appear, quite distinct from the historic collegiate or the modern state universities. Individuals are giving large sums of money to endow universities, organized under special acts of incorporation more or less private in their character. The gift of Rich, in Boston; of Cornell, in Ithaca; of Packer, in Bethlehem; of Johns Hopkins, in Baltimore; and recently of Tulane, in New Orleans, are examples of this tendency. The large funds thus bestowed, at a period when the country is awakening to the need of university work as distinguished from collegiate, are very significant. This type may be called "the privately endowed." — Mention should also be made of a fourth form of university organization, of which the chief example is the university of the state of New York, wherein, with the authority of the state, a supervision is exercised, of a very gentle but definite nature, over the colleges and seminaries of the state. No instruction is given by this university, and the only degrees conferred are honorary. This is "the supervisory type."* — The embodiment of authority in a university is a problem of much difficulty in this country, where the decentralization of civil government is so complete. European precedents have but little value here. The governing bodies of Harvard and Yale are close corporations, having exclusive responsibility for their proceedings under their charters. For the state universities, trustees or regents are sometimes elected by popular vote, and are sometimes appointed by the governor or the legislature; they have even been considered civil officers (as in California), liable to be removed or superseded at the pleasure of the legislature. Gradually the usage is coming into vogue of allowing the graduates of an institution to have a voice in the election of the trustees. In some places the president is the head of the legal corporation, as well as of all the faculties. He is the lineal descendant of the ancient rector, or chancellor, and has corresponding powers. In other institutions he is a member of the corporation, but not its head. Elsewhere he has a seat among the trustees, but has no vote. In some places he is precluded from listening to their deliberations, and is only those of a servant in livery. Usually the professorial responsibility is limited to the instruction and government of the students, and does not extend to the selection of their colleagues, the management of funds, or the construction of buildings—functions retained by the trustees. In consequence of these uncertainties, the educational growth of new foundations has generally been less steady than it should be; a wavering policy has been followed. It has been found difficult to retain the services of good men, particularly in the executive or administrative office; and probably for a long while to come, with now and then an exception, our institutions, especially those of the second type—state universities—will suffer from this fact. Stability is of incalculable value in a seat of learning; instability will sooner or later result in the casting off or slipping away of valuable teachers. In the long run the success of universities will be promoted by entrusting the chief powers to the professoriate, with supervision and support from a body of educated trustees. — University degrees have varied very much in their significance and value. Originally, they were steps in the academic life. The bachelor had attained to one rank; the master or doctor, to a higher. The right to bear these titles was also the right to enjoy certain corresponding privileges; and it was carefully guarded by examinations, certificates and regulations, like other social positions. This dignity of academic titles has diminished in modern times, partly because they have been distributed almost haphazard, as bonbons are thrown to a carnival crowd; partly because they have been conferred by some universities in Germany *in absentia*, and for pecuniary returns; partly because of the extravagant distribution of honorary distinctions, especially in this country, where the height of absurdity has been reached; and partly because so many variations of the academic titles have also been introduced in this country, that their meaning is lost sight of. Fortunately, signs of reaction against these bad usages are visible, and possibly degrees may yet be restored to their former significance. — From this brief review, it is apparent that the American universities are likely to be the outgrowth of our own free institutions, ecclesiastical and civil, and of the outpouring of private generosity. They are not likely to be based upon English, German or French models, but are to be benefited by the experience of all existing foundations. They are to be truly American, in the sense of being adapted to our schools, our history, our laws, our ways, our land. It may be long before they equal in magnitude and renown the historic foundations of the old world; but if they succeed in enlisting and retaining illustrious and powerful teachers, their success will be assured. D. C. GILMAN.

* It is proper to add, that two or three instances of fraudulent universities have been detected and crushed. They were simply scandalous ventures of unscrupulous persons to entrap the unwary into purchasing diplomas—and would not here be mentioned were it not that foreigners have sometimes been misled by announcements which to every educated American are obvious frauds. These sporadic appearances are counterfeit, not entitled to any nomenclature.

USURY. When every one produced nearly everything that he consumed, and commerce con-

sisted in almost accidental exchange, loaning was only a friendly service or charitable act. Morality or religion might then have justly branded the greedy man who made a vile use of the distress of his neighbor. But the relations of men to one another increased, and became complicated; in one way or another capital came into existence. Here, a conqueror took violent possession of lands, houses and animals; there, a pirate came to shore loaded with booty; elsewhere, wealth was accumulated by labor and saving. The surplus thus acquired (whether rightly or wrongly) was transformed into capital by the employment which was made of it. For, it is the use for which an object is intended which constitutes it capital. By the force of things the remunerated loan gradually lost part of the reprobation which attached to it, and interest was enabled to establish itself, but not without a struggle. Unfortunately, capital long remained a monopoly, and the loaning of it was necessarily dear, and all the dearer since loans were made in the beginning less by industry than by luxury and dissipation. The capitalist drew from his possessions all that he could; this he had a right to do, a right which, doubtless, he sometimes abused. Hence governments, having been long accustomed to look upon *subjects* as minors, believed themselves obliged to fix the rate of interest. Since then times have changed; labor has become more general; the sciences have pointed out the means of increasing its products by rendering it more efficient; wealth has accumulated in the hands of many; there is competition among lenders; and now luxury is scarcely ever, and industry almost always, the borrower: yet in certain countries prejudice has preserved a restrictive legislation. This is much to be regretted. The hiring of capital differs in nothing from that of any other object; and its price, too, depends on the action of demand and supply, as do the prices of all objects. In this world all abundant things are cheap, and all rare things dear. Human laws are powerless to modify this natural law, to which we may apply the words, *dura lex, sed lex.* — Restrictive laws on the subject of usury can only aggravate the evil which they propose to prevent. Interest is composed of at least two elements: 1, the remuneration of the service rendered by the loan (or, which is the same thing, the compensation which the lender imposes on himself); and 2, insurance against the risk of loss. Solvent and honest borrowers may, by a combination of unfavorable circumstances, find it impossible to return the principal. There are times in which these circumstances become frequent; and if the law prevents the capitalist from insuring himself against loss by his proportionately raising the rate of interest, one of two things will happen: either the capitalist will abstain from giving credit, or he will raise the rate of interest by the addition of a third element, insurance against the risk of punishment. — A pretense is made to justify the limitation of the rate of interest, by the obligation of protecting the needy person who borrows. Many objections to this immediately present themselves to the mind. 1. If the borrower agrees to pay the price, the reason is, that the service rendered him does not seem to him too dear; a man may borrow at 20 or 30 per cent. if he foresees that he can gain 40 per cent. 2. Is the case that of a spendthrift? You can not prevent him from wasting his fortune; if he does not do it in one way, he will in another. 3. Why not put one's self at the lender's point of view also? If the return of the funds he loans seems to him more or less doubtful, why should he not have the right to cover his risk? 4. What difference is there between goods and money? and can not the former be sold legally at any price one wishes? 5. Lastly, admitting that some abuses are inevitable (and where is abuse wanting?), must we interfere with the use which is frequent, nay daily, to reach some abuses which are relatively rare? Are these abuses sufficient to warrant the putting of all those under the guardianship of the law, who for one reason or another desire to borrow? It is of general utility that trade in money should be as free as trade in merchandise; fraud alone should be punished. Moreover, to limit the rate of interest we should know what its *normal rate* is. But who can fix it? The legal rate is 5 per cent. in France, and 10 per cent. in Algeria. What is the legal rate in Turkey? What was the legal rate at Rome or during the middle ages? — The arguments we have just given have not escaped legislators, and in many countries the crime of usury has been blotted from the penal code, and gradually it will be blotted from the penal codes of all countries.* (Compare INTEREST.) MAURICE BLOCK.

UTAH, a territory of the United States. Its area was a part of the first Mexican cession (see ANNEXATIONS, IV.); and at the organization of

* Instead of the prohibition of interest which prevailed in mediæval times, most modern states have established fixed rates of interest, the exceeding or evasion of which, by contract or otherwise, is declared null and void, and is usually punishable as usury. If the fixing of the rate is intended to depress the rate of interest customary in the country, it uniformly fails of its object. If governmental control were great enough, vigilant and rigid enough, which is scarcely imaginable, to prevent all violations of the law, it is certain that less capital would be loaned than had been, for the reason that every owner of capital would be largely interested in employing his capital in production of his own. More capital, too, would go into foreign parts, and there would be less saved by those not engaged in any enterprise of their own. All this would happen to the undoubted prejudice of the nation's entire economy. — If, on the other hand, the control of the government be not great enough, the law would, in most cases, be evaded; especially as each party, creditor as well as debtor, would find it to his advantage to evade it. The latter, who otherwise would not be able to borrow at all, is, as a rule, more in need of obtaining the loan than the creditor is to invest his capital. How easily, therefore, might he be induced to bind himself by oath or by word of honor! He would, moreover, be compelled to pay the creditor not only the natural interest and the ordinary insurance premium against loss, but also for the special risk he runs when he violates the law threatening him with a severe penalty. Hence the last result of usury laws is either a material enhancement of the difficulty of obtaining loans, or an enhancement of the rate of interest. — WILLIAM ROSCHER.

Since its organization it has been largely reduced by portions which have been taken from it and added to Colorado, Nebraska, Nevada and Wyoming. It is now a compact, nearly square territory of 84,476 square miles. Its population, by the census of 1880, was 143,963, so that it is the most populous of the territories, if we except the District of Columbia. Its capital is Salt Lake City, and its governor (1880–84) is Eli H. Murray. — The American territorial system (see TERRITORIES) is essentially and altogether an adjunct to the federal system. A more complete antipode to the mercantile colonial system of a century ago could hardly be stated or imagined. The American territory is practically under the absolute control of congress; and yet it is never thought of except as on the way to self-governing statehood. It is useless, indeed, is worse than useless, unless it is considered as an inchoate state. And yet here is a territory, already containing the full voting power of a congressional district, whose possible statehood not only is unconsidered, but would be considered only as a worse peril to American institutions than its present absolute government. The territory of Utah is the anomaly of the American system; and the question of its proper treatment is one of the most serious and perplexing problems of American politics. It has two distinct aspects, that of Mormon polygamy, and that of the Mormon hierarchy. In considering them, two features of the American system must be constantly kept in view. 1. The subjects of marriage and divorce are exclusively state concerns. Congress may forbid polygamy in a territory, but, as soon as the territory becomes a state, its legislature acquires entire control of marriage within its jurisdiction. If any of the present state legislatures should abolish their penal laws against bigamy, and either expressly or tacitly permit plural marriages, there is no power outside of the voters of the state which could intervene. 2. Once a state, always a state. When a state once secures the power of self-government, whether by surprise, by secret purchase, or after deliberate consideration, no power can legally revise the action of congress in the admission: even congress is unable to reconsider its action, and the state is equally unable to forfeit its position, except by expressly abandoning its statehood and expressly demanding a return to a territorial condition. (See RECONSTRUCTION.) Mr. S. G. Fisher, as cited below, some twenty years since stated and advocated what he considered as the right of congress to expel a state, or the right of a state to secede with the express permission of the same congressional authority which admitted it: but this view has never been accepted. One of the fundamental provisions of the constitution is, that not even an amendment shall be passed to deprive any state, without its consent, of its equal suffrage in the senate. The population of a state may diminish to almost *nil*, or its moral conditions may be shock-

Polygamy. The growth and conditions of this institution have been elsewhere stated. (See MORMONS.) The revised statutes of the United States prohibit polygamy in the territories, and jurisdiction of offenses against the prohibition is in the federal courts of the territories, with a power of writ of error, by act of June 23, 1874, from the United States supreme court to the supreme court of the territory. This was found ineffectual from the difficulty of obtaining evidence; and the stringent "Edmunds Act" was passed March 22, 1882. — The provisions of the Edmunds act are, in general, as follows: 1. The offense of bigamy (U. S. Rev. Stat., § 5352) is restated, and made punishable by fine and five years' imprisonment. 2. Cohabitation with more than one woman is made a misdemeanor, punishable by fine and six months' imprisonment. 3. Jurymen may be challenged for being guilty of bigamy or of unlawful cohabitation, or for believing it right to commit such offenses. 4. The president is authorized to grant amnesty for past offenses. 5. The issue of Mormon marriages up to Jan. 1, 1883, is legitimated. 6. Bigamy, polygamy and unlawful cohabitation are made bars to voting and to eligibility for election or appointment to any office under the territory or the United States. 7. All the registration and election offices of Utah are declared vacant. 8. Five commissioners are to be appointed by the president, with exclusive power to appoint subordinates for the purpose of registering voters, conducting elections, receiving or rejecting votes, canvassing and returning votes, and issuing certificates. 9. Mere *opinion* as to the right of bigamy or polygamy is not to be a bar to a seat in the legislature. — The first election held under the provisions of the Edmunds act resulted in an almost exclusively Mormon legislature, devoted to the maintenance of the corporate right of the church of latter-day saints to hold and enjoy its wealth. It is very evident, that, while polygamy is to be retained as a distinguishing mark for a peculiar people, it is to be practiced only by those who have an exclusively ecclesiastical ambition, and that the church will always take care to have monogamists ready to care for its political interests. No one can suggest any further step in the direction of the Edmunds act, except to make *opinion* a bar to a seat in the legislature. And that would mean the temporary abolition of legal government for Utah, and the relegation of government functions to the moral control of the church, through its unofficial courts of arbitration. — As a final remedy, it has been proposed to adopt an amendment to the constitution, prohibiting polygamy in the United States, and empowering congress to enforce the prohibition. An amendment to that effect was introduced at the opening of congress in December, 1883, but has not yet been acted upon. It may be that such an amendment, with appropriate legislation to back it, might solve the problem and make it safe to admit Utah as a state.

But considerable caution should be felt in coming to this conclusion after our experience with the fourteenth and fifteenth amendments. They were supposed, at the time of their passage, to be so carefully framed that they had transferred the protection of the civil rights of the enfranchised negro race to congress. But the supreme court has decided, in effect, that these civil rights were primarily under the protection of the states; that a diminution of the power of the states must be express to be valid; that these amendments gave to congress only a veto power over unconstitutional state legislation; and that individual offenses are still in the domain of the states. Why may not the proposed anti-polygamy amendment meet the same fate? Suppose that Utah is admitted after the amendment is passed; and that her legislature as carefully refrains from passing laws permissive of polygamy as from punishing polygamy by individuals. May we not then find that the sixteenth amendment is as much of a practical delusion as its two predecessors? And it will then be too late, it must be remembered, to return Utah to a territorial condition. Surely the hazard of such a chance is too great to be taken. — The only alternative seems to be to limit the sphere of the states by words that can not be mistaken or evaded, and to add to the powers of congress that of exclusive legislation, by general laws only, on the subjects of marriage and divorce within the United States. Utah might then be admitted with absolute safety, for no legal argument could emasculate such an amendment. Bigamy and polygamy would then be federal crimes; and no marriage would be valid, or its issue legitimate or capable of inheritance *ab intestato*, unless the marriage had been contracted according to the forms prescribed by a federal statute. Growth of population, wealth and culture in Utah would only increase the force of the influences, material and moral, which would aid the amendment to enforce itself. This remedy, succeeded by the immediate admission of Utah as a state, seems to the writer the only remedy for polygamy in the territories which holds out a fair promise of final and permanent success. It is open to the objection that a two-thirds majority in both houses of congress, or simple majorities backed by the president, might force free-love on the United States. But, if that time should ever come, all would be lost; and our posterity would be too busily engaged in guarding fundamental interests to have time to spare for Utah. The danger is on a par with that of the suspension of the privilege of the writ of *habeas corpus;* and is only one of a class of dangers which a democratic republic must meet and surmount or die. — *The Mormon Hierarchy.* Federal officials, who have honestly endeavored to execute federal laws in Utah, are almost unanimously of opinion that a greater danger than polygamy is in the Mormon hierarchy, supported by the immense resources of rigidly exacted tithes, bulwarked by the fanatical obedience of the people, and willing, if it could see its way clear, to turn secret into open rebellion. Governor Murray, late in 1883, gave very forcible expression to this view in a newspaper interview, and urged strongly that the whole territory should be placed under an absolute military despotism until the hierarchy should be crushed out. One who has not been upon the spot must speak with diffidence upon such a subject. But, from all the information open to reach, it seems probable that this view is only the natural outcome of unsuccessful contest, and that the fate of the Mormon hierarchy is conditioned by that of Mormon polygamy in the following fashion. — Polygamy seems to be primarily purposed to make the Mormons a "peculiar people," to give them a sense of homogeneity which the other elements of their "faith" will not supply, and thus to secure an obedience founded on faith rather than on force. Secondarily, it has divided the Mormon leaders into polygamists, with church ambitions, and monogamists, with political ambitions. To the polygamists are given the present and future honors of the church, and the pleasure and profit of managing an enormous church revenue, without responsibility of accounting, except to the hierarchy. To the monogamists are assigned the present political honors of the territory, and the future political honors of the possible state. It is plain, from the results of the Edmunds act, that the monogamists, though at present of a humbler rank, are not only important, but absolutely essential, to the polygamists. Without the political auxiliaries, the hierarchy would be powerless; with them, it can endure patiently, labor, and wait with hope. To cut off the political auxiliaries would be to cut off hope. It seems to the writer, then, that the mistake has been in aiming all operations at the polygamists, while every blow fell harmless on the monogamous shield before them. The true policy would be to strike at the monogamists, to push them into a compulsory choice between their allies and their own hopes of political preferment. What blow would do so more effectually than the passage of the marriage and divorce amendment, followed by the admission of Utah as a state? If a record of conviction for bigamy, or for aiding a bigamous marriage, is to be a bar to office-holding, to citizenship, and even to voting, how long will political leaders, in the hot conflicts of real state politics, hold to an organization which can not even provide them with votes? Whichever side the church takes, it must bring votes in its hands. Mormonism is a democracy of revelation, in which a revelation is tested by its general acceptance. A new monogamous revelation would thus be the inevitable result of the gift of statehood, if we could give it safely; and such a revelation would only result in the disappearance of the Mormons as a "peculiar people," and the downfall of the hierarchy. Separate the political monogamists from the ecclesiastical polygamists by the marriage and divorce amendment; fling the apple of discord among them by granting statehood and introducing state politics;

of the problem of polygamy, and that they stand or fall together. — It is not intended to make polygamists and ecclesiastical leaders exactly coincident classes. Some of the ecclesiastical leaders are certainly monogamists, but they are exceptions. — Authorities will be found under MORMONS. See 9 *Stat. at Large*, 453 (act of Sept. 9, 1850); Fisher's *Trial of the Constitution*, 173.

ALEXANDER JOHNSTON.

UTILITY. This word has the same meaning in politico-economic language as in the usual vocabulary. What it designates, in things, persons or acts, is the power they have of rendering us some service, the service, for instance, of sparing us certain privations, inconveniences or suffering, or of procuring for us satisfactions and enjoyments. Economists, however, employ the word in the plural, when, instead of considering utility as an abstraction, made up of every distinct particularity, they look upon it as it exists in different objects with differences of nature and destination. — The first distinction to be made between utilities is, that there are natural and artificial utilities. Natural utilities are those which supply the necessities of our existence without our having to do anything to obtain them. Such are the utilities furnished us by the air which surrounds us, by the heat and light which the rays of the sun bring to us. These utilities are the work of nature entirely. Nature makes them a gratuity to us. Artificial utilities are those which we obtain only at the price of more or less painful efforts. It is for us to learn to produce them, and we never acquire their possession and use, except for some consideration or on the performance of certain services. — Political economy has scarcely anything to do with natural utilities. It may say that they are not all spread in the same measure over all parts of the globe; that there are no two regions in which heat, the force of the wind, water or arable land, is distributed in exactly like proportions, and that such a fact exercises a necessary influence on the modes of the activity, the facility of the development and the destiny of the populations of those regions; but here ends what political economy has to say about them. We are here in presence of a phenomenon whose essence it is not given to man to change, for it emanates from laws over which his will can not possibly have any efficient action. Everything, on the other hand, which relates to artificial utilities belongs to the domain of political economy, and challenges its investigation. — To produce utilities is all that it is in the power of men to do. When nature placed matter at their disposal, it did not wish that they might have the power to add one single particle to it. All they can do is to change the place of, to separate, to combine and to transform the elements of matter in such a way as to cause them to acquire properties which they do not possess in their raw state. The labor of adapt them to use; more than this, human labor can not do. Nature has reserved creative power to itself entirely; to men it has granted only the power to utilize its gifts. — It is easy to conceive that human labor can propose to itself no end but that of producing utilities. All labor involves pain and fatigue, and no one would surrender the sweets of rest if he had not in prospect the compensation which is the reward of labor. But there is no work which can reap reward unless it produces fruits endowed with some quality. Mistakes may, indeed, be made in this respect; it may be, that, from ill-advised endeavors, the results which the men who made them promised themselves may not come; but these are mere accidents. In the normal state of things, there is no labor which has not the production of pretty manifest utilities for its object, utilities sufficiently desired by others to make the advantage of disposing of them compensate for the sacrifices necessary to the obtainment of them. — In proportion as nations become enlightened and wealthy, they strive to produce utilities more diverse and in greater numbers. After those utilities which serve to satisfy the principal necessities of life, they create others which answer only factitious wants and tastes, which grow more and more elegant and refined. It is the eternal task of nations to seek for and endeavor to obtain all that can add to the well-being already acquired, to the satisfactions already enjoyed; and the better they accomplish this task, the higher is the degree of power and prosperity which they attain. — Artificial utilities, those which are the fruit of man's own labor, have given rise to distinctions. At first they were divided into material utilities and immaterial utilities. The former are those utilities which man communicates to matter, which he fixes and incorporates in matter either by changing its place or form; the latter are those which do not assume a form either tangible or ponderable. These latter again have been divided into two categories. To the first of these categories belong such utilities as are incorporated in persons, and fit them to render services to themselves or to others. Utilities attached to talent, to information or knowledge, are of this kind, as are also utilities whose use is beneficent and profitable. To the second category belong those utilities which emanate from services and acts that produce no change in the productive capacity of persons or in the condition of things. Of this latter kind are the utilities which result from the labor of judges, soldiers, public functionaries, physicians, lawyers, musicians and actors. These utilities may answer to very real social wants; but they have not, at least in appearance, directly reproductive effects; neither are they susceptible of accumulation or duration. — Utility is produced under forms so diverse that it would be easy to add to the number of these classifications and to establish new subdivisions among them. But it

s in view of the correlations and affinities which xist between utility and wealth that the classifi-ations we have made have been admitted; and he ideas or notions to which they answer merit erious attention. The term utility is a generic ne; and everything which, it matters not by what way or in what manner, has the power of atisfying our wants or relieving our sufferings, of ontenting our desires, or contributing to our leasure, possesses the quality characterized by he term utility. The meaning of the word vealth is a more restricted one. Although there an be no wealth whose basis is not utility, utility lone does not suffice to constitute wealth; it con-titutes wealth only by allying itself in things to ertain qualities of a particular order. Most as-uredly natural utilities are indispensable to us; ut as every one uses these utilities at pleasure, nd gathers them without cost of any kind, and as hey are not susceptible of private appropriation, t would be wrong to apply the term wealth to hem. What constitutes wealth is *exchangeabili-y*, it is the value things owe to the possibility of rocuring us, by our delivering them to others, his quantity or that of other things. All econo-nists, however, do not admit that exchangeable tility, or utility having a price, is sufficient to ive things the name of wealth; they claim, that, n order that that name should properly belong to he things in which this utility is to be met with, hese things should, besides, be susceptible of ac-umulation and duration; in other words, that hey should exist under a material form. It is asy to see, that, according to the definition given o the word wealth, the number of utilities which s admitted to constitute a part of it, must increase r decrease, and that the classification adopted by ome writers should not be adopted by others. Be this as it may, the question of immaterial roducts and unproductive labor is the one that uggests itself *à propos* of utilities. Of artificial tilities, there are some which are not convert-d into material wealth or into the means of pro-lucing material wealth; such utilities are con-idered by some writers as unproductive; and, in he eyes of these writers, the labor to which the tilities just referred to is due is in as much dis-avor as sterile labor. Whatever the distinctions hat may be established among the different kinds f utility, it is a mistake to suppose that there can e any utilities which do not contribute more or ess actively to the production of all the others. All the utilities which man succeeds in realizing ave the same destination, the improvement of his ot; they all assist one another, combine with one nother, and mutually fecundate one another, in uch a way that those least material are as much s the others essential to the formation and accu-nulation of wealth, and serve as much to produce t. — Take wealth in the form under which that ame can be least denied it, the form of utilities ixed and incorporated in material objects: such vealth can be produced only with the aid and oncurrence of immaterial utilities. It is intel-lectual conceptions that the workman realizes in his action on matter; it is the knowledge he has acquired that decides the success of his work; and the more precise and extensive this knowledge is, the more fruitful are his efforts, and the more do these efforts increase the things they are intended to produce. But in what does knowledge consist if not in the acquisitions of the mind? And is it not certain that the nations which possess most knowledge are those which obtain material wealth in greatest abundance? Assuredly nothing is more indispensable to the production of material wealth than the formation and accumulation of the capi-tal the employment of which that production ne-cessitates. But it is to the action of utilities of the moral order that the creation of capital is due. It is love for one's family, temperance, economy, and care for the future, which determine or per-mit the making of savings. If these qualities were wanting, no one would lay by, in order to reap a remote advantage from them, resources whose consumption would increase the well-being of the present; and there can be no doubt that the countries in which these qualities are found are always those in which capital continually extends its conquests and increases wealth most rapidly.— Many economists admit rightly that the knowl-edge, skill and constancy of artisans and workmen are as much a part of the wealth of a country as the tools, machines and instruments which they use. Doubtless these kinds of utilities contrib-ute powerfully to the formation and increase of wealth; from the point of view of the production of material wealth, there are, however, between them and the utilities which become incorporated in persons, differences only as to the modes in which their action respectively becomes manifest. And, in fact, that labor may produce wealth, it is not sufficient that it be enlightened, active and in-telligent; it is further necessary that those who perform it be certain of reaping the fruits of their endeavors. But it is to insure this very certainty that the work of judges, magistrates, and even of armies, is intended; and such is the utility which results from the performance of such work. If the laborer, the manufacturer and the merchant display all the activity of which they are capable; if they make savings in order to extend the field of their operations; if they seek for and apply to production better and better processes, it is only because they have faith in the efficacy of the serv-ices of all those who are charged with guarantee-ing the security of person and property. The utility produced by the prosecution, sentencing and punishment of crimes and misdemeanors, does not vanish, as is supposed, with the acts in which it is embodied; on the contrary, it continues to subsist in the minds of all, intimidating those who might be tempted to do wrong, and demonstrating to others that neither violence nor spoliation can attack them unpunished, and that they may de-vote themselves to their work in security. We have seen the services rendered by the agents of authority cease to keep their habitual course; and,

at that very instant, we witnessed, too, the production of wealth affected by languor and discouragement; so true is it that in the kind of utility which these services produce, is to be found the most indispensable stimulant to the success and energy of industrial labor. — We may boldly assert, that nothing which is useful, nothing which serves to enlighten minds, to quicken the moral sense, to propagate healthy habits, or to guarantee peace and security among a people, can be without effect on the success of the efforts employed in producing material wealth. Those immaterial utilities even which seem the least productive; those even the obtaining of which, according to eminent economists, instead of making nations richer in material products, impoverish them to the amount of the sum total of material products consumed by the men employed in the service of the public, contribute their share to the formation of wealth; so true is this, that the formation or production of wealth would become impossible if the immaterial utilities above referred to were either entirely wanting or not to be found in the proportion required by the wants which they serve to satisfy. — We have still to examine one other correlation of utility with wealth. It is certain that utility is a necessary condition to wealth. A product incapable of rendering any service whatever, unfit for any use, would find no one willing to give anything whatever for it; it would, consequently, be wanting in all exchangeable value, that is, in the quality, lacking which, it could not become wealth. This constant association of wealth and utility could not fail to attract attention; and, therefore, many writers supposed that there must exist between them relations such that the one might serve as a measure for the other. Although this error is refuted in the article VALUE, we can not pass it over in silence here. Although the utility inherent in things depends, so far as the estimate made of it is concerned, on circumstances momentarily variable, it is none the less certain, looked at from the general point of view, that it has its measure marked by the species of wants to which it relates. Thus, that utility exists in the highest degree in those things which supply the prime necessities of life, necessities which must be provided for under pain of inevitable death. It exists, in an inferior degree only, in the things which merely serve to defend us against privations and sufferings which do not jeopardize life, and in a degree still lower in those things whose use has no effect but to procure us pleasure or amusement. This gradation of utilities, based on the very nature of the evils or perils attached to the non-satisfaction of the wants which they enable us to satisfy, is simple and easy to understand. There is no one who does not recognize and assert that utility is much greater in the alimentary substances, without which we would have to suffer the deadly pangs of hunger, than in the products to which we owe enjoyments, the privation of which would be attended by neither pain nor harm. — But if utility finds its measure in the greater or lesser absolute exigency of the wants of our nature, that measure is far from being found again in the value itself of the things we may use, and far from contributing, according to their degree of distinction, to make those things integral parts, more or less considerable, of public or private wealth. It is in vain that the bread which nourishes us and the woolens that cover us are of prime necessity to us: that does not prevent an object which, at best, is good only to relieve for a moment the ennui of the person who buys it, being paid for at a price infinitely higher. The reason of this is, that there are men rich enough to give full rein to tastes and desires which others are entirely ignorant of or can not satisfy. Those to whom it is easy to provide for the most essential wants of life, think of procuring all the enjoyments compatible with the size of their fortune. It is not enough for them to be well fed, comfortably lodged and warmly clothed; they offer incense to pleasure, and seek it in everything. They must have things which charm the eye, which afford them delicate impressions and sensations, whose possession flatters their vanity, which sometimes borrow all their attraction only from a fancy or from the caprice of a moment; and the value conferred on these objects by what those who desire them are willing to give in exchange for them, assures to them, among things considered wealth, a much greater place than they would occupy if nothing but the quantum of real utility they contain were taken into consideration. — It is only when the products indispensable to the satisfaction of the wants of existence are lacking that the utility which they contain makes its empire felt, and becomes the dominating principle of their value. When the things which can be dispensed with without peril or injury cease to be supplied in sufficient quantity, fewer of them are bought, and the rise in the price of them has its limit in the reduction of the number of those who ask to acquire them. The same is not the case with those whose use no one can give up without running the risk of death. In times of famine men dispute the means of subsistence with one another. The rich, to procure bread, sell everything which ministers only to their pleasure. The poor despoil themselves of their furniture, their clothing and their shoes. People must then perish or assuage their hunger: each sacrifices to the first of all wants, that of self-preservation, everything which is not of a nature to satisfy that want. Such cases present themselves in besieged cities when their stores are exhausted, and in deserts when, devoured by thirst, the merchants crossing them give for a few drops of water the treasures carried by their camels. But in the normal condition of things, when all kinds of utility are to be found in their customary proportion, their particular destination or quality has no influence on the value at which they figure in exchanges or at which they are estimated in the sum total of wealth. What operates, then, across the variations in price due to the fluctuations of supply and demand, is the

amount of the cost of production of each.—These considerations suffice to show in what the correlation which exists between utility and wealth consists. If value attaches to things only on condition that they be gifted with the utility which alone has the power to render them exchangeable, the value in attaching to them by no means takes for its measure the character of that utility. It is the quantity of other things which each of them permits us to obtain that determines its value; and a precious stone, a pearl or a jewel which serves only to adorn the lady who wears it, has, with like weight and quantity, a thousand of times the value of the wheat or fuel without which we should fall victims of hunger or cold, but which costs little to produce, abounds in the markets, and sometimes has to wait for purchasers.—To resume. Nature gratuitously gives up to men certain utilities which all enjoy equally; it imposes on them the necessity of creating the others. Their labor can produce only artificial utilities, and never has any end but to produce such utilities. The utilities which human labor obtains are of various kinds: some, becoming fixed and incorporated in matter, communicate to it the qualities which constitute wealth; the others are not realized under a material form; they attach to the persons of men, fitting them to render services to themselves or to others, or they attach to acts or services the performance of which has for effect to insure to the individuals or nations to whom they belong, satisfactions, advantages or guarantees, the absence of which would infallibly react in an injurious manner on their interests and on their well-being. It must be remarked, that, although immaterial, these utilities contribute actively to the formation as well as to the accumulation of the products which constitute material wealth; from which it follows, that, even considered solely in their relations to that wealth, the labor by means of which it is obtained has a character of productiveness not less real than the labor which acts more directly on matter itself.—Utility is one of the constituent conditions of wealth; it is inseparable from wealth, but can not furnish a measure of wealth. The utility inherent in things is greater in proportion as the wants to which they are fitted to give satisfaction are more urgent and intense; the wealth inherent in things, on the contrary, is greater in proportion as the cost of production of the latter is greater.

HIPPOLYTE PASSY.

UTOPIA (from the Greek, *οὐ τόπος*, that which exists in no place, nowhere). The word is the invention of Thomas More; the title given by him to one of his works which soon became celebrated; but the thing is much older than the name. By utopia is meant a certain organization of society and of the state, to which imagination and the spirit of system contributes not most but everything, without examining whether it is realizable in a given place or time, and without investigating whether or not it is compatible, even in a general way, with the moral and physical conditions of human nature. It follows from this, that the utopia necessarily changes character according to the system which produces it. And, in fact, there are religious utopias and philosophical utopias; idealistic and sensualistic, sensual and even materialistic utopias. Lastly, there are utopias which have their origin in pantheism; and this is true of the greater number of utopias. The pretension of Gregory VII. to make christendom a republic entirely subject, in things temporal as well as spiritual, to the sovereign authority of the holy see; a pretension afterward developed in a systematic form by the great theologians of the thirteenth and fourteenth centuries, is a religious utopia. The republic of Plato is a philosophical, and, moreover, an idealistic utopia. On the other hand, we observe the inspiration of sensualism in the doctrine of Fourier, the inspiration of materialism in the "Leviathan" of Hobbes, and in the "Positivist Catechism" of Auguste Comte, and that of pantheism in the reveries of Campanella and Saint-Simon. The utopia is, therefore, different from the ideal, although the ideal may sometimes be found in the utopia. The ideal which applies to society, as well as to the individual, raises us above what we are, to show us what we should be, and, therefore, can be. The utopia deceives us in regard to both, by placing before our eyes a chimerical goal, which may at the same time be a type of debasement and servitude; for it is impossible to create a new form of society, without concerning ourselves with the government adapted to it, and the best suited to preserve it. We, therefore, can not admit the distinction made by some publicists between the social utopia and the political utopia. Every utopia is necessarily both political and social.—The age of utopias does not begin, as is generally supposed, with Plato; it is much more remote. It would not be difficult, for instance, to demonstrate that the republic of the Hebrews, such as we may represent it to ourselves in accordance with the institutions and the laws of the Pentateuch (see MOSAISM), was in great part a utopia which was never realized; that that sacerdotal race, a *people of priests*, who acknowledged no sovereign but God, never existed; that the periodical restoration of inheritances to their primitive boundaries and of slaves to liberty, any more than the perfect equality of fortunes, was never put in practice. But we are quite willing to accept as the extreme bound of antiquity the history of Greek philosophy. Even in that history Plato is not the first utopist. Aristotle ("Politics," book ii., ch. v., vi.) introduces us to two utopists, more ancient than Plato, one of whom, Phaleas of Chalcedon, gave social order, as its principle, the most perfect equality, and the other of whom, a celebrated architect called Hippodamus of Miletus, having introduced regularity and symmetry into the construction of cities, desired to impose these same qualities on the organization of the state. Thus he demanded that the citizens, to the number of ten thousand, should be invariably divided

warriors and workmen; and that a distinct portion of the territory of the republic should be allotted to each of these three classes. The two probably belonged to the Pythagorean school, which both commanded and practiced a community of goods. But no one before Plato knew, as well as he did, how to give a body to these imaginary conceptions, and to make the most of them by the graces of poetry and the power of dialectics. We know that he has connected his name with two entirely distinct utopias, one of which is developed in the "Republic," and the other in the dialogue on the "Laws." Both, according to his own avowal, belong solely to the world of ideas, but the second is nearer to reality than the first. The first has for its object perfect unity, the unity which consists in entirely melting the existence of the individual into that of society, and the real person of the individual into the ideal person of the state; the second, in default of unity, is satisfied with equality, which is also a means, but an inferior means, to hold together, under the empire of a common law, the different parts of the body social. All the elements of which the two Platonic constitutions are composed are explained, and, to a certain extent, excused, in these two primary ideas. Thus, the three classes of citizens, or rather the three *castes* of the "Republic," answer to the three faculties of the human soul, the magistrates to the intellect, the warriors to the will or the sentiments, and the laborers to the appetite. And because the appetite should be subordinate to the sentiments, and the sentiments to the intellect, the same hierarchy should exist in the classes which represent them. The most important of these classes is, beyond contradiction, the class of warriors; for the rôle of the lowest class is reduced to obedience; and the magistrate or philosopher, once he has performed his task, once he has founded the city on the supreme laws of the intellect, has nothing more to do. This explains why it is that the warriors should afford us the expression of the ideal unity of which we have just spoken. Hence the community of goods and women which Plato, by restricting it to them, considers a sacrifice, and not a privilege. — It is evident that in this organization the human person and individual liberty count for nothing. They are not quite so entirely annihilated, but they are still oppressed under the régime of equality presented to us in the "Laws." For instance, the division of the territory having to remain invariable, it is necessary that the number of citizens fixed by Plato at 5,040 should be invariable likewise. So much the worse for the children born in excess of that fatal figure. They will be forced to emigrate. Sterile families will be obliged to complete their number by adoption. The law will see to it that personal wealth shall not disturb the equilibrium of fortunes. It will trammel industry, commerce and the increase of capital in such a way that industry, commerce and what concerns marriage, the education of children, and wills. It prescribes, as it did in Sparta, meals in common, prohibits travel, except in certain cases of necessity or of the public interest, subjects to the inspection of the authorities the most intimate relations of life, and lays down the most inflexible rules for all the occupations it is so good as to allow the citizens to engage in. — Pagan antiquity affords no other examples of the utopian spirit; for we can attach no value to a few lost fragments like those of Hecatæus of Abdera, of Evemerus and Theopompus, which are evidently only reminiscences of the ideas of Plato; and, as to the "republic" of Cicero, it is less a work of the imagination and spirit of system than of patriotism and the political passion; it contains only a partial apology for the old institutions of the Roman republic. — The middle ages bring us to the religious utopias, of which the boldest and most brilliant is assuredly the utopia of Gregory VII. Universal theocracy never existed except in the ambition of that great pontiff. The condition of the world at the period in which it was produced, and the general state of society, have always made it an unrealizable dream. But after it had met with the resistance of facts, the idea of Gregory VII. entered the domain of speculation. It took possession of philosophy and theology through the works of Thomas Aquinas, of Giles of Rome, and notably through the *De regimine principum* and the treatise *De ecclesiastica potestate*. Another utopia, hatched at the same epoch, between the end of the twelfth and the beginning of the thirteenth century, but which savors perhaps as much of philosophy as of religion, is that which bears the name of the abbé Joachim, and which is described in the "Eternal Gospel" (*L'Evangil éternel*). Joining the pantheistic principles of Amaury de Bène and of David de Dinant to some misconstrued texts of the Gospels, the adherents of this doctrine expected the reign of the Holy Ghost or of love to succeed the Son, as the Son had succeeded the Father. During this last period of our history, for which the two preceding periods had only paved the way, all differences and inequalities were to disappear from the earth, even the difference between vice and virtue; for all the passions were to be sanctified; the flesh and the spirit reconciled with one another, or rather, confounded together, were to cease their struggle for pre-eminence; and the suppression of war and a community of goods and of women were to make all men one family. — With the renaissance the purely philosophical utopia reappeared; and it was the minister of a despot, the chancellor of Henry VIII., Thomas More, who, in calling it back to life, gave it its real name. Everything in Thomas More's book is not chimerical. It contains an extremely profound and sensible criticism of the politics, the political economy and legislation of his time. And even when he seems to abandon himself to the caprice

of his imagination, when with complaisance he gives us an exposition of the laws and institutions of the country of Utopia, there is a distinction to be made between its political conception and its social organization. The former is simply a representative government, with a leaning toward the republic, having a senate, an assembly of the people, a president appointed for life, and election to all the degrees of power, spiritual as well as temporal. The latter is summed up in communism, with some of the elements which subsequently served in the construction of the phalanstery system. This is sufficient to convince us that the communism of Thomas More does not flow from the same philosophical system as that of Plato. The latter remains as much an idealist, even in its most deplorable applications, as the former inclines to sensualism. It is no longer with a view to their moral perfection, but in the interest of their common happiness, that men, according to the English philosopher, should renounce property. It is sufficient that this end be proposed to them for labor, grown both more pleasant and more fruitful, to satisfy all the wants of society. The day in this system was to consist of only six hours: three hours before dinner and three hours before supper. Fatigue was to be avoided by diversity of occupation; every citizen, exercising several professions at the same time, might alternatively pass from one to the other. He would, therefore, have leisure enough to give himself up to all the enjoyments of study and conversation, and to taste the pleasures procured by the fine arts. — Thomas More, however, does not carry the illusion so far as to believe that all trades, without distinction, could lend themselves to this combination. He recognizes that there are rude and repulsive trades, which are carried on only from necessity. But these trades are to fall to the lot of the public slaves, reduced to that condition in expiation of their crimes, or purchased by the state in foreign countries. Thus we see the utopian spirit resuscitating, in the bosom of Christianity, the institution of the helots. We must remark, however, that the citizens themselves are not treated much better. The law, like the discipline of a barracks, or the rule of a monastery, intervenes in all the details of life. It prescribes what their clothing, their food, their work and relaxation shall be, and leaves not the least place for freedom or intellect. — If Thomas More thinks little of liberty, he has at least some regard for morals. He respects marriage, and, to a certain extent, preserves the rights of conscience by basing the national religion on deism. No such consideration for them is to be found in the system of Campanella, which is easy to account for, since pantheism is its basis. Pantheism confounds man, nature and God; it does away with the individual, and recognizes only the collective existence of society. This is precisely what Campanella does in his famous "City of the Sun." All the actions, and even the sentiments and thoughts, of its imaginary subjects, are submitted to an absolute authority. The chief of this solar people is something like the Supreme Father in the Saint-Simonian system, that is, he is both a monarch and an infallible pontiff, a man clothed with the attributes of God. Under him are three ministers in the departments of wisdom, of power, and of love; and under these three ministers are divers classes of magistrates set over all the virtues and all the faculties, who assign to each man his rank, his task, and, according to the manner in which he performs it, his share in the enjoyment of the common goods; the community is not here confounded with equality. And so, although women are in common, they can be enjoyed only in accordance with the rules established by the minister of love affairs, and only on the days, at the hours and under the circumstances most favorable to the improvement of the human race. Despotism was always dear to Campanella. In his "Discourse on the Spanish Monarchy," written many years before the "City of the Sun," he reaches this conclusion: the only and the true monarch of the world will be the sovereign pontiff; all peoples will constitute only one flock under the staff of only one shepherd; the king of Spain will play the part of the dog charged to bring back to the fold the sheep which have strayed away, and to devour them if they resist! — At the same time that Campanella was taking up the ideas of Gregory VII., and paving the way for those of Saint-Simon, Bacon was writing his "New Atlantis"; but there is no reason why we should concern ourselves here with that work, since it relates more to the reformation and reorganization of learned societies than to the reorganization and reformation of the state. It offers, as it were, an anticipated plan of the institute of France. Hobbes and Harrington had another aim. It is laws and institutions which they pretended to make over from top to bottom, after a preconceived model which they present us with, Hobbes in the "Leviathan," and Harrington in the "Oceana." Although diametrically opposed to each other in their principles, since the former, in the name of materialism, invites us to servitude, whereas the latter, appealing to our moral dignity, urges us on to the conquest of liberty, these two writers have this in common, that their views do not extend beyond the domain of politics. Nevertheless, both are utopists; for the unity of power, as Hobbes conceives it, the absolute monarchy which disposes of men's bodies and souls, of conscience and interests, of religion and of the state alike, is not more easy to realize than the perfect equilibrium between power and property which Harrington seeks to effect, and which he bases on the agrarian law, as if the agrarian law was not itself a source and instrument of oppression. — The *Histoire des Severambes*, by Denis Vayrasse, containing only a mixture, without any consistency (being, so to speak, only a weakened echo of them), of the two systems of More and Campanella, it may be said that the history of utopias in the seventeenth century closes with the

not so much with a hope for the future as with a souvenir of the past. It is a classical reminiscence of the Arcadia of the poets. It transports us among a pastoral people like those who lived under the fabulous sceptre of Saturn. It introduces us to men who have none of the passions, and consequently none of the vices, of humanity; who have put everything in common, since they possess nothing, and have scarcely any wants; and to children, enjoying the peace and innocence of their tender years, while nature, like a kind mother, relieves them of all care and trouble. The *Republique de Salente* unveils to us much more clearly the real thought of the illustrious archbishop. It is the picture of a people, who, with no industry but agriculture, were able to attain the highest degree of perfection and happiness. Population is to that people the source of all wealth, and war the source of all misery. This is the very reverse of the maxims which guided the government of Louis XIV. But there is something more in Fenelon's republic. It is, despite the simplicity of its life and customs, an aristocratic state, the citizens of which, divided into seven classes, are distinguished from one another by their conditions, their occupations, their rights, their clothing even, and in which the first rank belongs to birth. It is the ideal republic of Plato modified by Christian morals and by the prejudices of race borrowed from feudalism.—The eighteenth century, independent and fruitful in every other matter, was only slightly inventive in social and even in political utopias. Rousseau and Mably confined themselves to reproducing, with some necessary development, the institutions of Lycurgus. Theirs was a retrospective utopia. Morelly, in his *Code de la Nature*, is only Rousseau's echo, while Babœuf proposed to become Rousseau's testamentary executor. All, while they never tired talking of liberty, succeeded only in imagining a system of slavery on the foundation of demagogy and communism.—The first half of the present century it is that witnessed the birth of the boldest, the most radical and the most brilliant utopias: Saint-Simonism, Fourierism, positivist socialism and the atheistic theocracy of Auguste Comte. Even a summary exposition of these different doctrines would carry us beyond the limits allotted to us here. (See SOCIALISM.) But we must remark at least, that, while these doctrines are no less chimerical than the ideas of Plato, of Thomas More, Campanella, Hobbes and Rousseau, they are not, at bottom, more liberal. The tendency of Saint-Simonism is to re-establish, to the advantage of pantheism, the universal theocracy of Gregory VII. He hands over the destinies, not only of the state, but of humanity of human thought. There is no refuge from this universal despotism, since both property and the family have ceased to exist. Fourierism also destroys these two fundamental institutions: property and the family. The former it would replace by shares of stock delivered by the state to each in proportion to his labor, his talents and his capital. Of the latter, thanks to the consecration of *free love*, not a trace would be left. Nevertheless, it is not directly by the establishment of despotism, but indirectly by license in morals and the letting loose of all the passions, that Fourier annihilates liberty. To Fourier man is only a kind of machine, of which passion is the motive power, and which, putting itself in gear with an analogous machine, produces the effect desired without its knowledge. He reaches fatalism by the way of sensualism, and from sensualism he draws the most extravagant and unclean consequences that can present themselves to human thought. Lastly, in the materialistic Utopia of Auguste Comte, the priests of humanity, or rather of atheism, have a power no less exorbitant than the power of the Saint-Simonian Supreme Father. They have the right of life and death over all works of the mind, old and new, existing or to come into existence. They are the absolute masters of public education and of the state itself. They dispose, besides, of the honor of citizens, and regulate private life after their fancy, leaving to the lay power only the looking after of material interests. The proletariat Comte makes a public institution. *Majorats* and *substitutions* he re-establishes under another form, and extends them not only to landed but to commercial and industrial property.—The conclusions to be drawn from this succession of chimeras are these: that the progress and perfecting of social institutions are not sudden creations, issuing full-fledged from a human brain, and governed by one single idea, but the fruit of experience and time, of the thoughts and the efforts of a long series of generations; that no society is lasting or perfectible except the society which is founded on the liberty which respects the rights of the individual, and leaves him responsible for his acts and for the government and use of his faculties; that liberty is inseparable from property, and that it is impossible to preserve or suppress the one without preserving or suppressing the other; that liberty and property, in turn, suppose the moral dignity and the inviolability of the human person. Utopias have this advantage, that they bring these truths into greater relief, and compel the human mind never again to separate the progress of the social order from the conquests of civil and political liberty. ADOLPH FRANCK.

V

VALUE. The notion of value is one fundamental in political economy; but unfortunately there is no politico-economical idea which requires so much effort of the power of attention and so much patience to be thoroughly understood. The reason of this is, that the phenomenon to which it relates is purely relative, and consequently difficult to characterize. In order to acquire a just and precise idea of value, we must therefore enter into explanations of some length. — The things whose possession is necessary, useful or agreeable to us, are numerous and various; and we can obtain those which we ourselves need only by parting with others of which we have the disposal. Hence exchanges, which, by determining in what quantity one thing is accepted or delivered in return for another, have the effect of establishing a relation of value among all things. Can you, for example, get one hectolitre of wine for one hectolitre of wheat? If you can, the fact that you can, assigns to these two products their relative value. They figure in the exchange as equal quantities, and the one has the same value as the other. Suppose that from some cause, however, we have to give, not one hectolitre, but 120 litres of wheat for one hectolitre of wine; this establishes a new ratio between the quantities exchanged, and the values are no longer the same. The value which the wheat possessed relatively to the wine fell just in proportion to the increase in the number of litres to be delivered in exchange for one hectolitre of wine; the value of the wine, on the contrary, increased in proportion to the diminution in the quantity of it to be furnished in order to procure one hectolitre of wheat. What one of the products has lost in value the other has gained, and this in exactly the same proportion. What we have just said of wine and wheat, is true of all possible products. They all give rise to exchanges, and each of them obtains a value founded on the quantity either of another product, or, in general, of the other products for which it can at any given moment be exchanged. — The advance of civilization long since did away with barter. The more numerous and diverse products became, the more men realized the necessity of choosing one of them to serve as a medium of exchange; and coined money was chosen for this office, because it possesses certain qualities in a greater degree than any other. Money is one of those things which men desire because of the services which they render, and for which, when in need of them, they give a certain amount of other things. This fact, while it gives to money a certain value in each of the other products, gives also to each of these a value in money; determined by the amount which is required to procure them. Thus, the amount of money which all these products command, *i. e.*, the price which is given for them, constitutes a common denominator of the value which they have in commercial transactions, and it is only necessary to compare their prices to know their relative value. If a hat is worth three dollars, this price, compared with that of sugar, of cloth, of a plow, or of any object whatever, shows how much of these different products can be obtained for it, and consequently what value hats acquire from the quantity either of some particular product or of other products in general which their possession confers the power of acquiring. The existence of an intermediary which assures to the values attached to the various products a term of comparison equally applicable to them all, and which renders it easy to follow the fluctuations in their values, is an immense advantage. But it is important to bear in mind that prices and values are very distinct things. (See PRICES.) Prices express only the quantity of coined money which each product is worth, and this quantity is subject to changes which have their own special causes, but which, while they modify prices, have no influence on the relation of values that exists between the products themselves. Thus we see everything in value is relative. It is the relation existing between two things exchanged, a relation which depends upon the respective quantities which each must deliver to the other in order that the exchange may be made on equal conditions, a relation of which (from the very fact that these conditions must be equal) one of the terms (wherever there is a relation, there must be at least two terms) can not be affected in any sense whatever, without the other term being affected at the same moment in a contrary sense. It is essential that this purely relative character of value be clearly understood, if we would not fall into a multitude of economic errors, so great a part does value play in the speculative part of the science. Among the many consequences which flow from the idea of the relativeness of value, there are two which we will single out, if only to throw a little more light on a subject naturally intricate and abstract: one is, that there are only values, and there is no such thing as a collective value, formed by the union of particular values, susceptible of division, degree or measure; the other is, that there can be no such thing as a general rise or fall of values. And in fact, the values in things being only the expression of the quantity of other things which can be obtained in exchange for them, it is impossible that values should increase in the one case without diminishing in the other. The moment it becomes necessary to give more wheat in order to have a given quantity of wine, we give less wine to procure a given quantity of wheat. The fall in the value of wheat produces the rise in the value of wine, and it is thus in all exchanges. There is no rise of values which does not suppose a fall, and

free the theory of value from the complications which rendered it uncertain and obscure. In vain did the first economists examine the question; they did not succeed in presenting its solution under forms sufficiently clear and precise. It would be wrong to blame them for this. To the difficulties met with in the analysis and definition of every relation (ratio), when neither of its terms has anything fixed in it, there were added others, in the case of these first economists, caused by the very imperfection of the language they were obliged to use. In common parlance, the word value had different significations. It was used indifferently to designate, at one time, the degree of utility inherent in the use of things; at another, the power of acquisition which these things possessed with regard to other things; at another still, their money price. Hence came, in the ideas suggested by the word value, associations which prevented people from noting differences and distinctions between these ideas, without the noting of which it was impossible to reduce them all to their essential meaning. — What economists first thought of was the necessity of attaching to the word value qualifying terms intended to characterize each of the meanings which it owed to usage. The French economists of the last century resolved to apply the term usual value (*valeur usuelle*) to that quality which gives things the capacity directly to satisfy the wants of those who possess them, and venal value (*valeur vénale*) to those qualities which give things that capacity only by means of exchange. This was the course taken by Adam Smith also. What the physiocrates called usual value, he designated as value in use, and value in exchange what they called, less correctly, venal value. The moment people introduced into science two distinct meanings for the word value, instead of reserving it, as the most eminent economists do now, to express only the ratio of quantity between things exchanged, it became necessary to make use of adjectives to determine which of the two significations they intended to give to the word, each time they used it. But even this care could not sufficiently obviate the grave inconvenience of using one and the same generic term to express qualities and circumstances which in themselves have nothing in common. Conceptions which involved the idea of value remained undecided; men's minds were confused by applying the idea of one kind of value to another, and the way was opened to confusions which seriously impaired the progress and authority of the science. — It will be necessary to call attention to several of these confusions by reason of the place which they occupy in the writings of the older economists, and which they have retained even in the works of some of their successors. Some observations upon the most serious of these confusions will serve, on the one hand, to guard us against certain errors into which it is easy to fall, and on the other, by showing what value is not, will make it easier to perceive may consider them as follows: the confusion of value with price; the confusion of value with certain circumstances by which it is influenced; the confusion of value with wealth; and, as a consequence of this last, confusion in the search for an undiscoverable measure of value. — It was easy, and even natural, to a certain extent, to confound values and prices, since, considering them from product to product, the ones serve to measure the others. In the ordinary course of facts we begin by exchanging the products which we have to dispose of, for their value in money, then we give the amount of money received for the other things which we wish to procure, and it is certain that the value in money of these things really corresponds to their relative value. An article that is worth two dollars in money is worth twice as much as that which is worth only one dollar, and if the exchange were made in kind, we would have to give double the quantity of one to obtain the other. But we must bear in mind that prices merely express the relation that exists between the quantities for which money, and other products, are reciprocally placed in the balance, and this relation remains subject to the empire of circumstances which may affect the disposable quantity of money. If money is abundant, it will be more freely offered for each of the products which it is used to purchase; then its value decreases, and prices rise. If money, on the contrary, becomes scarce, less of it will be given in exchange for other things in commercial transactions, its value will increase, and prices, on the contrary, will fall. Thus, unlike values, which can neither increase nor decrease simultaneously, prices, which are the simple results of the comparative value of money and all other products against which it is exchanged, undergo fluctuations peculiar to themselves, and they may all rise or fall at once. The confusion of prices and values has been the unfortunate cause of rendering nations which were not wanting in scientific worth, singularly obscure. It has led economists to conclude from prices to values, and from values to prices, to suppose them governed by the same laws, and subject to the same accidents, and to attribute to the amount of prices, an influence which it should not have. Hence proceeded errors which deservedly esteemed economists have not always avoided, and of which the works of Ricardo himself afford but too many examples. — One of the most frequent confusions, and one which, by its generality, has proved much more prejudicial to the science, is that which confounds value with some of the circumstances that concur in giving value to things. This is the immediate result of the many different acceptations given to the word value. Writers employed the expressions "value in use" and "value in exchange"; thenceforth it was natural that people should imagine that there must exist between the two kinds of value some secret affinity, some link or bond of union covered by some higher principle,

common to both, and they set to work to find that principle. Adam Smith believed he discovered it in materiality and duration; Ricardo, in labor; J. B. Say, in utility; others, in rarity, etc., etc. The inevitable consequence was, that they mistook the very nature of value, and forgot its origin and character; and nevertheless, among the masters of political economy, only a few of the more recent have succeeded in completely escaping from an illusion produced by the use of an inexact and vicious terminology.— The observations suggested by these errors are applicable to all such affinity except rarity. What is value? As we have already said, it is simply a ratio of quantity between products exchanged, and it is perfectly clear that it can not be found outside of this relation. Doubtless, when, in order to obtain a product, we consent to give others which belong to us in exchange for it, what determines us to do so is some quality in the product itself which pleases us, and which is not to be found, or which is found only in a smaller proportion, in those which we give in return for it. This is the reason for every exchange that is made: there would be no exchange if all things possessed the same qualities, and could procure for us the same enjoyments, and satisfy the same wants; and it is surprising that this simple remark did not suffice to prevent men from connecting with this or that particular quality of things the principle of their value. — There are things which, in order to answer to the wants in view of which we seek them, should possess materiality and duration; there are others which must have absorbed a great deal of labor in their making, and others again which must be susceptible of immediate consumption: we exchange them for one another because our wants and our tastes are different, and because, if to build a house, we must have materials whose duration will resist the ravages of time; we must have, in order to feed ourselves, bread and meat, which do not last, and for our recreation, theatrical representations, concerts and amusements, which produce but a passing emotion, and leave no trace except in our remembrance. — Utility is essential to the value of things, in this general sense, that we give nothing for any of them but upon condition of finding, in their possession or in the use which we make of them, some pleasure or enjoyment; it may be well to recall, however, that the nature of the wants which they are intended to satisfy has no influence on the more or the less of value which attaches to them. We must first provide for the most imperious necessities of life, and obtain the means of satisfying them; but, this once done, each one takes into consideration other consumers, and this consideration is ampler in proportion as he can accord them more. The wants of the intellect and of the heart, love of the arts, taste for luxury, the promptings of pride or vanity—all concur in determining the esteem in which things are held; and it is not uncommon for men to pay for a flower, or ribbon, or the pleasure of hearing a violinist, for instance, a price equivalent to a considerable quantity of the products without which we would have to suffer the deadly attacks of cold or hunger.—What gives at times an immense value to products, whose deprivation causes neither inconvenience nor physical suffering, is the price that is put upon them by those who are able to obtain them, and the sacrifices men make in order to possess them. There are men rich enough to gratify their every fancy; and, no matter what the things which their fancy craves, these things from the moment they are sought after and there is a demand for them, acquire, equally with other objects, a real value, based upon the amount of other things which men give in order to obtain them. Although there is nothing that is indifferent in the feelings and tastes which dictate the employment of wealth, from the standpoint of morality, of the future and of social progress, nothing can prevent the objects which serve to gratify frivolous and even blamable desires from having the value of the objects for which they can be exchanged. — Among other consequences following the opinion that value should have a fundamental principle in one of the material qualities inherent in things, there is one consequence which has given rise to so many controversies, that we can not pass it over in silence here. It has been asked whether it were possible that immaterial things, acts, efforts, services, which are not realized under a tangible and durable form, could have a value; and a goodly number of writers have answered in the negative. The services of governments, of magistrates, of the clergy, of physicians, and of members of the bar; instruction given by masters, professors and artists—all these and many other similar things have been declared without real value; and this despite the fact that it was very evident that those who felt the want of these services did not hesitate to give, in order to obtain them, large quantities of things to which value was attributed because of their materiality. This erroneous opinion has now, however, but few adherents. It is recognized that nothing which men prize sufficiently to give a price for, can be devoid of value, and that those things which are called immaterial have, like all other things, a value proportioned to the quantity of each of the different things which they put those who dispose of such immaterial products in a way to procure for themselves. This error regarding immaterial services has not been confined to the question of value; we meet with it also in essays upon production, wealth and labor. — Rarity deserves special mention. It is not, like materiality, duration, labor, or utility, a quality substantially incorporated in things; it is merely the effect of a disproportion between the quantity in demand and the quantity obtainable, and it, therefore, exercises an effectual influence on the value of the things of which it is either the ordinary or the accidental lot. What causes rarity is the impossibility of increasing a thing at the pleasure of those who wish to obtain it; hence they vie for its possession, and give in exchange for it a much larger quantity of other

products which are found in small number; this it is also which for a moment gives an extraordinary value to the most common products, such as wine, wheat, wool, cloth, or glass, when, by some accident, the want of them is felt. But rarity, besides being at all times an evil, is, like value itself, only the effect of a relation, and can exist only on condition that it (rarity) does not become general. When bread is more scarce than usual, it acquires an increase of value, but this increase it acquires only because the products given in exchange for it lose in relation to it some of their own proper value, and lose this only because they retain their accustomed abundance. If they became rare or scarce at the same time and in the same proportion as bread, the relation between the quantities exchanged would have suffered no alteration, and their respective values would have remained the same. Rarity acts only privately, only to the extent that it is confined to certain products in opposition to others; and to elevate rarity into the dignity of the general principle of value, is to make a strange mistake; for it is evident, that if rarity extended at the same time to everything offered in exchange, its effects would disappear immediately. — The confusions between value and wealth do not lead to consequences of so much importance. They spring from correlations which have a real existence, and it is easy to explain them. Private wealth is in proportion to the value of the things of which it is made up. Lands, houses, capital, merchandise, in a word, everything which belongs to individuals, is susceptible of exchange, and consequently possesses the value resulting from the amount of things of another kind which it can be used to obtain. In order to know, therefore, the amount of his wealth it will be sufficient for an individual to ascertain the value in money, the price, of each of the things which he possesses, and then to compare the sum of these prices with what it will enable him to procure in other things. But the correlation between private wealth and the value of the different elements of which it is made up, does not extend to real, positive and general wealth. This latter constitutes a whole, and for want of a term of comparison (because it is not exchangeable) it can not be estimated in any manner. If the things comprised in the sphere which general wealth embraces have all the value which is conferred on each one of them by its particular power of acquisition with regard to other things, the same can not be said of the mass; for this mass admits of no comparison which would permit us to assign it a value, and it would be vain to attempt to find, in the variable relations of exchange that exist between its constitutive parts, an expression which would cover them all. Hence we must have recourse to circumstances entirely foreign to the value which the elements of general wealth receive solely from the exchanges to which they give rise, if we wish to estimate the extent of the wealth of utility to explain still more the differences which necessarily distinguish value from wealth. Wealth, taken in its aggregate, is the possession of those things by means of which men attain to the satisfaction of their wants, and the more abundant these things are, the greater wealth is. Therefore, it is by its ratio to the wants which it is destined to satisfy, that we must estimate wealth, and this ratio can not be affected by the ratios which exist between the things that constitute it. Not that wealth can increase without modifying the preexisting ratios of value. Wealth increases only to the extent that the efforts of labor, becoming more ingenious and more fruitful, produce a greater amount of some one of those things whose use is either necessary, agreeable or useful to us; from which it follows that this thing offered and delivered in exchange for others in a greater quantity than before, loses something of its relative value, and causes these other things to gain in relative value. Thus every advance in wealth has the effect of reducing the value of the products which it increases, and of raising the value of the products on which it has no effect. This is an eminently beneficial change to the people among whom it takes place; but from the point of view of value the change has no effect, because the value of each thing depends on relations one of whose terms can not increase without the others decreasing. — It is so difficult for the mind to see in value only the effect of a ratio of exchange, that for a long time most of the economists were preoccupied with the idea of discovering some measure for it. This was a seeking for the impossible. It would have been necessary to find a value to measure value, and where could a value be found which was not itself the result of a ratio, and, because the result of a ratio, as changeable and variable as the other values to which it was sought to make it serve as a comparative measure or standard? But the search for this measure of value has been so common that we can not pass it over without remark. — Among the things which have attracted attention as specially fitted to serve as a measure of values, coined money, human labor and wheat have been accorded the preference. But it was not given to any one of the three to act as such measure better than the others. When money was taken as the measure of values, it was indeed possible to find what was the value in money of each product at a given moment, and thus to find a comparative term applicable to all products; but it was not possible to discover in money itself a fixed value protected from the variations which are the effects of causes operating on the quantities of the products which have just come into the market to be exchanged one against the other. It was plain that gold and silver, of which money is made, like all other products, varied in value, according to their greater or less abundance in the market, and that they had a very unequal power of acquisition at different

epochs, and were also subject to the empire of circumstances, which at one time rendered their extraction more costly, and at others made their consumption greater or more necessary. — And so of human labor, in which Smith had placed the origin of value, and which he had pointed out as the one thing which afforded its most exact measure. Human labor is unquestionably an element in all production of wealth; but it in no wise follows that its value is absolute, and, that in the relation which it holds to the things against which it is exchanged, it constitutes a term fixed and constant. On the contrary, labor is more or less in demand, and is better or worse compensated at different periods; this is clearly demonstrated by the frequent fluctuations of wages. — As to wheat, two reasons caused it to be considered that it might serve as a measure of value. One of them was the supposition that the same quantity of wheat must have served at all times to satisfy equal wants of nutrition per individual; the other was the supposition that alimentary products must have preserved, in exchanges, a fixed value, since such products have the power always to create for themselves the demand necessary to correspond to the extent of their supply. The first of these suppositions is erroneous; for wheat is far from having been at all times and in the same quantity an object of man's consumption; the second is true only within certain limits, and in what concerns not any special product, but the aggregate of all the products which minister to the wants of subsistence. Be this as it may, the value of wheat is, and always will be, a relative one, dependent upon the action of circumstances, among which we may reckon the extension and progress of agriculture, and the amount of manufactured products for which it can be exchanged, an amount which tends to increase in proportion as the labor required to produce them increases in power and skill. — The efforts made by economists to discover a measure of value, prove how difficult it is to disentangle the idea of value itself from the complications by which it is surrounded, and with which it presents itself to the mind. Many writers, even of our own day, have not succeeded in doing so, and it would be easy to cite comparatively recent works in which tendencies to suppose in things the existence of an absolute value still subsist. We must of course make due allowance for the lack of precision in the form under which every fact of relation manifests itself to the mind; but even more allowance must be made for the imperfection of the terminology in use. So long as the word value is used in different senses, we expose ourselves to a confusion of ideas, and the wisest plan would be to take a decided stand in this matter. John Stuart Mill proposes to use the word value to express only the effect of the relation in virtue of which products are bartered one for another, in proportion of such and such a quantity of the one against such and such a quantity of other things. There is nothing more necessary in the interest of science, nor is there anything easier. We have the word *price* to designate the value of things in coined money; we have the terms *immediate* or *direct utility*, and other expressions to designate what is so improperly called value in use. It is easy to reserve for each thing an expression which maintains in language the distinction itself, the special sense which belongs to it. — Let it be distinctly understood, therefore, that through the rest of this article we shall use the word value only in its real sense. It shall be used to express only the quantity either of a thing or of the things in general which a thing serves to obtain; in other words, the power of acquisition which it exercises by means of exchange. — Upon what conditions may things be considered to possess value? On what foundations does the property which renders them exchangeable, rest? What are the circumstances which determine in what quantity one thing shall be given for another? The meaning of the word value once clearly determined, these questions become simple, and are easily solved. — First of all, it is plain that nothing is exchangeable except upon condition, first, of possessing qualities which render it desirable, and second, of being obtainable only at the cost of some effort and pains. No one gives any of those things which every one may have without labor, and value belongs only to those things whose possession costs labor and fatigue. The man who wishes to obtain a thing compares the satisfaction which it will afford him with the sacrifices he must make to obtain it, and decides to part with such or such a quantity of other things which belong to him, in order to procure it. It matters little what motives prompt him to acquire it, whether an imperative want, a frivolous taste, or a simple caprice, the thing has the value at the moment of what he consents to give for it. The diamond for which a value equal to a thousand hectolitres of grain is offered and accepted, has as much value as these thousand hectolitres. In like manner, a hundred kilogrammes of salt are worth no more than the lesson of a dancing master, or the service of a hair dresser, if the price paid for the lesson or the service is sufficient to enable us to buy the same quantity of salt. —The qualities which render things desirable, the impossibility of obtaining them without personal labor, or without giving in exchange for them other things which have cost personal labor: such are the conditions which confer value on things. The extent or the measure of the value of a thing depends upon the greater or less difficulty which those who covet or need it find in procuring it. It is this that makes the momentary value of a thing depend upon the relation existing between its supply and the demand for it. If a product is not to be found in sufficient quantity to supply all the demand for it, those who desire it enter into competition for its possession; they give in exchange for it more of other products, or of the money with which other products are bought, and, as a consequence, its value rises. If the contrary happens, that is, if a product

possess it can not keep it forever; they are obliged to dispose of it, in order to procure other things which are necessary to them, and find themselves constrained, in parting with it, to be content with a smaller quantity of the products they receive in return. Thus it is the condition of supply and demand which assigns to each thing its power of acquisition over other things. All things increase in value when the demand for them is greater than the supply of them; all diminish in value when the supply of them is greater than the demand for them; hence the variations of price to which things are subject, variations which, by expressing the differences that arise in the sums of money against which those things which experience them are exchanged, express like differences in the quantities of other things which these sums enable one to obtain. — Besides, it must be remarked that the demand for a thing naturally extends or contracts in proportion to the modifications which its value undergoes. When there is a lack of a product it grows dearer; and as then there are many persons to be found whose desire to procure it is checked by the increase of the sacrifices which they must make to obtain it, the demand, checked by its increase in value, is restrained within the limits set by value itself. In like manner, when the price of a thing decreases, purchasers increase in number, and its value descends only to the point necessary that such a product may be found in the market in a quantity proportioned to the supply. Hence the fluctuations of value occasioned by the changes in the relation of supply and demand, have for effect the maintenance of an equality between the two terms of that relation; that is, an equilibrium between supply and demand. — We must not, however, infer from this fact that there exists any proportionality whatever between the movements of value and the differences in quantity of the things supplied. Everything depends, in the effect produced on the value of the goods, whether by the increase or the decrease of the supply, on the nature of these goods, and on the kind of wants they are intended to satisfy. All goods are not equally necessary to life; and if there are some the demand for which is greatly curtailed because their value has risen even ever so little, there are others, the demand for which people are not nearly so free to lessen. The value of wheat doubles the moment the quantity that can be delivered decreases one-fifth, and is trebled, when this quantity is reduced one-fourth. Wine does not increase in value in the same proportion when the quantity supplied diminishes, for the reason that its consumption is less indispensable; and the products which it is still easier to do without increase in value much less than wine when their supply diminishes. On the other hand, the qualities which render products more or less easy to keep in the state required for use, exert a sensible influence upon the decrease in their value. In case of an extraordinary or superabundant harvest, owner can not utilize them all himself, and because the price at which he is compelled to sell them will not pay the cost of transferring them to the nearest market. What we are warranted to assert is this, that value is fixed by the relation existing between supply and demand; that it usually increases or decreases in such a way as to equilibrate the two terms of that relation, but in no wise in proportions conformable to the differences expressed in the figure of the quantities supplied. — How decisive soever the influence exercised by the momentary state of supply and demand may be, the value of things has none the less its own *raison d'être*, and a measure which, in despite of the accidents which serve to expand or contract it, constantly tends to return to its normal dimensions. Vainly do the fluctuations of supply and demand succeed one another in contrary directions, these fluctuations necessarily end by compensating one for the other, and the point at which they meet marks the natural value of things. — What assigns a natural value to things is the fact that it costs something to produce them; that is, the onerosity which attaches to their production. This is true of all things, except of those the quantity of which can not be increased, or which can not be sufficiently increased to keep up with the demand for them. With this one exception, all things are exchanged against one another in accordance with the amount of cost necessary to fashion them for the use of, and to transport them to, the consumer. Those which cost most are exchanged in a lesser numeric quantity, against those which cost less, and thus the differences in their costs of production of various articles are balanced. (See Cost of Production.) — Before attempting to show that this can not be otherwise, we must first recall what constitutes the cost of production. This cost is twofold: part of the cost of production is constant and unavoidable, and enters, though in unequal amounts, into all production; part is accidental, arising from artificial or special causes, and does not attach to all production. The first part of the cost of production here referred to consists in the expenses of labor and in the expenses attached to the employment of capital. There is nothing whose production does not require a certain amount of both these expenses. In the productions of the humblest artisan, days of labor and the consumption of capital under various forms, figure. Raw material has been purchased and transformed; tools and implements have been deteriorated; there have been risks and losses which must be covered; and, in addition to all this, there is the interest which must be paid on the capital employed: it is necessary that the thing produced should be exchanged on such conditions as shall restore to the producer the wages due to his own personal labor, as well as the wages due to the labor of his workmen, if he employs any, and the profit required to bring back to him the portion of

capital which he was obliged to sacrifice during the course of his labor. Suppose a product, which, in order to reach the consumer, costs six francs for workmen's wages, and four francs in profits for the preservation of, and interest on, the capital invested in it: the natural value of this product will be the sum of these two amounts; that is, ten francs. Thus the natural value of various products depends upon the proportion in which wages and profits enter into the sum total of their cost of production. All products tend to exchange one against another in proportion to this natural value; and this natural value is the value which continues to subsist for all products as their mean value, whatever departures from such mean value the momentary fluctuations caused by the variations of supply and demand may make in it. — The reason of this is plain. No industry could subsist if the commodities and goods which it furnishes the public were not taken at the price which the cost of production requires. An industry which could not recover in full the total of its outlay would soon fail. Hence from the moment that any product ceases to exchange against other products in a quantity sufficient to balance the expenses which must be borne by those who make it, we notice that its manufacture begins to be restricted; and the restriction does not stop until it reaches the point at which the reduction in the supply of the product causes it to regain the value in which it was lacking. On the contrary, if a product receives in other products more than the equivalent of its real cost, the profits assured to those who deal in it cause a speedy increase in its production, and the increase in the amount offered very soon deprives it of its value to the extent that such value is exaggerated. Thus it is that the value in things, whenever it departs from its natural point, is finally brought back to it. Competition diminishes in industries which are not sufficiently remunerative, and the supply diminishes with it; competition increases in those industries which are uncommonly remunerative; labor and capital abandon industries which are losing, to engage in those which are gaining; and, owing to this continual change, the value respectively of the products exchanged continues to be, or becomes again, in the case of all products, the value determined by the amount of the cost incurred in their production. — We do not mean to say that all products of the same kind, considered apart from all others, obtain in exchange merely the equivalent of their own cost in other products. Far from it; there are some which obtain much more, and for this reason: the quantity of each product which can and should be produced is determined by the demand for it, and its value always rises high enough to assure its supply in that quantity. But the conditions of labor are not in all respects equal or similar. They are less favorable in some places than in others, and when these places are called upon to furnish the market a contingent, without which the supply would be inadequate, it is the expenses which production necessitates in those places that determine the general value of products. It follows that this value corresponds, not to an average cost, but to the cost of the part of the product which reaches the market after having required the greatest amount of the different costs. In the actual state of demand that portion has its outlet just as the others have, and among similar products it is the dearest which regulate the value of all, thus adding to those which are cheaper a value greater than their cost of production. This fact is deserving of all the more attention, because many modern writers have overlooked it when discussing the large profits reaped by certain producers, and still more frequently when discussing the subject of rent. — It is, for instance, a common opinion that the rent of land contributes to raise the price of the means of subsistence, and that it would be otherwise under combinations different from those which up to the present time have governed property. Nothing, however, could be more decidedly false. Like all other products, those of the soil owe their value to the demand for them. All lands are not equally fertile; they can not all produce on the same conditions, and whenever the wants of consumption are such that recourse must be had to lands of inferior quality, their products must necessarily be paid for at a price which will compensate for the cost attached to the cultivation of such lands. In a country like France, in which wheat has, on an average, a value of a little more than eighteen francs per hectolitre, there are lands on which its value is not twelve, and on these lands the excess of the value for which the wheat is exchanged over the costs at which it is harvested is a rent which accrues to the owners of these lands. But this rent has no influence upon the accrued value to cereals; it is simply the effect of that value. The population of France could not do without that part of the wheat crop which could not be produced at a cost less than eighteen francs per hectolitre, and it is this part which assigns to the other parts their natural value. If the demand for the means of subsistence should increase to such an extent as to require the cultivation of lands on which wheat could not be produced except at an average cost of twenty francs per hectolitre, its value would rise still higher, and with it the rent which the land paid to those who owned it. — The superaddition of value, which the wants of consumption confer, as compared with the products of their cost, or the products of the major part of the land, exists also in the case of a multitude of different industries. Thus it is the cost of extracting ore from those mines in which such cost is greatest, but whose product is necessary in order to meet the demand, which fixes the value of the ore. The same is true in manufacturing industries; the demand for the articles which they produce raises the value of these articles to a figure necessary to pay for the products of those manufacturing industries which are carried on, it matters not for what reason, at the greatest expense; and the higher net cost which is peculiar

other industries a value which exceeds the real amount of their cost of production. — But, if the value of the things which are susceptible of indefinite increase finds its rule and measure in the cost of the production of those of them which in order to reach the people who want them cost most, it is otherwise with the value of the things whose quantity it is impossible to increase at the desire or whim of the public. Their rarity exercises an influence on the value of the latter; and raises their value in a proportion which has no relation whatever with what they cost or did cost to produce. A work of art from the hands of one of the old masters, the autograph of an historic personage, or some object which he used during his lifetime, a jewel, a piece of armor, a bronze, a statue found under the lava of Pompeii or among the ruins of Athens or Rome, has an immense value; and there are persons who, to obtain one of these products, would part with a quantity of things in which had been invested a thousand times more wages and profit on capital than was invested originally in the product they purchase. In like manner precious stones, pearls of the first water, gold and silver and other precious metals, possess a value far in excess of what it cost to discover and extract them. Nature did not create them in sufficient quantity to satisfy the desires of all. So also, wines, fruits and tobaccos of certain choice brands, which possess special qualities that cause them to be eagerly sought after, possess in exchange a value far superior to that which their cost of production would give them. They can not be increased; their supply has forced limits; and the desire of obtaining them induces people to give much more for them than it costs to produce them. — Besides rarity, there are artificial circumstances which affect the value of things and help to increase it beyond what the cost of production would warrant. Such are taxes (except taxes on land, in so far as they affect only the rent), monopolies and restrictions on the freedom of trade. Every tax has the inevitable effect of increasing the price of the merchandise or product upon which it is imposed. The person who pays the tax must be reimbursed; he adds the amount of the tax to what the article costs him, and in exchange he receives back the amount which he paid the state in addition to the natural value of the thing. Such are the effects on the value of things of the taxes levied on them before they reach the consumer, no matter for what reason, at what moment or under what form such taxes are levied. The treasury of the state can levy nothing on them without increasing the cost of their production, and consequently without increasing in an equal measure the value for which they are sold. The effect of monopolies is equally pronounced, and more lamentable. Monopolies are of different kinds; some are established for the benefit of the state, and serve as a source of revenue for it. Of this kind is the monopoly on tobacco in France: the government alone purchases and furnishes it for sale at a price which assures the state an annual revenue. Whatever superaddition of value such monopolies give to the products which they affect, is warranted if they serve to relieve a country of other taxes which would cause still greater inconveniences, and this must be borne in mind when considering these monopolies. Patents also constitute a monopoly in favor of the patentees; they may be a just remuneration for the labor and sacrifice to which an invention was due; but it is only by exaggerating the value of the patented article that they exercise any influence. Producers who are free from all competition are masters of the market, and it is an easy matter for them so to manage as to sell only at a large profit on the cost of production. The exclusion of foreign merchandise, through custom house duties intended to reserve the home market for home producers, has to a certain extent the same effect as patents. Consumers are forced to pay a higher price for the protected products than they can be bought for elsewhere, and are subjected to sacrifices which could and should be spared them. This alteration of the natural relations of value between exchangeable products is a real evil; nothing could be more prejudicial to the proper employment of productive forces, and thereby to the progress of social power and wealth. Such acts can be justified only by the necessity of defraying public expenses; but the products whose cost of production and value are to be artificially increased by the imposition of duties, should be carefully selected. The more these products are necessary for the satisfaction of wants common to all, the less those classes who consume scarcely any other products, and who have only the labor of their hands to give in exchange therefor, will have of them, and the more difficult it will be for them to reach that degree of well-being without which their condition can not be improved. — Value, relative in its very essence, and based for each thing solely upon the quantity of another thing, or of other things in general, which it enables one to obtain, can not be affected by any of the circumstances which act equally upon all things at once. Its elements are labor and capital. It is the very quantity of these two things which every product absorbs before becoming a fit object of consumption that fixes its relative value; and no matter what the rate of wages or profits in a country may be, as the relations of exchange between the products can not be changed by that rate, neither can values be changed thereby. This is not the case, however, when the rate of one of the elements of production only is modified, and this because all products do not contain it in a like proportion. When wages increase, the value of those things into whose cost of production it more largely enters, naturally rises, and the value of those which require less manual labor than capital is comparatively lessened. The contrary is true when the rate of profits increases. In this case, those things whose cost absorbs more capital than

labor increase in value, and obtain a greater quantity of other things in exchange. Such fluctuations in the respective value of things are of frequent occurrence, and when they happen it is easy to determine their cause. It will be noticed, however, that, in the ordinary course of facts, there are things whose value tends to fall gradually. These things are those whose manufacture requires more capital. The reason of this is, that, as civilization advances, capital accumulates in such a way that those who possess it are forced to content themselves with smaller profits. — Such are the laws which govern value, and preside over its distribution among things. Value is not a quality incorporated in things, but is for each product the effect of a relation of exchange, the effect of the quantity of other products it serves to obtain; and this relation is determined, at any given moment, by supply and demand. But, while supply and demand regulate the values of the moment, there is, none the less, for those things whose number may be increased indefinitely at man's pleasure, a natural value, which, despite all the fluctuations to which that value is subject, always prevails in the end. This natural value results from the cost of production, and is determined by the amount of labor and capital employed in the production. A clear understanding of these general principles suffices to enable us to solve all questions pertaining to value, no matter how complicated they may seem to be.

HIPPOLYTE PASSY.

VAN BUREN, Martin, vice-president of the United States 1833–7, and president 1837–41, was born at Kinderhook, N. Y., Dec. 5, 1782, and died there July 24, 1862. He was admitted to the bar in 1803, and served in the state senate 1813–20, in the United States senate 1821–8, as governor in 1829, as secretary of state 1829–31, and as minister to Great Britain 1831–2, this latter nomination being rejected by the senate. (See ALBANY REGENCY, NEW YORK.) On his return he was successively elected vice-president and president, but was defeated in 1840. (See BANK CONTROVERSIES, IV.; LOCO-FOCO; INDEPENDENT TREASURY.) In 1844 his disapproval of the annexation of Texas cost him the democratic nomination; and his New York supporters were naturally in an attitude of armed neutrality toward the new administration. This state of things verged naturally toward open war; Van Buren was nominated for president in 1848; and his nomination was successful in defeating Cass, the regular democratic nominee. This result compelled a compromise between the two factions, but it left Van Buren definitively out of politics until his death. (See BARNBURNERS; ANNEXATIONS, III.; FREE-SOIL PARTY; DEMOCRATIC PARTY, IV.) — Van Buren is commonly known as a master of political intrigue, the democratic "little magician"; as the one who introduced into the national civil service the debauching influences which had for thirty years controlled the civil service of his own state; as the forerunner of that class of mere politicians which has since 1829 generally supplanted the previous race of trained statesmen; as a smooth, easy and adroit manager of political machinery, without political principles, constitutional training, or scruples in party warfare, revering in politics only the Albany regency, and Martin Van Buren as its prophet. All this must be admitted, but only in part. That Van Buren had political principles and the courage to maintain them, even in opposition to his own party, is shown by his opposition, in the New York convention of 1821, to the popular idea of universal suffrage, to "cheapening the right of suffrage by conferring it with an indiscriminating hand upon every one, black or white, who would be kind enough to condescend to accept it"; by his opposition, in the same convention, to the equally popular proposal to exclude the blacks from the right of suffrage; by his refusal, during the panic of 1837, to violate his political creed by recommending interference by government with the course of business; and by his refusal in 1844 to compass his own nomination to the presidency by indorsing the annexation of Texas. On the whole, he may be set down midway between the earlier and the later schools of politicians, with defined principles derived from his education among the former, and yet with sufficient power of adaptation to make use of the vicious machinery of the latter. — See Holland's *Life of Van Buren;* Dawson's *Life of Van Buren;* W. A. Butler's *Martin Van Buren;* Emmons' *Life of Van Buren;* Abbott's *Lives of the Presidents,* 241; 3 Parton's *Life of Jackson;* 2 Hammond's *Political History of New York;* Jenkins' *Governors of New York,* 346; 4 Tucker's *United States,* 294; Bradford's *Federal Government,* 434; 2 von Holst's *United States,* 147; 2 *Statesman's Manual,* 1153 (for his messages). There is a pen portrait of Van Buren in 2 von Holst, 149. Mackenzie's *Life and Times of Van Buren* is a collection of stolen private letters of Van Buren and others, giving a painful interior view of "practical politics" in 1819–37.

ALEXANDER JOHNSTON.

VERMONT, a state of the American Union. — The boundary between Massachusetts and New Hampshire (see those states) was long disputed. It was settled in 1740; but, before that time, both colonies had made large grants of land to intending settlers in the disputed territory. After the settlement, a new question came up. New Hampshire, believing that her territory extended at least as far west as that of Massachusetts, claimed all the territory west of the Connecticut river, covered by the present state of Vermont, and, pursuing the usual policy in such cases, continued to make grants of land therein, in order to fill it with settlers devoted to her interests, and dependent on her supremacy for the title to their lands. In 1749 New York appeared as a claimant, though on what ground it is hard to see. She had acquiesced in the western boundary of Massachusetts

sissippi, as a western boundary; but New Hampshire had no such charter claim. The fact seems to be that neither New York nor New Hampshire had any rightful claim, and that this territory had been overlooked, and was within the limits of no colony. In 1764 New York obtained an arbitrary decision of the king in her favor, and at once undertook to make the settlers on the "New Hampshire grants," as the territory now began to be called, pay for their land anew. All the judicial machinery of New York was brought into requisition to oust the settlers who refused to pay, and, although the king in 1769 ordered the issue of further New York grants to cease for the time, the New York courts did not cease to harass the settlers. The latter resisted the New York authorities boldly; organized militia forces; selected headquarters, marked by a liberty pole surmounted by a wild cat grinning defiance toward New York; and maintained their independence of both the claimants. Throughout the revolution they maintained a separate warfare against the British, and toward its close there were even some negotiations looking to a separate peace; but the final treaty of peace in establishing the northern boundary of the United States, recognized the "New Hampshire grants" as included in the new nation. — Jan. 17, 1777, a convention at Westminster declared the grants to be an independent state, by the name of "New Connecticut." A new convention at Windsor, July 2–8, 1777, gave the state the name of Vermont, and adopted the Pennsylvania constitution of 1776, with some few changes, prominent among which was a prohibition of slavery. (See ABOLITION, I.) The preamble contained a full statement of the grievances by reason of which Vermont had refused to submit to New York's jurisdiction. New Hampshire made little opposition to Vermont's proceedings, and Massachusetts recognized the new state in 1781; but New York's opposition was sufficient to prevent her admission to the Union. In 1781 Vermont proceeded to admit to her assembly delegates from the southwestern part of New Hampshire and the northeastern part of New York, east of the Hudson; but, though she disavowed these annexations in the following year, New York still prevented her admission. But New York was wearying of the struggle. Her assembly in 1786 voted final compensation to her worsted adherents, and in 1789 appointed commissioners to acknowledge the independence of Vermont. Jan. 6, 1791, a state convention decided to apply for admission, and the state was admitted by act of Feb. 18, to take effect March 4.—CONSTITUTIONS. The provision for a "council of censors," to meet once in seven years and revise the constitution, which was abandoned by Pennsylvania in 1790, was retained by Vermont until 1870. By their proposition of amendments, and their ratification by state conventions, the original constitution (see PENNSYLVANIA) has since been slightly modified. annually, in the former by counties, and in the latter by towns. In 1870 the term of office of the legislature, governor and other state officers was extended to two years; the council of censors was abolished; and its powers to impeach state officers and to propose amendments were transferred to the legislature. In 1882 the manufacture or sale of intoxicating liquors was prohibited. — GOVERNORS. Moses Robinson, 1789–90; Thomas Chittenden, 1790–97; Isaac Tichenor, 1797–1807; Israel Smith, 1807–8; Isaac Tichenor, 1808–9; Jonas Galusha, 1809–13; Martin Chittenden, 1813–15; Jonas Galusha, 1815–20; Richard Skinner, 1820–23; Cornelius P. Van Ness, 1823–6; Ezra Butler, 1826–8; Samuel C. Crafts, 1828–31; William A. Palmer, 1831–35; Silas A. Jenison, 1835–41; Charles Paine, 1841–3; John Mattocks, 1843–4; Wm. Slade, 1844–6; Horace Eaton, 1846–9; Carlos Coolidge, 1849–50; Charles R. Williams, 1850–52; Erastus Fairbanks, 1852–3; John S. Robinson, 1853–4; Stephen Boyce, 1854–6; Ryland Fletcher, 1856–8; Hiland Hall, 1858–60; Erastus Fairbanks, 1860–61; Frederick Holbrook, 1861–3; John S. Smith, 1863–5: Paul Dillingham, 1865–7; John B. Page, 1867–9; Peter T. Washburn, 1869–70; John W. Stewart, 1870–2; Julius Converse, 1872–4; Asahel Peck, 1874–6; Horace Fairbanks, 1876–8; Redfield Proctor, 1878–80; Roswell Farnham, 1880–82; John L. Barstow, 1882–4. — POLITICAL HISTORY. A large part of the state's original population came from Connecticut, whence the proposed name of "New Connecticut"; and the subsequent drift of their descendants to the neighboring state of New York accounts for many Connecticut names, such as Seymour, Phelps and Chittenden, in both the other states. Most of this immigration was democratic, so that the state's politics inclined toward the democratic party; and this tendency, and the likelihood that Vermont would vote for New York city as the national capital, will help to account for New York's acquiescence in her admission. The administrations of Governors Tichenor and Martin Chittenden are the only distinctive federalist periods; and yet the federalists were strong enough to control the legislature, and thus obtain the state's electoral votes for Washington and Adams in 1792, and for Adams and Pinckney in 1796 and 1800. The political revolution of 1800 so far intensified political interest in the state that its majority took better care of the electoral votes, and they were thereafter cast for the democratic candidates until the downfall of the federal party. But the politics of the state had little of the bitterness which elsewhere characterized this period. Governor Chittenden's action in recalling, in 1813, a brigade of the state's militia from the service of the United States, was the only circumstance that ruffled the surface of events; and in the following year the state's participation in the Hartford convention was confined to one county and a single delegate. Immediately after the close of the war the federalist vote began

to decrease rapidly, so that in 1818 Gov. Galusha received 15,248 votes out of a total of 15,992, and thereafter the federal party in the state had practically no existence. Until 1815 it was about on an equality with its opponent in every county, and in a heavy majority in the southeastern part of the state. — As Vermont had been the first state to abolish slavery within its own limits, it was one of the first to declare war upon it without. In the United States senate, Dec. 9, 1820, resolutions of the Vermont legislature were presented, declaring that slavery was a moral and political evil, to be tolerated only of necessity, and that congress had the right to inhibit its extension by the admission of new slave states. (See COMPROMISES, IV.) These resolutions were the guide of the state's policy until the downfall of slavery. During and after the election of 1824 the Jackson candidates were always hopelessly beaten, and the "Adams republicans," even after 1827, regularly defeated both the Jackson and the anti-masonic candidates. About 1831 the national republicans and anti-masons practically united, and the state's electors in 1832 were chosen as anti-masons, with the understanding that they would vote for Clay if their votes could elect him. This contingency did not occur, and the state's vote was cast for Wirt. (See ANTI-MASONRY.) From this time the combination of national republican, anti-masonic and other elements, soon to be known as the whig party, controlled the state, and on the dissolution of the whig party the republican party at once succeeded to it. In effect, the state's last democratic electoral vote was cast in 1820. Since that year the democrats of the state have seldom polled more than 25 per cent. of the total vote in national elections; and, even in the great whig overthrow of 1852, the whig electors obtained a majority of the popular vote, Massachusetts, the only other northern whig state of that year, only giving a plurality. The state's political history is therefore invariably a part of that of the whig and republican parties.— In state elections the result has regularly been the same. The only elections that have ever been in the least degree doubtful were the triangular contests of 1843–52, between the whigs, the democrats and the abolitionists; but even in these the result was always a plurality for the whig candidates for state offices, and their final election by the whig legislature. The election of 1847 will fairly represent most of them: Eaton (Whig), 28,933; Dillingham (democrat), 18,059; Brainard (abolitionist), 7,163. But it must be remembered that Vermont whigs were usually quite as strongly anti-slavery as the abolitionists, differing from them only on the question of action. Thus, Gov. Wm. Slade was considered a whig in his own state, but a thorough abolitionist out of it. On the formation of the republican party all distinction disappeared, and the party vote rose again to about 75 per cent. of the total. In 1882 the legislature stands as follows: senate, thirty republicans, no democrats; house, 225 republicans, thirteen democrats. — As in several other states, the heavy and certain majority for one party has hindered the national elevation of Vermont's leading men, among whom may be specified the following: Stephen Roe Bradley, democratic United States senator 1791–5 and 1801–13; Dudley Chase (uncle of Salmon P. Chase), democratic United States senator 1813–17 and 1825–31, and state chief justice 1817–21; Nathaniel Chipman, state chief justice 1789–91 and 1794–7, United States district judge 1791–4, and United States senator 1797–1803; Martin Chittenden, federalist congressman 1803–13, and governor 1813–15; Jacob Collamer, state judge 1833–42 and 1850–54, whig congressman 1843–9, postmaster general under Taylor 1849–50, and republican United States senator 1855–65; George F. Edmunds (republican), member of the state house of representatives 1854–9 and senate 1861–2, United States senator 1866–87, one of the most prominent members of that body, and one of the candidates for the republican presidential nomination in 1880; Horace Everett, whig congressman 1829–43; Solomon Foot, whig congressman 1843–7, and republican United States senator 1857–66; Hiland Hall, whig congressman 1831–43, and state judge 1846–50; Matthew Lyon, democratic congressman 1797–1801, afterward from Kentucky, 1803–11, most noted for his rough-and-tumble fight on the floor of the house in January, 1798, with Roger Griswold, a Connecticut federalist, and for his trial and imprisonment later in the year, under the sedition law; George P. Marsh, whig congressman 1843–9, and minister to Italy 1861–82; Justin S. Morrill, republican congressman 1855–67, and United States senator 1867–85; Samuel S. Phelps, state judge 1831–8, and whig United States senator 1839–51 and 1853–4; Luke P. Poland, state judge 1848–65, republican United States senator 1865–7, and congressman 1867–75; Samuel Prentiss, whig United States senator 1831–42, and federal district judge 1842–57; William Slade, whig congressman 1831–43, and governor 1844–6; and Isaac Tichenor one of the leaders of the original independent government, state judge 1791–6, federalist United States senator 1796–7 and 1815–21, and governor 1797–1807 and 1808–9.— The name Vermont, equivalent to Green Mountain, seems to have been suggested in 1777 by Dr. Thomas Young, of Philadelphia, to the leaders of the infant republic of "new Connecticut," and at once adopted.— See 2 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions;* 4 *Documentary History of New York*, 329 (correspondence between New York and New Hampshire); Chipman's *Life of Seth Warner;* 1 Sparks' *American Biography* (life of Ethan Allen); Slade's *Vermont State Papers;* Chase's *Early History of Vermont;* Hiland Hall's *History of Vermont* (to 1791); Allen's *History of Vermont* (1798); B. H. Hall's *History of Eastern Vermont* (to 1800); Williams' *History of Vermont* (to 1807); Beckley's *History of Vermont* (1846); Carpenter's *History of Vermont* (to 1852); Thompson's *History of Vermont* (with supplement, 1853); Walton's *Vermont Register.*

ALEXANDER JOHNSTON.

apply some check to the absolute power of the legislative, is an evident necessity in a national government. Franklin long ago noted that absolute power, if it must be granted at all, had better be granted to the executive than to the legislative. "A single man may be afraid or ashamed of doing injustice; a body is never either one or the other, if it is strong enough. It can not apprehend assassination, and by dividing the shame among them, it is so little apiece that no one minds it." The only question is whether the executive should possess a power of absolute, final prohibition of legislation, or a qualified and limited check. The *veto*, "I forbid," of the Roman tribunes, was absolute; the American veto is qualified. — By the theory of the British constitution the crown has an absolute veto on all legislation; no bill can become a law without the royal signature. Since 1692 the power has never been exercised, and its exercise now would probably provoke a revolution. Instead of it, an adverse vote of the house of lords has been used as a sort of veto upon the action of the house of commons; but its exercise, in matters on which the commons are obstinately bent, is now qualified by the tacit understanding, that "it is well enough once, by way of a joke, but it must not be repeated." Sometimes the way toward the final capitulation of the lords is smoothed by admitting unimportant amendments; sometimes a small majority is swamped by the creation of new peers. In 1871, when the lords obstinately resisted the bill for the abolition of the purchase of military commissions, the Gladstone ministry took the unusual step of putting the principle of the bill in force by royal warrant, as an act of prerogative. The lords, thus pressed, passed the bill with a spiteful vote of censure on the ministry. In any event, the veto of the lords is a very limited one. — But in the colonies, before the American revolution, the veto power of the crown was enforced with double rigor. In Connecticut and Rhode Island the governors were chosen by the colonies, and had no veto power. In other colonies the governor, whether appointed by proprietors or by the crown, had an absolute veto on the colonial legislature; and the crown had an absolute veto on the action of the governor and legislature. The veto was constantly used by governors to extort money or favors. In Pennsylvania, says Franklin, "it became at last the regular practice to have orders on the treasury in his favor presented along with the bills to be signed, so that he might actually receive the former before he should sign the latter." In many of the colonies, as in South Carolina, the persistent veto of the governor led to his expulsion before hostilities fairly broke out. In others, as in Virginia, the persistent veto of acts to check the slave trade formed one of the most prominent of revolutionary grievances. All of them agreed, in the declaration of independence, on the following, as the first of the reasons for a separation: forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and when so suspended he has utterly neglected to attend to them; he has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only; he has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures; he has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people; he has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers." With such an experience of the veto power it is not strange that only one of the original state constitutions (Massachusetts, in 1780) gave its governor even a qualified veto power, and that in the articles of confederation there was no executive veto. Indeed, the articles went to the other extreme. By requiring the assent of nine states to important acts of legislation, they really gave an absolute veto to any minority of five states; and, by requiring the assent of every state to amendments, they gave a veto power to each state. In these respects they more resembled the constitution of the Polish diet, with its *liberum veto*, its power reserved to each member to veto absolutely any bill introduced into the house. Nullification (see that title) was a subsequent effort to revive and strengthen this state veto, in the interest of slavery and a section. — II. In the Federal Convention. The introduction of an executive power into the new scheme of government necessarily brought with it a veto power. Randolph's "Virginia plan" gave the veto power to the executive "and a convenient number of the national judiciary," to be final, unless overridden "by —— of the members of each branch." Pinckney's plan contains a veto provision so like that which was finally adopted that it must have been altered after its first introduction. The "Jersey plan," as it had no executive, had no veto provision. June 4, Gerry proposed as a substitute for Randolph's veto provision, "that the national executive shall have a right to negative any legislative act which shall not afterward be passed by —— parts of each branch of the national legislature." Hamilton moved to strike out the last fifteen words, so as to make the negative absolute; this was rejected unanimously. Butler moved that the executive have power to suspend any law for —— days; and this was rejected unanimously. The blank in Gerry's motion was then filled by "two-thirds"; and the whole was adopted by a vote of eight states to two. In this form it was reported from the committee, June 19; was sent to the committee of revision July 26, and re-

ported by them almost in its final shape, except that the time for retaining bills was "seven days," instead of "ten days, Sundays excepted," and that it applied only to bills, and not to joint resolutions, orders and votes also, as the final revision made. Aug. 15, "two-thirds" was changed to "three-fourths," by a vote of six states to four, and one divided; but the change was reconsidered and reversed, Sept. 12, by an exactly similar vote. The whole was then made a part of article I., section 7. (See CONSTITUTION.)— But during these deliberations other questions had been under consideration. Randolph's plan of uniting the judiciary with the president, as a "council of revision," was again offered by Wilson, June 6 and July 21, and voted down. Aug. 15, Madison proposed to give the veto power to either the president or a majority of the supreme court judges, to be overridden by two-thirds of each house, if either the president or the court should veto a bill, or by three-fourths of each house, if both should veto it; but this was also rejected, and this plan was dropped. Another provision, that of a veto upon the state legislatures, was warmly urged from first to last. The sixth resolution of the "Virginia plan" gave Congress power "to negative all laws passed by the several states contravening, in the opinion of the national legislature, the articles of union, or any treaty subsisting under the authority of the Union, and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof"; but, by the eighth resolution, the council of revision was to have a veto on the congressional veto, unless the latter should be repeated by the requisite majority. May 31, the first part of the scheme was agreed to, "without debate or dissent." Madison, June 8, wished to extend the national veto to inadvisable as well as unconstitutional laws. He "could not but regard an *indefinite* power to negative legislative acts of the states as absolutely necessary to a perfect system. Experience had evinced a constant tendency in the states to encroach on the federal authority. A negative was the mildest expedient that could be devised for preventing these mischiefs. The existence of such a check would prevent attempts to commit them." This extension of the veto was voted down, three states to seven, and one divided. The original provision of the sixth resolution was retained in the report of the committee of the whole, June 13. July 17, the veto on state laws came up for consideration, and Madison again urged it strongly. Gouverneur Morris "was more and more opposed to it. It would disgust all the states, and a law that ought to be negatived will be set aside in the judiciary department." This excellent suggestion was at once heeded. The exceedingly dangerous veto power over state laws was dropped forever, and instead of it the "supreme law clause" of the constitution was adopted. Under this, the federal judiciary has exercised, with little notice or danger, a veto power over state laws which congress could hardly have attempted without civil war. (See JUDICIARY.) Aug. 23, after the senate had been made a part of the constitution, Charles Pinckney moved that power be given to two-thirds of each house to negative state laws; but six states to five refused to send the proposition to the committee. In a single case, that of state impost laws, a power of "revision and control" was reserved to congress, Sept. 15. (See INTERNAL IMPROVEMENTS.)— Hamilton's plan, as read June 18, and still more as finally elaborated for preservation by Madison, would have made the executive veto power a tremendous instrument. It provided that "the governor or president of each state shall be appointed under the authority of the United States, and shall have a right to negative all laws about to be passed in the state of which he shall be governor or president, subject to such qualifications as the legislature of the United States shall prescribe"; and that "no bill, resolution or act of the [national] senate and assembly shall have the force of a law until it shall have received the assent of the president, or of the vice-president when exercising the powers of the president; and if such assent shall not have been given within ten days after such bill, resolution or other act shall have been presented to him for that purpose, the same shall not be a law; and no bill, resolution or other act, not assented to, shall be revived in the same session of the legislature." This proposition was never formally offered, and could never have been passed; but it is an instructive example of a "high-toned government," according to federalist ideas.— As finally adopted, the veto provision gives the president power to return, with his objections, to the house in which it originated, any bill or joint order, resolution or vote, of the two houses. If the vetoed bill is then passed again by two-thirds of each house, it becomes a law; if not, it is a nullity. If the president does not return the bill, with objections, within ten days (Sundays excepted), it becomes a law, unless congress adjourns within the ten days, in which case it shall not be a law. This last stipulation gives the president an absolute veto on all bills, etc., passed during the last ten days of a session of congress: he has only to retain them, as it were, in his pocket, and they are a nullity, even though nine-tenths of both houses should desire to pass them over the veto. This potent executive weapon, angrily called a "pocket veto" at the time, was first employed by Jackson at the close of the session of 1829–30. He had vetoed the Maysville road bill (see INTERNAL IMPROVEMENTS), but many of his supporters in congress were in favor of internal improvements, and he chose to employ the pocket veto on two similar bills passed afterward. When, in 1833, he disposed of Clay's distribution bill in the same manner, the whigs evolved the ingenious theory that the "adjournment" mentioned in the constitution, which made a pocket veto possible, meant only a voluntary adjournment by congress; that the close of a two-

prevented the return of bills; and that bills retained by the president at the end of a congress became law without his signature. This notion was never vigorously pressed, however. Evidently, it would put the president at the mercy of a mere majority in congress, which would only need to time the final passage of a bill so late on March 3 of their last year as to make it physically impossible for the president to use his veto power. — It has also been questioned whether the "two-thirds of each house," requisite to pass bills over the veto, is two-thirds of the number elected, or of the number present. The latter was undoubtedly the intention; for the constitution provides that a majority of each house shall be a quorum to do business, and refers repeatedly to this quorum as "a house." In but one case, the power of the senate to advise and consent to treaties, does it use expressly the words "two-thirds of the senators *present*"; but the treaty power is rather executive than legislative, and this provision can hardly have any bearing on the plain intent of the constitution in matters of simple legislation. — The American veto system seems to have struck the safest middle line, and attempts to modify it elsewhere have generally proved injurious. The French constitution of 1789 gave the king a veto power, with a provision that the passage of a law three years in succession should override the veto; but this was a failure, for the impatience of the people could not wait three years for a compliance with their will. The Mexican constitution of 1824, in addition to the presidential veto of the United States, gave each house a qualified veto on the other, as follows: if a bill, passed by one house and rejected by the other, should again be passed by the first house by a two-thirds vote, it could only be rejected by a two-thirds vote of the other house. But this had only its natural effect of hurrying on a revolution by a powerless majority. One modification, the power to veto single clauses, given by the confederate constitution of 1861, fairly deserves consideration. (See RIDERS, I.) — III. UNDER THE CONSTITUTION. The first exercise of the veto power was by Washington, April 5, 1792. (See APPORTIONMENT.) Until 1830 there were but nine vetoes, two by Washington, none by Adams or Jefferson, six by Madison, and one by Monroe. The most important of these were Madison's veto of the bill to establish a United States bank, Jan. 30, 1815 (see BANK CONTROVERSIES, III.), his veto of the internal improvement bill, March 3, 1817, and Monroe's Cumberland road veto, May 4, 1822. (See INTERNAL IMPROVEMENTS, II.) Jackson vetoed nine bills, including Clay's distribution bill, which he formally vetoed, Dec. 5, 1833, after giving it a pocket veto at the preceding session. Most of these vetoes were put on internal improvement bills; but one, July 10, 1832, was upon a new United States bank bill, and another, June 10, 1836, was upon a bill fixing a day for the meeting of congress. This fre- into the whig party, and gave it a name. (See WHIG PARTY, II.) The whig animosity to the veto power was revived by its exercise during Tyler's administration. He vetoed two United States bank bills, Aug. 16 and Sept. 9, 1841 (see BANK CONTROVERSIES, IV.); two tariff bills, June 29 and Aug. 9, 1842; a bill for harbor improvements in eastern states, June 11, 1844; and a bill for building two revenue cutters, Feb. 20, 1845, on account of ambiguity in the language. Polk vetoed two bills, a river and harbor bill, Aug. 3, 1846, and a bill for the settlement of French spoliation claims, Aug. 8, 1846; but an internal improvement bill, passed March 3, 1847, which had been disposed of by a pocket veto, was formally vetoed at the following session, Dec. 15, 1847. Pierce used the veto nine times, on a bill appropriating lands for insane poor, May 3, 1854; an internal improvement bill, Aug. 4, 1854; a French spoliation claims bill, Feb. 17, 1855; an appropriation for the Collins ocean mail steamers, March 3, 1855; two special internal improvement bills, May 19, 1856, another May 22, and two others, Aug. 11 and Aug. 14. Buchanan vetoed a homestead bill, June 22, 1860, in which the price of lands had been reduced by southern senators to so low a figure (25 cents an acre) as to provoke a veto. Lincoln regularly stated any minor objections which he held to any bill in the message approving it; and congress usually obviated the objections by supplementary legislation. June 23, 1862, he vetoed a bill to allow the circulation of bank notes of less than $5 value in the District of Columbia. July 12, 1862, while approving a confiscation bill, he transmitted a veto message already prepared, the necessity for which had been removed by a subsequent explanatory resolution of congress. Up to this time the veto power on legislation had been final, since the two-thirds majority necessary to override it had not been obtained. — The accession of Andrew Johnson, a southern democrat, to the presidency, with a congress in which the republicans had a strong majority, but would not have a two-thirds majority if all the insurrectionary states should be allowed to send democrats to the senate and house of representatives, made a conflict inevitable. Congress was determined to secure, while it had the power to secure, the right of negroes to suffrage; and the president was as determined to obstruct reconstruction, unless the southern delegations were admitted at once, when the republican two-thirds majority would be at an end, the veto would be as potent as it had always been, and the president could control the course of reconstruction. From February, 1866, until March, 1869, there was an almost continuous storm of vetoes, most of them upon reconstruction bills, or bills extending the principles of negro suffrage in various directions. During 1866 there were the vetoes of the first freedman's bureau bill, Feb. 19; of the civil rights bill, March 27; of the Colorado bill, May 15; and of the sec-

ond freedmen's bureau bill, July 16; and, on the adoption of the 14th amendment, a message was sent to congress, June 22, suggesting that there were "grave doubts" as to the power of congress to frame an amendment while eleven states were refused representation. In 1867 there were the vetoes of the bill regulating suffrage in the District of Columbia, Jan. 5; of the second Colorado bill, Jan. 29; of the Nebraska bill, Jan. 30; of the tenure of office bill, March 2; of the reconstruction bill, March 2; and of the supplementary reconstruction bills of March 23 and July 19. In 1868 there were the vetoes of the bill regulating appeals on habeas corpus, March 25; of the bills for the readmission of Arkansas, June 20, and North Carolina, South Carolina, Florida, Georgia, Alabama and Louisiana, June 25; and of the joint resolution denying validity to the electoral votes of unreconstructed states. (See, for further particulars, RECONSTRUCTION, and titles of bills mentioned.) Many other bills, which the president neither wished to sign nor cared to veto, were left ten days, and became law without his signature. Congress left him little opportunity for "pocket vetoes," but on his retirement from office, March 3, 1869, he had such an opportunity, and used it, in the case of three bills, which were immediately afterward passed again, and signed by President Grant. — President Grant's two vetoes were those upon the bill to increase the amount of "greenbacks" to $400,000,000, and to authorize the issue of $46,000,000 in national bank notes, April 22, 1874, and the bill to repeal the increase of the president's salary to $50,000, April 19, 1876. Various circumstances made President Hayes' term of office more prolific in vetoes. In addition to a distinct group of vetoes (see RIDERS, II.), were those upon the bill to authorize the coinage of silver dollars, February 28, 1878; the bill to restrict Chinese immigration, March 1, 1879; and the bill to fund $700,000,000 of the national debt at 3 per cent., March 3, 1881. President Arthur vetoed a bill to restrict Chinese immigration, also a river and harbor bill of about $20,000,000, in 1882.—IV. IN THE STATES. Four of the states, Delaware, North Carolina, Ohio and Rhode Island, have never given their governors the veto power. In eight others a very limited veto power has been given, which may be overridden by a majority of the whole number elected to each house. These are as follows, the year in which the veto was granted being added: Alabama, 1819; Arkansas, 1836; Connecticut, 1818; Indiana, 1816; Kentucky, 1799; New Jersey, 1844; Vermont, 1836; West Virginia, 1872. In twenty-four others, a two-thirds vote is required to override the veto: California, 1849; Colorado, 1876; Florida, 1865; Georgia, 1789; Illinois, 1870; Iowa, 1846; Kansas, 1859; Louisiana, 1812; Maine, 1820; Massachusetts, 1780; Michigan, 1835; Minnesota, 1857; Mississippi, 1817; Missouri, 1875; Nevada, 1864; New Hampshire, 1792; New York, 1821; Oregon, 1857; Pennsylvania, 1790; South Carolina, 1865; Tennessee, 1870; Texas, 1836 (republic), 1845 (state); Virginia, 1870; Wisconsin, 1848. In Maryland (1867) and Nebraska (1875) a three-fifths vote is requisite. But one state, Kentucky, has changed from a two-thirds vote (1792) to a majority vote (1799). The following states, now requiring a two-thirds vote, as above, required only a majority vote at first: Florida, 1838; Illinois, 1848; Missouri, 1820. Connecticut, Maryland, South Carolina, Tennessee, Virginia and West Virginia were without the veto power until it was granted in the years mentioned above. In Nebraska a two-thirds vote only was needed from 1866 until 1875. In Illinois, 1818–48, the veto power was given to the governor and supreme court judges, to be reversed by a majority vote; and in New York, 1777–1821, to the governor, chancellor and supreme court judges, to be reversed by a two-thirds vote. In Vermont, 1786–1836, a suspensory power until the following session was given to the governor and council. In the states the tendency generally has been to increase the strength of the veto power by making the votes of two-thirds of all the members elected requisite to override it, and, further, by giving the power to veto single sections of appropriation bills. (See RIDERS, III.) — The veto messages until 1858 are in the *Statesman's Manual;* since that time they must be sought under their dates in the *Congressional Globe* and *Congressional Record.* See also 4 Franklin's *Works*, 283; 4 Elliot's *Debates*, 620; 5 *ib.*, 108, 130, 151, 190, 205, 385, 534, 560, 588–9; 2 Curtis' *History of the Constitution*, 57, 264; 4 *Whig Review*, 325; 9 *ib.*, 16; 10 *ib.*, 111; 14 Benton's *Debates of Congress*, 494; 3 Webster's *Works*, 416; 1 *ib.*, 267; 1 Colton's *Life and Times of Clay*, 496; 1 Kent's *Commentaries*, 226; *Federalist*, LI., LXXIII.; Story's *Commentaries*, § 878, and note to § 1566 (Madison's letter of June 25, 1831, on the veto); Poore's *Federal and State Constitutions.* ALEXANDER JOHNSTON.

VICE-PRESIDENT. (See EXECUTIVE, V.; ELECTORS; SENATE; ADMINISTRATIONS.)

VIRGINIA, one of the thirteen original states of the American Union. Its area formed part of a general grant of James I., April 10, 1606, to two companies, controlled by a general council appointed by the king, the whole grant covering the Atlantic coast from north latitude 34° to north latitude 45°. The special grant to the "London company," with which we have to do, included the mainland and islands between latitude 34° and latitude 41°, or from about Cape Fear to Long Island sound; and the special grant to the "Plymouth company" extended from latitude 38° to latitude 45°, or from the mouth of the Potomac to the northern boundary of Vermont. Between latitude 38° and latitude 41°, where the grants conflicted, neither company was to plant a colony within 100 miles of a colony previously planted by the other. Under this grant settlement was begun at Jamestown, May 13, 1607.

12, 1611–12, a further charter gave power to convene a colonial assembly, or "great and general court," with power to legislate, provided the laws were not contrary to the laws and statutes of England; and under this charter the first legislative assembly in America met at Jamestown, June 30, 1619, being composed of a council named by the company, and a house of burgesses (see ASSEMBLY) elected by the towns. In 1624 the company was suppressed by a writ of *quo warranto*, its powers were assumed by the king, and Virginia remained a royal province until 1776. During the commonwealth period, it remained loyal to the crown, and for three years after the death of Charles I. his son was acknowledged as king of Virginia, so that at the restoration this colony claimed to be the new king's "Old Dominion." Its loyalty availed it little. A charter was refused it; the quit rents and the control of the church of England, its established church, were lavished upon court favorites; and in 1676 the tyranny of Gov. Berkeley drove the colonists into a rebellion, headed by Nathaniel Bacon, which was suppressed with vindictive punishment. "The old fool [Berkeley]," said Charles, "has taken away more lives in that naked country, than I for the murder of my father." With the exception of this episode, the colony grew quietly, but strongly, into a populous, rich, slaveholding, Episcopalian commonwealth, with a strong desire for self-government; and at the outbreak of the American revolution it was unquestionably the leading state. Its lower house was dissolved by Gov. Dunmore, May 25, 1775, while preparing a protest against the Boston port bill; but the members met the next day and inaugurated the revolution by proposing a congress. (See CONGRESS, CONTINENTAL.) In the following year, May 6, they again met as usual; but, as the governor had run away, and the regular government was suspended, they organized as a "provincial congress," and framed the first constitution of the state of Virginia. — BOUNDARIES. The charter of 1609 defined the colony's limits thus: from point Comfort, all along the seacoast to the northward 200 miles, and all along the seacoast to the southward 200 miles, "and all that space and circuit of land lying from the seacoast of the precinct aforesaid, up into the land throughout from sea to sea, west and northwest." The boundary lines were evidently not to be parallel lines: one was to be a westward line, and the other northwesterly. If the new colony was to have any limits whatever on the west it would seem most natural that the northerly boundary should be the westward line, and the southerly boundary the northwestward line, to intersect it. Virginia would thus have been a comparatively small colony, of a triangular shape. But the colony, resting on the words "from sea to sea," and interpreting them to mean "from the Atlantic to the Pacific," instead of from the Atlantic around the compound boundary the northwestward line, thus making her territory grow constantly wider as it went westward. She was compelled, indeed, to yield to the royal prerogative of taking back presents, and her 200-mile limits were interfered with on the south by the grant of Carolina (see NORTH CAROLINA), and on the north by the grant of Pennsylvania and Maryland. (See those states.) To these encroachments she submitted patiently, conscious that her charter, as she interpreted it, contained an abundant reward for her patience. A line drawn northwest from the western boundary of Maryland will show the extent of Virginia's claims to the western part of Pennsylvania, and to the whole territory northwest of the Ohio: indeed, her "northwest line" might have stretched on and included Alaska, but for the subsequent (1762) fixing of the Mississippi as the western boundary of the colonies. Her claims to the northwestern territory were finally abandoned. (See TERRITORIES.) Her Pennsylvania boundary was finally arranged by mutual consent in 1780, by continuing Mason and Dixon's line five degrees to the west, and thence due north, thus giving Virginia the "pan-handle" in the northwest. For her boundaries with North Carolina, Tennessee, Kentucky, West Virginia and Maryland, see those states. — CONSTITUTIONS. 1. The provincial congress, June 12, 1776, adopted a bill of rights, which has been retained in subsequent constitutions, but modified in 1867. Its most important sections were the third, which declared the right of the people to alter, reform or abolish their government at their own will; and the fourteenth, that no government separate from or independent of the government of Virginia should be erected or established within the limits thereof. The two were in effect a declaration of independence. (See STATE SOVEREIGNTY.) June 29, the first state constitution was adopted, without a reference to popular vote. It provided for a general assembly, consisting of a senate of twenty-four members, chosen by districts, to serve four years, and a house of delegates (see ASSEMBLY), chosen by counties and towns, to serve one year; for a governor and council of eight, chosen annually by joint ballot of the two houses; and for a judiciary, to be appointed by the legislature during good behavior. This constitution remained in force for half a century, until the growth of the western part of the state, and its unfairly small representation in the legislature, compelled a general revision. 2. A new constitution was framed by a convention at Richmond, Oct. 5, 1829–Jan. 15, 1830, and ratified by a popular vote of 26,055 to 15,563. It fixed the number of the house of delegates at 134, 31 to the twenty-six counties west of the Alleghanies, 25 to the fourteen counties between the Alleghanies and the Blue Ridge, 42 to the twenty-nine counties between the Blue Ridge and tide water, and 36 to the counties, cities, towns and boroughs on tide water; and the

number of the senate at 32, thirteen of the districts being west and nineteen east of the Blue Ridge. The proportional representation of the great divisions was not to be changed by the legislature. The governor was now to hold office for three years, and the judges were to be removable by a two-thirds vote of both houses. 3. A new constitution was framed by a convention at Richmond, Oct. 14, 1850 – Aug. 1, 1851, and ratified by a popular vote of 67,562 to 9,988. Its principal changes were, that the governor was to be elected by the people for four years; the judiciary was to be elected by popular vote for terms of twelve and eight years, and removable by a vote of a majority of the members elected to both houses; the number of the house of delegates was fixed at 152, chosen for two years, and apportioned among the counties, and the number of senators at 50, chosen by districts for four years; and, in default of the adoption of an equitable principle of apportionment by the legislature, a very complicated scheme was drawn up for reapportionment in 1865, which the course of events overruled. The principle of an obsolete statute of 1805 in regard to slavery was thus transferred to the new constitution: "Slaves hereafter emancipated shall forfeit their freedom by remaining in the commonwealth more than twelve months after they become actually free, and shall be reduced to slavery under such regulation as may be prescribed by law"; and "The general assembly may impose such restrictions and conditions as they shall deem proper on the power of slave owners to emancipate their slaves." 4. After the separation of West Virginia (see that title), the state government which had consented to it was transferred to Alexandria, where a convention from the counties within the federal lines, Feb. 13 – April 7, 1864, framed a new constitution, which was not submitted to popular vote. It abolished slavery, fixed the number of the house at not less than 80 nor more than 104, to serve two years, and the number of the senate at not less than one-fourth nor more than one-third the number of the house; and disfranchised those who had held office under the confederate government, or been members of the confederate congress or of rebellious legislatures. 5. The fifth constitution was framed by a convention at Richmond, Dec. 3, 1867 – April 17, 1868. It added four new clauses to the original bill of rights, providing that the state should ever remain a member of the United States of America; that the people thereof are part of the American nation; that their paramount allegiance is due to the constitution of the United States and laws of congress passed in pursuance thereof; that slavery shall never exist in the state; and that all its citizens have equal civil and political rights and public privileges. It gave the right of suffrage to "male citizens" over twenty-one on twelve months' residence in the state; made disfranchisement a penalty for dueling; gave the veto power to the governor, and the election of judges to the legislature; and regulated the government of cities. The constitution was ratified by a popular vote of 210,585 to 9,136, July 6, 1869. At the same election the disfranchisement clauses, which had caused the long delay in ratification, and which were submitted to separate vote under an act of congress of April 10, 1869, were rejected. In 1876 an amendment was adopted requiring the payment of a capitation tax before voting, disfranchising for petit larceny, and empowering the legislature to remove dueling disabilities by a two-thirds vote. The capitation tax was subsequently abolished by another amendment.— GOVERNORS. Patrick Henry, 1776–9; Thos. Jefferson, 1779–81; Thos. Nelson, 1781; Benjamin Harrison, 1781–4; Patrick Henry, 1784–6; Edmund Randolph, 1786–8; Beverley Randolph, 1788–91; Henry Lee, 1791–4; Robert Brooke, 1794–6; James Wood, 1796–9; James Monroe, 1799–1802; John Page, 1802–5; Wm. H. Cabell, 1805–8; John Tyler, 1808–11; James Monroe, 1811; George W. Smith, 1811–12; James Barbour, 1812–14; Wilson C. Nicholas, 1814–16; James P. Preston, 1816–19; Thos. Mann Randolph, 1819–22; James Pleasant, 1822–5; John Tyler, 1825–7; William B. Giles, 1827–30; John Floyd, 1830–34; Littleton W. Tazewell, 1834–6; Windham Robertson, 1836–7; David Campbell, 1837–40; Thos. W. Gilmer, 1840–41; John Rutherford, 1841–2; John M. Gregory, 1842–3; James McDowell, 1843–6; Wm. Smith, 1846–9; John B. Floyd, 1849–52; Joseph Johnson, 1852–6; Henry A. Wise, 1856–60; John Letcher, 1860–64; William Smith, 1864–5; Francis H. Pierpont, 1865–8; Henry H. Wills, 1868–70; Gilbert C. Walker, 1870–74; James L. Kemper, 1874–8; F. W. M. Holladay, 1878–82; Wm. E. Cameron, 1882–6. — POLITICAL HISTORY. For the century succeeding the opening of the conflict with the mother country, 1760–1860, the whole policy of Virginia is expressed in the declaration of her bill of rights, "that no government separate from or independent of the government of Virginia should be erected or established within the limits thereof." Under the colonial system the resistance to encroachment was directed against the king's governors, and under the constitution against the federal government; and the only period during which the Virginia policy ever had full and free play was that of the confederation and the few years of loose alliance that preceded it, 1775–89. Size, population, wealth and concurrence of sentiment among leading men made Virginia the great exponent of "state sovereignty." (See that title.) For such a rôle her colonial history went far to prepare her. The character of her immigration, its sympathy in blood, breeding and prejudices with the English royalist party of 1620–80, and the final impress given to the mould by the establishment of a state church, were all calculated to make Virginians fully conscious of their own importance, and ready to maintain their individual opinions. Further, the necessarily backwoods character of Virginia life, the absence of any such object of loyalty as a personally present king, and the introduction of negro slavery, tended to exaggerate in the Virginian the personal

the latter; and the English royalist was metamorphosed into the Virginia democrat. Virginia democracy was thus not based on any Calvinistic view of the universal equality of men in their infinite inferiority to their Maker; nor in any theoretical love for humanity: it was rather a general agreement by all white Virginians to recognize one another's feeling of individual importance, and to support the state government under which that feeling found the safest shelter. John Randolph's exclusive application of the expression "my country" to Virginia, only voiced the conscious or unconscious feeling of all Virginia democrats. — The political history of the state until 1881 was therefore that of the democratic party. Its electoral votes and its state government were steadily of one party, and only an occasional congressman among the opposition varied the general rule. The state's ratification of the constitution in 1788 was only accomplished by a meagre majority of ten votes (see CONSTITUTION, II.); and it is safe to say that the majority was only obtained by a sense of the insecurity of Virginia's title to western lands if a general scramble for the territories should be brought on by a failure to organize national government. (See TERRITORIES.) The inauguration of the new government marked Virginia's importance. Washington's presidency was due only to himself: the positions of Jefferson and Randolph in the cabinet, and of Madison as leader in the house, were due to Virginia's leadership among the states. There was thus developed at once the seed of what soon came to be known as the "Virginia influence," hard to define exactly, and yet very apparent in the politics of the time. Throughout the controlling tide-water counties of the state, where genealogy was a science held in the highest esteem, where immigration had almost ceased to bring new and confusing strains of blood into the established stocks, and where exhaustion of tobacco lands had not yet begun to banish the old families, nearly every leading man was related more or less distantly to most of his competitors; the different congeries of families were just far enough removed to deaden any ambitious struggles for clan supremacy; the opinions of Jefferson, Madison, Monroe, Page, Giles, Bland, Taylor, Tazewell, the Nicholases, the Randolphs, and other democratic leaders, came to subordinate leaders with the force of family as well as political sympathy; and the whole formed the shadowy but powerful "Virginia influence," which made or destroyed presidents until 1825. From the beginning of Hamilton's centralizing policy (see FEDERAL PARTY, I.), the Virginia influence stood stiffly against it, and thus became the corner-stone of the new democratic party. From Virginia proceeded most of the efforts which gradually gave the new party control of the south and a "fighting chance" in the middle states. When federalist partisanship in 1798 threatened what Hamilton considered "a tyranny," the half-uttered TUCKY RESOLUTIONS.) When the federal party was finally overthrown, in 1800–1, Virginia and New York took the same places in the dominant democratic party that Virginia and Massachusetts had held in the revolutionary struggle. The former state was still able, from its pre-eminence in the country and party, to name the president, while the vice-president was generally given to the latter. The "Old Dominion" of colonial times thus became the "Mother of Presidents" under the constitution. — The Virginia influence was not altogether undisputed, even in its own state. The greatest of Virginians, Washington, was a federalist, and so were John Marshall, Charles Lee, Henry Lee, and (after parties had fairly developed) Patrick Henry. The general prevalence of the Virginia influence in national affairs after 1800 soon wiped out the last trace of federalism in Virginia, but at the same time it prepared the way for a Virginia schism. As the leaders, Jefferson and Madison, became more absorbed in national politics, more dependent on northern democrats, and more neglectful of their state, an ultra Virginian faction, "republicans of the old school," or "quids," appeared, headed by John Randolph, and including also Tazewell and John Taylor. Their public defection took place in March, 1806, and from that time they spared no effort to secure the presidency in 1809 for Monroe, a candidate of far less ability than Madison, but recommended by his long absence from national politics and his supposed devotion to his state. But the defection was a failure. In January, 1808, the Virginia legislature nominated Madison for the presidency, and the nomination was repeated, two days afterward, by the congressional caucus. (See CAUCUS, CONGRESSIONAL.) A caucus of Monroe members of the legislature nominated him, and the federalists supported him in the state; but the Monroe ticket was badly defeated in Virginia, and unheard of elsewhere. The Virginia influence was thus still triumphant: Monroe himself submitted in 1811 by entering the cabinet of Madison; and his former supporters either followed him, or kept up a filibustering opposition to the war of 1812. — But the general spread of democratic ideas, and the decrease of the state's comparative importance, had already doomed the influence of Virginia. In 1817 it was hardly able to nominate Monroe for the presidency, and its lame success in that year, as well as in 1821, was due mainly to the influence of tradition upon the new men and new states in politics. Republics are not always ungrateful, and it was not until the last Virginia leader had been duly honored that the field was felt to be fairly open for others. From that time Virginia was no longer to be the "Mother of Presidents." With one accidental exception, the sceptre was to be transferred to other states. In 1790 she was the first of the states in population: in 1830 she was third, New York and Pennsylvania having outstripped her. Changes had also been taking

place within the state. The western part of the state (now West Virginia) had more than three times as much population in 1830 as in 1790, while the eastern part of the state had increased very little; and yet the apportionment of representation remained fixed as in 1776. The crying need of a reform in this respect brought about the convention of 1829, one of the most distinguished assemblages of able men that ever met in any state. The desire of each section to be well represented sent to the convention Madison, Monroe, Marshall, John Randolph, Giles, Mercer, Tazewell, John Taylor, Garnett, Leigh, and all the ablest men of the state. The object of the delegates of the western and middle sections was to base representation on white population only for both houses; the eastern delegates wished for the "federal basis," including three-fifths of the slaves. The former plan, as in South Carolina (see that state) would have given the taxing power to the western and middle sections, while the east held the taxable property. At first the convention inclined toward compromising by giving a white basis of representation to the house, and a federal basis to the senate; but in the end the eastern delegates succeeded in establishing the artificial apportionment already detailed, which deprived their section of comparatively little political power. Slavery had been the secret of the difficulty. East and west of the Blue Ridge the white population was not far from equal; but the latter section had comparatively few negroes, while the blacks outnumbered the whites in the former, and three-fifths of them counted under the federal basis, which governed quite closely the apportionment as it was settled. The constitution had hardly been adopted when Virginia was startled by an unsuccessful negro insurrection in Southamption county, near Norfolk, in August, 1831, under the lead of one Nat Turner. When the legislature met, the western delegates at once took the insurrection as a text, and an animated debate followed for several weeks, in which every plan for abolition was proposed and advocated. At last this extraordinary discussion, the only one of its kind ever held in a southern legislature before 1865, was stifled, and never revived. — Until about 1835 democratic control of the state was hardly disputed: the popular vote for Jackson in 1832 was 75 per cent. of the total vote. During Jackson's second term the whig party of the state was developed, and, though it never fully controlled the state, it was able to give its opponent battle on even terms for nearly twenty years. It contested every county of the state: in the eastern part it gained votes through the desire of many slaveholders for a system of internal improvements which should offset the exhaustion of land, and check emigration; in the western and middle sections it was aided to some extent by the traditional opposition to the usually democratic tidewater counties; and the nullification element, John Tyler being its best known exponent, gave it some assistance. At first it was strong enough to elect Tyler and B. W. Leigh to the United States senate, and to make Gilmer governor; and in 1840 its presidential electors were defeated by only 1,892 votes out of 86,394. Thereafter it remained an opposition party, with about 47 per cent. of the total vote. Its best known leaders were Tyler, Leigh, John Minor Botts, Preston, Stuart and Faulkner, those of the democrats being W. C. Rives, Dromgoole, Mason, Hunter, Bocock, Letcher and Wise. After 1849 the whig vote decreased, and after 1853 most of its former leaders became democrats. But some, not choosing to take that course, adopted the "know-nothing" organization (see AMERICAN PARTY), and contested the state with about the former whig vote. The proportionate popular vote may be seen by the results of the elections for governor: (1855) Henry A. Wise, democrat, 83,424, Thos. S. Flournoy, "American," 73,244; (1859) John Letcher, democrat, 77,112, Wm. L. Goggin, "American," 71,543. In spite of the large minority vote, the democrats continued to control the legislature and all but one or two of the congressmen. — As the sectional disputes of 1850–60 began to verge evidently toward war, Virginia strove hardest to avert that calamity. (See BORDER STATES.) The struggle for the state's electoral vote in 1860 was won by the old whig element (see CONSTITUTIONAL UNION PARTY), the popular vote standing 74,681 for Bell, 74,323 for Breckinridge, 16,290 for Douglas, and 1,929 (in western Virginia) for Lincoln. The special session of the legislature in January, 1861, called a peace convention of all the states (see CONGRESS, PEACE); appointed commissioners to ask the president of the United States and the governor of South Carolina to keep the peace for sixty days; and, in calling a state convention, provided that its action should be submitted to the people for ratification or rejection. These pacific measures were due solely to the general dislike of secession by the people, who knew that in case of war their state must be the battle ground; and the real feeling of the state politicians was better shown by the passage of numerous resolutions of a covertly warlike nature—appropriating money to arm the state, and threatening forcible resistance to any attempt by the federal government to coerce any seceding state. The convention met Feb. 13, and for two months debated the various propositions offered. It was so divided that any resolution asserting the abstract right of secession was sure of a small majority in favor of it, while any resolution looking to the practical exercise of the right was equally sure of a slight majority against it. April 17, the deliberations were brought to a crisis by President Lincoln's call for troops. (See INSURRECTION.) Under the excitement of the moment, and the stimulus of still greater mob excitement in Richmond, an ordinance of secession was passed, by a vote of 88 to 55, to take effect when ratified by the people, May 23. But the new order of Virginia politicians, unsafe guides in any such crisis, had no great confidence in the popular vote, and pro-

convention, April 25, ratified the constitution of the confederate states, and, by its commissioners and A. H. Stephens, commissioner from the confederate states, formed a "temporary convention," placing the state's whole military force under the president of the confederate states. Both measures were to be void if the popular vote in May should be against secession; but the irruption of confederate troops made the election a farce. In this lawless fashion the secession of Virginia was accomplished. It was followed by a counter-revolution, which permanently deprived the state of its western section. (See WEST VIRGINIA.) When West Virginia had been admitted as a state, its original revolutionary government was transferred to Alexandria, where it remained until the close of the war, claiming to be the government of Virginia, but receiving obedience only from the counties within the federal lines. — Throughout the war, Richmond was the capital of both the state and the confederacy, and all the political feeling of the state was concentrated upon the prosecution of the war, with very little friction between the two authorities. In May, 1865, President Johnson refused to recognize Gov. Smith, and the Pierpoint administration took its place without dispute, and held it for two years. During this time the state's idea of reconstruction was fully carried out; the constitution of 1864, with its prohibition of slavery, was accepted; but the test oath was abolished, the proposed amendment to the constitution of the United States was voted down, and stringent vagrant acts were passed for the control of the freedmen. In March, 1867, the state government came under the reconstruction laws. (See RECONSTRUCTION.) The reconstruction convention, in framing a new constitution, disfranchised all persons who had held office of even the lowest grades under the state or confederacy until 1865, and enforced the disfranchisement by providing for a stringent test oath and registry law. In a large part of the state it would thus have been impossible to find qualified officeholders, and no attempt was made to put the constitution to vote until a new act of congress allowed a separate vote on the objectionable clauses. They were rejected, and the state was readmitted, Jan. 26, 1870. — For nearly ten years the state remained democratic in all elections, the dominant party taking the name "conservative." The republican vote was at first large, but was continually in the minority, except in the election of four of the nine congressmen. In 1874 the democrats secured eight of the nine congressmen, and thereafter the republican vote was of little importance. The most troublesome problem for the successive legislatures was that of the state debt. It amounted, Jan. 1, 1871, to $47 390,840.93, of which about $37,200,000 was for debt contracted before April, 1861, and for lapsed interest thereon. March 30, 1871, a bill was passed to fund two-thirds of this amount (leaving one-third as the proportion of tions to this seem to have been mainly as follows: that the receipts from state taxation, at the rate of fifty cents on $100, were regularly about $2,500,000 per annum; that the expenses of government and public schools were about $1,600,000; that the interest on the funded debt would be about $1,800,000; and that the state was absolutely unable to increase the rate of taxation so as to make up the deficit. The whole question evidently hinges on this last assertion, whose truth can not well be proved or disproved: it is only certain that no such assertion would have been made by the ancient commonwealth. The passage of the funding bill at once went into politics, and the next legislature, March 7, 1872, repealed the "tax coupon" feature of the law. But, before the repeal, about $17,000,000 had been funded in tax coupon bonds, and the state court of appeals decided that a repeal as to them would be a breach of contract and unconstitutional. Still, the legislature was unable or unwilling to lay taxes sufficient to pay the interest, and the constant receipt of coupons for taxes kept the treasury in a state of chronic bankruptcy. In 1873 an act was passed to pay one-third of the interest, after government expenses should have been paid—a proviso which effectually nullified the law. In 1877 a final effort was made to increase revenue by a liquor law (the Moffett act), which compelled liquor sellers to register sales by means of a mechanical register upon the counter: but this only produced about $500,000 annually, insufficient to make up the deficit. In March, 1878, a bill was passed offering to the bondholders refunding bonds with interest at 3 per cent. for eighteen years, and 4 per cent. for thirty-two years thereafter. The probability of a settlement on some such basis crystallized the opposition into a "readjuster" party, led by William Mahone. It made some little effort in the election of 1878, though Gov. Holliday, the debt-paying candidate, was elected by 101,940 out of a total vote of 106,329. In the following February the "readjuster movement" took complete shape, as the final "McCulloch bill" was being perfected. This act, passed March 28, 1879, and accepted by the bondholders, provided for forty-year refunding bonds, with interest at 3 per cent. for ten years, 4 per cent. for twenty years, and 5 per cent for ten years, coupons receivable for taxes. The interest would thus have been about $900,000 annually for ten years, and there would have been little danger of a deficit. But the readjusters, in addition to the standing claim of inability to levy a higher rate of taxation than fifty cents on $100, denounced the tax coupon feature of the act as "against public policy, and degrading to the state and people." On this issue they obtained a popular majority in the election of November, 1879; and by a coalition of their forty delegates with the seventeen republican members they obtained a majority in the lower house of the legislature. They have since controlled the

state, though the "debt-paying" electoral ticket, recognized by the national democratic committee, was successful in the presidential election of 1880. In December, 1879, Mahone was elected United States senator, and when his term began, in March, 1881, he at once ranged himself with the republicans, declaring that he had been elected as a readjuster, not as a democrat. Since that time, the fusion of the readjusters and republicans has been complete, and has controlled the state. In November, 1881, it elected Governor Cameron by a vote of 111,473 to 99,757 for the "funder" candidate, Daniel, and obtained a majority in both branches of the legislature. Riddleberger, who was the framer of the bill passed in 1878, was sent to the United States senate for the term beginning in 1883. But the defection of a few of their number during the session prevented the readjusters from carrying out their debt programme, and the future of the party is very uncertain. Its leaders are supported by the national administration, which is republican, and yet the fusion between readjusters and republicans has never been more than a mechanical mixture, and there are many signs of its breaking asunder. While it lasts it at least secures the free exercise of the right of suffrage to the negro voters of the state. — In addition to the names of Jefferson, Madison, Marshall, Monroe, John Randolph, Tyler, Wirt and Washington (see those names), the following have been among the more prominent of the state's political leaders: William S. Archer, whig congressman 1820–35, and United States senator 1841–7; Philip P. Barbour, democratic congressman 1814–25 and 1827–30, and supreme court justice 1836–41; Theodorick Bland, anti-federal delegate to congress 1780–83, and congressman 1789–90; Thomas S. Bocock, democratic congressman 1847–61, confederate congressman and speaker of the house 1862–5; Alexander R. Boteler, whig and "American" congressman 1859–61, confederate congressman 1862–4; John Minor Botts, whig congressman 1839–43 and 1847–9, and an open opponent of secession throughout the rebellion; James Breckinridge, federalist congressman 1809–17; Matthew Clay, democratic congressman 1797–1815; George C. Dromgoole, democratic congressman 1835–41 and 1843–7; John W. Eppes, democratic congressman 1803–11 and 1813–15, and United States senator 1817–19; Charles J. Faulkner, whig and democratic congressman 1851–9, and minister to France 1859–61 (see WEST VIRGINIA); John Floyd, democratic congressman 1817–29, governor 1830–34, and a leading nullificationist; John B. Floyd (son of the preceding), governor 1849–52, secretary of war under Buchanan, and brigadier general in the confederate army; William B. Giles, democratic congressman 1790–99 and 1801–3, United States senator 1804–15, and governor 1827–30; Thomas W. Gilmer, governor 1840–41, congressman 1841–4 ("Tylerized" whig, afterward a democrat), and secretary of the navy under Tyler; Wm. L. Goggin, whig congressman 1839–43, 1844–5, and 1847–9; John Goode, confederate congressman 1862–5; democratic congressman 1875–81; Benjamin Harrison (father of Pres. Harrison), delegate to congress 1774–8, and governor 1782–4; Patrick Henry, the state's popular leader in the revolution, delegate to congress 1774–6, governor 1776–9 and 1784–6, leader of the anti-federalists in the Virginia convention of 1788 (see CONSTITUTION, II.), and afterward a federalist; Robert M. T. Hunter, democratic congressman 1837–43 and 1845–7, United States senator 1847–61, confederate senator 1862 (see CONFEDERATE STATES); Eppa Hunton, confederate brigadier general, democratic congressman 1873–9 (see ELECTORAL COMMISSION); Arthur Lee, congressional commissioner to France and Spain 1776–80, and delegate to congress 1782–5; Henry Lee, a cavalry officer in the revolution, delegate to congress in 1786, federalist governor 1792–5, and congressman 1799–1801; Richard Henry Lee, delegate to congress (see DECLARATION OF INDEPENDENCE) 1774–80 and 1784–7, and United States senator 1789–92; Benjamin Watkins Leigh, whig United States senator 1834–6, then resigning rather than obey "instructions" from the legislature; William Mahone, confederate major general, organizer of the "readjuster" party, and United States senator 1881–7; George Mason, a revolutionary and anti-federal leader (see CONSTITUTION, II.); James M. Mason, democratic congressman 1837–9, United States senator 1847–61, and confederate commissioner to Great Britain; John Y. Mason, democratic congressman 1831–7, secretary of the navy under Tyler and Polk 1844–9, and minister to Great Britain 1854–9; Charles F. Mercer, democratic congressman 1817–39; Wilson C. Nicholas, democratic United States senator 1800–4, congressman 1807–9, and governor 1814–16; Edmund Pendleton, delegate to congress 1774–5 and president of the Virginia convention of 1788; William B. Preston, whig congressman 1847–9, secretary of the navy under Taylor, confederate senator in 1862; Edmund Randolph, delegate to congress 1779–82, governor 1786–8 (see CONVENTION of 1787; CONSTITUTION, II.), attorney general and secretary of state under Washington, who requested him to resign in 1795 for official misconduct; Peyton Randolph, delegate to congress and president of that body 1774–5; Thomas Mann Randolph, democratic congressman 1803–7, and governor 1819–22; William C. Rives, democratic congressman 1823–9, minister to France 1829–32 and 1849–53, United States senator 1833–4 and 1836–45, and confederate congressman 1861–4; James A. Seddon, democratic congressman 1845–7 and 1849–51 (see CONFEDERATE STATES); Andrew Stevenson, democratic congressman 1823–34, speaker of the house 1827–34, and minister to Great Britain 1836–41; Alexander H. H. Stuart, whig congressman 1841–3, secretary of the interior under Fillmore; John Taylor, democratic United States senator 1792–4, and 1803, and 1822–4 (see authorities under CONSTITUTION, IV. *c*); Littleton W. Tazewell, democratic con-

secretary of the navy and of state under Tyler; George Tucker, democratic congressman 1819–25, professor of political economy in the state university 1825–45, and a standard historian; Henry St. George Tucker, democratic congressman 1815–19, thereafter chancellor of the Winchester district, president of the court of appeals, and professor of law in the university until 1845; John Randolph Tucker, state attorney general 1857–65, and democratic congressman 1875–83; and Henry A. Wise, democratic congressman 1833–44, minister to Brazil 1844–7, governor 1856–60, and confederate brigadier general. — See 2 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions;* Neill's *History of the Virginia Company* (1869); H. B. Adams' *Influence of Maryland* (boundary of Virginia); Stith's *Early Settlement of Virginia* (1747); De Haas' *Early Settlement of Virginia;* 1 Force's *Tracts* (Bacon's rebellion); 3 Sparks' *American Biography*, 2d series (Life of Bacon); C. Campbell's [Early] *History of Virginia; ginia* (continued by Jones and Girardin to 1781); J. W. Campbell's *History of Virginia* (to 1781); Jefferson's *Notes on Virginia;* Howe's *Historical Collections of Virginia;* Meade's *Old Churches and Families of Virginia* (1857); Grigsby's *Convention of* 1776; *Debates and Proceedings of Conventions* (1788, 1829–30, 1850, and 1867); Nicolson's *Debates in the Virginia Legislature* (1798); Dew's *Review of Debates in Virginia Legislature of* 1831–2; Foote's *Historical and Biographical Sketches of Virginia; Virginia Historical Register* (1848–53); Howison's *History of Virginia* (to 1847); Carpenter's *History of Virginia* (to 1852); Dabney's *Defense of Virginia;* Botts' *History of the Great Rebellion; Virginia: A Geographical and Political Summary* (1876); Appleton's *Annual Cyclopædia* (1861–81).

ALEXANDER JOHNSTON.

VIRGINIA RESOLUTIONS. (See KENTUCKY AND VIRGINIA RESOLUTIONS.)

W

WAGE FUND, The. The wage fund is the term used to characterize that theory of the distribution of wealth which became prevalent in England shortly after the close of the Napoleonic wars; which was generally accepted upon English authority by American economists, and remained in full virtue unchallenged for nearly half a century. It never crossed the British channel, however, and is practically unknown to the political economy of continental Europe. — This theory made the capitalist employer to be the residual claimant upon the product of industry. Rent was to be first deducted, the amount thereof to be determined, in the main, according to the Ricardoan formula, with more or less of concession or remission by landlord to tenant, under the influence of personal good feeling or of a public sentiment prescribing a kindly and considerate treatment of the actual cultivators of the soil. Next, wages were to be deducted, the amount thereof to be ascertained, according to the wage-fund formula, of which we are now to speak. There were to remain: profits, composed of interest on the capital employed (including a premium for the insurance of capital against extraordinary risks), and of the remuneration of business management. Profits constituted the share of the product of industry going to the capitalist employer, who, after paying rent and wages, as indicated, retained all the rest as his own. This view of the relation of the several parties to the distribution of wealth was summed up by De Quincey in the saying: "Profits are the leavings of wages," rent not being here mentioned, inasmuch as De Quincey has in view the production of wealth upon the lowest grades of soil, which pay no rent. — We find no trace of the wage-fund doctrine in Adam Smith's "Wealth of Nations," published in 1776. Dr. Smith, indeed, writes of "the funds for the maintenance of labor"; but while he thus recognizes the need the laborer has of a pre-existing body of wealth from which he is to be sustained during the period while his labor is bearing its fruit in harvested or marketed products, he did not intimate that the laborer's remuneration was strictly limited to the amount thus required for his immediate sustentation; he did not allege that no part of these funds might be the laborer's own, accumulated from the savings of previous years; he did not assume that these funds were so fixed and definite in amount as to be independent alike of the industrial quality of the laboring class and of any efforts they might put forth to increase their share of the product of industry. So far was Adam Smith from holding this view, that he expressly stated that "the wages of labor are the encouragement of industry, which, like every other human quality, improves in proportion to the encouragement it receives." — Even Mr. Malthus, in his work of 1820, although he gave great prominence to the laborer's need of provisional maintenance during the interval between the rendering of the service and the realizing of the product, failed to intimate any constant or any necessary relation between the funds so employed and the aggregate capital of a country. — Yet at this time the industrial condition of England had become such through the effects of the Napoleonic wars, and of the ill-devised pauper legislation of parliament,

as strongly to suggest the doctrine which was, in 1824, to be announced by Mr. James Mill, and was, for nearly fifty years, completely to dominate all theory of the distribution of wealth, so far as English and American political economy was concerned. — The wars which, with the intermission of a single year, raged from 1793 to 1815, by checking the importation of grain, drove cultivation in England down to inferior soils, thus raising the proportion of the aggregate produce going in rent to the landlords. The frequent and violent fluctuations of prices through all this period, according to the fortunes of battle by sea and by land, threw no small part of the wealth of the kingdom into the hands of the speculating as distinguished from the producing class. And while these causes were working to prejudice especially the interests of labor, the volume of wealth to be distributed was diminished by the waste of war. — But it is doubtful whether the effects of all these causes, acting in conjunction to depress the condition and degrade the character of the mass of the English people, were equal to the deleterious influence of the changes in the poor law system of the kingdom, by which the workhouse test for able-bodied paupers was abandoned; by which appropriations were made from public funds, to supplement wages; and by which a premium was put upon births, and an even higher premium upon illegitimate births. — So efficient for evil were the causes described as operating during this period, that, by the close of the Napoleonic wars, the working classes of England had been reduced to extreme and apparently hopeless misery. Accumulation by the laborer had been rendered impossible, and he was thus rendered completely dependent upon the employer, who was required to advance the whole of his subsistence, in anticipation of the crops or the goods being harvested or marketed. At the same time the average efficiency of the industrial agent had been so impaired, by both moral and physiological causes, and the market for labor had become so crowded, that the laborer's share of the ultimate product rarely exceeded in any degree the sums so advanced in provisional maintenance. — Under these conditions the subsistence fund became, in fact, precisely equivalent to wages; and it is not at all surprising that English economists, contemplating the state of things reached in their own country, should have come to regard the subsistence fund and wages as necessarily identical, and, in so doing, have evolved the notion of a wage fund. — The first distinct statement of the doctrine under consideration, is that of James Mill, in his work of 1824. The "Political Economy" of J. R. M'Culloch, published in the following year, contains a positive assertion of the necessary dependence of wages upon the proportion which the whole capital of a country bears to the whole laboring population. Mr. John Stuart Mill, in his great work of 1848, makes the doctrine of a wage fund the keystone of his theory of the distribution of wealth. The following is his statement: "If wages are higher at one time or place than at another; if the subsistence and comfort of the class of hired laborers are more ample, it is and can be for no other reason than because capital bears a greater proportion to population. * * The rate of wages, which results from competition, distributes the whole wage fund among the whole laboring population." Let us add the statement of this doctrine given by Mr. Mill, twenty-one years later, when its validity had been rudely questioned. "There is supposed to be, at any given instant, a sum of wealth which is unconditionally devoted to the payment of wages of labor. This sum is not regarded as unalterable, for it is augmented by saving, and increases with the progress of wealth; but it is reasoned upon as, at any given moment, a predetermined amount. More than that amount, it is assumed that the wage-receiving class can not possibly divide among them; that amount, and no less, they can not but obtain. So that, the sum to be divided being fixed, the wages of each depends solely upon the divisor, the number of participants." ("Fortnightly Review," May, 1869.) — The first challenge of the dominant theory of wages in England came from a barrister little known to fame, Mr. Francis D. Longe, who, in 1866, issued a pamphlet entitled "A Refutation of the Wage-Fund theory of Modern Political Economy, as enunciated by Mr. Mill, M. P., and Mr. Fawcett, M. P." This pamphlet attracted little attention; not one of the reviews noticed it; and when, three years later, Mr. W. T. Thornton attacked the wage-fund doctrine, he appeared wholly ignorant of its existence. Yet the earlier work was the abler of the two, and nearly covered the whole case against the current economic doctrine. That doctrine, as we have seen, stood upon the asserted need, on the part of the laborer, of provisional maintenance, to be afforded by the capitalist, out of funds previously accumulated. As Prof. Fawcett had stated in his "Manual of Political Economy," "laborers while engaged in any particular industry can not live upon the commodity which their labor is assisting to produce. The plowman who tills the soil, from which in the following autumn the harvest will be gathered, is fed with the wealth which his master has saved, or, in other words, the master pays his laborer's wages from the wealth he has previously saved." That is, because the master must needs pay the laborer something before the harvest, he can not possibly pay him anything after the harvest! To say that the laborer derives a provisional maintenance from the master's capital, is, in Prof. Fawcett's view, precisely equivalent to saying that the laborer derives his wages, his entire wages, from this source. Mr. M'Culloch has left the same assertion of the natural and necessary equivalency of subsistence and wages. — Upon this open point in the position of the economists Mr. Longe fell with incisive force, He insisted upon the distinction between "the wealth or capital available for the maintenance of laborers," and "the amount of wealth available

can afford to advance for the maintenance of laborers, without using the money he gets from the sale of his stock or crops, is unquestionably limited by the amount of wealth at his disposal from other sources; but the amount of money or wealth which the farmer can afford to pay, or contract to pay, as wages, is limited only by the amount of money for which his crops will sell." — Although Mr. Longe's pamphlet did not even receive the honor of a notice in the reviews, Mr. Thornton, when in 1869 he advanced nearly the same arguments against the current economic doctrine, and, as I must think, with less of clearness and force, achieved an overwhelming triumph. Through an article in the "Fortnightly Review" of May of that year, Mr. John Stuart Mill, after stating the wage-fund doctrine, in the terms already quoted, and adding, "this series of deductions is generally received as incontrovertible: they are found in every systematic treatise on political economy, my own certainly included," proceeded completely to renounce these life-long views. He declared that Mr. Thornton had deprived of all scientific foundation the doctrine so long taught by "all or most economists"; that Mr. Thornton had shown that the barrier (the wage fund) which had "closed the entrance to one of the most important provinces of economic and social inquiry," is but "a shadow which will vanish if we go boldly up to it." — Mr. Mill's recantation of the wage-fund doctrine produced a deep impression. The "London Quarterly Review" (July, 1871) characterized the wage fund as "a thing, or un-thing (to borrow a German idiom), which is henceforth shunted fairly out of the way of future discussion of all questions affecting labor and labor's wages." — Yet Mr. Mill's surrender was not wholly acquiesced in by the professional economists. Prof. John E. Cairnes, in his masterly work of 1874, undertook the rehabilitation of the economic doctrine of wages; and, with much care and pains, sought to show that something which might not improperly be called a wage fund, though widely different from the wage fund of the two Mills, of M'Culloch and of Fawcett, does exist, and does limit the amount that can be paid in wages. But the prestige of the old doctrine was destroyed, and the result of successive assaults has been its practical abandonment by the English economists. Prof. W. Stanley Jevons, in the second edition of his theory of "Political Economy," published in 1880, after referring to the general consent of his brethren to give up what was once the keystone of the orthodox theory of the distribution of wealth, writes: "In this matter of wages, the English economists have been living in a fool's paradise. The truth is with the French school." — In the foregoing sketch of the rise and fall of this economic doctrine, have been intimated the nature and direction of the arguments which have compelled the practical abandonment of it by the economists of to-day. Its great importance in the history of money, reasons Mr. Longe, which a farmer

treatises on the shelves of our libraries, and even in the treatises now used as text books* in our colleges, render desirable a compact recital of the objections to this theory of the origin and the limit of wages. — In the first place, the reason for holding this theory of wages assigned by the Messrs. Mill, by Mr. M'Culloch and by Prof. Fawcett, proves to be no reason at all, in view of the distinction first presented by Mr. Longe, between the amount advanced by the employer for the maintenance of the laborer, and the amount to be paid, first and last, for the laborer's services. It is seen at once, in the light of this distinction, that the mere fact that the employer must pay the laborer something, in advance of the harvest, constitutes no reason whatsoever why the employer should not pay the laborer something more, on the completion of the harvest. — But, again, this doctrine assumes, in all the statements of it we have quoted, that the laborer is always and necessarily dependent on the employer for the entire amount of his subsistence. Now, this state of things did, in fact, exist throughout England, during the period when the doctrines in question came to be formulated. Probably the doctrine would never have arisen but for that state of things. But this condition is not involved in the nature of the relation of the laborer to his employer; nor have there been wanting examples, on a large scale, of the ability of the working classes to accumulate vast sums out of their earnings; witness the deposits of our American savings banks! — But the wage-fund theory might be true were all the reasons adduced in support of it conclusively proven to be false. Let us, then, examine without prejudice from the mistakes of its advocates, the proposition that wages are paid out of capital, and that the possible amount of wages in any country, at any time, is determined by the amount of capital then and there existing. — Why does an employer pay wages at all? Surely not to expend a fund of which he finds himself in possession, and of which he regards himself as trustee; but to purchase labor. Why does he purchase labor? Not at all that he may keep it employed; as it might be employed in carrying burdens first upstairs and then down-stairs again, but he purchases labor as a means to the production of wealth. Why does he produce wealth? Merely that it may be produced, as might be the case had he no personal part in its ownership, no interest in its use or enjoyment? Surely not: unless the most exceptional of mortals, he produces wealth, not for the sake of producing it, but with a view to a profit to himself, individually, therefrom. The mere fact that a person has capital at his command no more constitutes a reason why he should use it in production when he can get no profits, than

* In spite of Mr. Mill's complete recantation of the wage-fund doctrine, in 1869, his earlier statements are still found, unretracted and unqualified, in the latest edition of his "Political Economy."

the fact that the laborer has arms and legs constitutes a reason why he should work when he can get no wages. It is, we see, for the sake of future production, that laborers are employed; not at all because the employer has possession of a fund which he must disburse. Is it not, then, the value of the product, such as it is likely to prove, which determines the amount of wages the employer is both able and willing to pay? If so, it is production, and not capital, which furnishes the motive for employment and the measure of wages.—But, if production furnishes the measure of wages, the amount so to be paid can not be irrespective of the industrial quality of the wages class, since production varies necessarily, and varies within a wide range, according as that industrial quality is high or low. Therefore, the wage-fund doctrine is false, for it teaches that the rate of wages depends solely upon the proportion which the amount of capital bears to the numbers of the laboring population, altogether irrespective of their industrial quality. — But even were we to waive consideration of the industrial quality of a laboring population, would it then be true that the amount of possible wages is determined in and by the amount of capital existing; and that the wage fund so constituted forms a predetermined dividend, the divisor of which is to consist of the number of laborers? Precisely this is involved in the wage-fund doctrine, as it was taught, without qualification, down to a recent period. In 1864 Prof. Fawcet delivered a course of lectures in Cambridge university, in which he laid down the following rule: "The circulating capital of a country is its wage fund. Hence, if we desire to calculate the average money wages received by each laborer, we have simply to divide the amount of this capital by the number of the laboring population." The fallacy of this is seen the moment we realize that the purpose for which labor is employed is, not the distribution of a pre-existing fund, but the creation of values, the production of new wealth. This being so, the dividend can not be predetermined irrespective of the number of laborers, since the quantity or amount of the product of industry must itself depend upon the number of laborers. More laborers will produce more wealth—whether proportionately more or not, is aside from the question: fewer laborers will produce less wealth—whether proportionately less or not, we need not here inquire. Therefore the wage-fund doctrine is again shown to be false. — The only virtue the doctrine we have been considering ever possessed, for practical uses, was in its assertion that an economic reason must exist for any and every advance of wages. Doubtless this explains why some economists still cling to the doctrine, as fearing that if it be abandoned, there will be no barrier against foolish and mischievous claims by the laboring classes for increase of remuneration or reduction of the hours of work. But the proposition that production furnishes at once the motive to employment and the measure of wages, equally establishes a barrier to every claim on behalf of the working classes which can not present a substantial economic reason. The one view of the origin and limit of wages, equally as the other, opposes itself to all demands, in the interest of labor, which are made merely under the impulse of compassion, or philanthropy, or the enthusiasm of humanity. — The only difference between the two theories is, that by the one the economic force which limits wages is found in the amount of capital, while by the other it is found in the value of the product of industry, to which land, capital and labor jointly contribute. Which rule would be more consonant to sentiments of natural justice is not at issue, though here the preference clearly lies on the side of the rule we propose; the question is, Which corresponds the more closely to the reason of the case and to the just import of industrial statistics? On this issue the movement of economic opinion since 1866 has been overwhelmingly against the wage-fund doctrine.

FRANCIS A. WALKER.

WAGES. The word wages, in its popular use, signifies the remuneration of hired labor. As so used, it is more or less disparaging, being commonly placed in contrast with the words salaries, fees, honorarium, etc., by which it is sought to denote the remuneration of services of a higher or more intellectual character.—To the economist, however, the word wages has no special reference to manual, as distinguished from intellectual, effort. That term in economic literature has two significations, the one much wider than the other. By the first is embraced, not only the wages of manual labor, hired by an employer; not only the avails of unhired manual labor, as of the smith working in his own shop, or of the peasant proprietor tilling his own lot of ground (due exception being made of rent and interest); not only the salaries of school teachers and public officials, the fees of lawyers and physicians, and the honorarium of the artist; but, also, all sums accruing to the employers of labor, through their own personal supervision and direction of the processes of industry. In a word, wages, in this largest sense, embraces all the material rewards of human exertions and sacrifices which are directed to the production of wealth, as distinguished only from the remuneration paid for the use of land and the remuneration paid for the use of capital. — In the second and narrower economic sense, while retaining in all other respects the significance attributed to it above, the word wages becomes exclusive of the sums accruing to the employer of labor, as such, who, under the four-fold division of industrial activity specially characteristic of the present age, leases land, so far as this may be essential to his operations, and pays therefor rent; borrows capital, and pays therefor interest; hires labor, paying therefor wages; and has remaining in his hands, out of the product of industry, an amount of wealth, greater or less according to his activity, his enterprise, his prescience, his prudence, and, also, in some measure according to his good or

the fact that the former includes, while the latter excludes, the remuneration received by the employer, as such. The two alike exclude rent and interest, proper. Throughout the present article the word will be used in the latter and more restricted sense, the remuneration—viz., profits—which is received by the employer of labor, as such, forming the subject of a separate investigation. — The questions relating to wages may be discussed under two titles, General Wages and Particular Wages: the former having reference to the problem of the distribution of wealth between the wages class, as a whole, and other claimants upon the product of industry; the latter, to the problem of the distribution of the aggregate amount of wealth paid, or possibly to be paid, in wages, among the several classes of wage receivers. We shall take up these two divisions of the subject in inverse order. — I. PARTICULAR WAGES. In any consideration of the comparative remuneration of individuals or classes, it is of the highest importance to preserve the distinction expressed by economists as that between real and nominal wages. Real wages are the remuneration of the laborer, as reduced to the necessaries, comforts or luxuries of life. These are what the laborer works for; these are truly his wages. The money he receives is only a means to that end. — Real may differ from nominal wages by reason of: *First*, variations in the purchase power of money. This is a consideration of prime importance, in the comparison of wages, as between one epoch and another. *Second*, varieties in the form of payment. Wages, though generally reckoned in money, are, to a very large extent, not paid in money. Especially in agriculture, the world over, full payment in money is highly exceptional. The forms, other than money, in which labor is remunerated, are various, the chief among them being rent, where cottages or tenements are provided for the laborer and his family, whether in agricultural or mechanical industry; board, mainly confined to unmarried laborers; and, lastly, a great variety of allowances, perquisites and privileges, such as definite quantities of certain kinds of food, drink or fuel, furnished by the employer; such as the hauling to the laborer's house of wood, coal or peat by the employer's teams, the keep of a cow, the right to take flour at millers' prices or at a fixed price whatever the market rate, the gleaning of fields, etc., etc. So numerous and diverse are the forms of payment of wages to hired laborers in agriculture, that anything like an exact comparison between the rates of real wages in different countries or districts often becomes practically impossible. *Third*, opportunities for extra earnings, by the head of the family, or by its other members. Thus, a weaver or spinner earning twenty shillings a week, may find places in which his wife and minor children may earn an equal sum, making the income of the family forty shillings. A capable to add anything to the family income through the labor of wife or child. It is evident, therefore, that in any comparison of wages, the total income of the family should be taken as the unit. *Fourth*, the greater or less regularity of employment. Varying regularity of employment may be due to the nature of the individual occupation, or to the force of the seasons, or to social and industrial causes of a general nature. In agriculture, for example, the nature of the operations involved, and the difference of seasons, cause great irregularity of employment. The rate of wages during the third quarter of the year is generally more than twice that during the first quarter. In this respect, however, there is great difference between different countries. An English farmer is plowing while a New England farmer is hauling wood on the ice and snow. In some countries agricultural operations are spread over eight months; in others, they are confined to four. In the fisheries, also in the so-called building trades, and in most out-door avocations, there is great irregularity in the matter of employment during the different periods of the year. On the other hand, there is nothing in the force of the seasons, or in the nature of the operations involved, to prevent weaving, spinning, shoemaking, paper-making, etc., from proceeding uniformly through twelve consecutive months. Industrial causes, also, like strikes, lock-outs, panics, and so-called hard times, produce great differences in the real rate of wages, where the same nominal rates exist. *Fifth*, the longer or shorter duration of the power to labor. This consideration is of prime importance, both as between nations and as between the classes of persons pursuing different avocations within the same country. It is evident, that, if two persons begin to labor productively at the same period of life, and continue at work in the same occupation, at the same nominal wages, until death or final disability, the one receives the higher real remuneration who lives and works the longer, since the cost of his maintenance during the period of unproductive labor is properly to be charged upon his wages during the productive period. In the foregoing respect, there are wide differences among nations, which must enter to greatly affect the real remuneration of labor. Dr. Edward Jarvis has stated, that, for every thousand years expended in the developing period upon all who are born, including both those who die, and those who survive to the age of twenty, the consequent laboring and productive years are, in Norway, 1,881; in Sweden, 1,749; in England, 1,688; in the United States, 1,664; in France, 1,398; and in Ireland, 1,148. Moreover, as between different occupations in the same country, there are wide differences in the duration of the power to labor, which must be taken into account in adjusting nominal to real wages. The eminent actuary, Dr. Neison, states that the influence of occupation upon life is so considerable that the mortality in one avocation

exceeds that of another by not less than 239 per cent. Taking the period of life, twenty-five to sixty-five, Dr. Neison finds that the mean mortality in the clerical profession, in England, is 1.12 per cent.; in the legal, 1.57; in the medical, 1.81. In domestic service, the mortality among gardeners is but .98; among grooms, 1.26; among house servants, 1.67, among coachmen, 1.84. Of the several branches of manufacture, paper shows a mean mortality of 1.45; tin, of 1.61; iron, 1.75; glass, 1.83; copper, 2.16; lead, 2.24; earthenware, 2.57; the mortality among those operatives in the last-named branch of industry, who are known as china-scourers, due to the inhaling of the fine dust floating in the air, being positively frightful. Among the different kinds of mining industry, the range of this effect is even greater, the mean mortality of iron miners being 1.80; of tin miners, 1.99; of lead miners, 2.50, due to the prevalence of asthma and chronic bronchitis; and of copper miners, 3.17, due largely to the excessive heat prevailing in this class of mines. Even these figures, striking as they are, do not exhibit the full effect of the cause under consideration, since the occurrence of permanent disability among operatives of certain classes is out of proportion to the actual occurrence of death. In some of the agricultural districts of England, owing to wretched food and still more wretched lodgings, the laborer, though often long-lived, is early crippled and doubled up by rheumatism. — The foregoing heads embrace the chief causes which are commonly adduced in reduction of nominal to real wages, *i. e.*, of money wages to wages expressed in terms of what Mr. Malthus calls "food, clothing, lodging and firing." In satisfaction, however, of still other desires of the laborer (using that term in the large sense attributed to it at the beginning of this article), and consequently forming a possible part of his real, as distinguished from his nominal, wages, enter certain other elements which may be found in a high degree in one occupation and in a low degree in another. Such is agreeableness of situation or of work; such is reputableness, or even distinction attaching to the performance of certain services. These are most influential causes in producing differences between real and nominal wages, in not a few departments of labor. One great object for which wealth is expended is to command social consideration. If, then, a certain position of itself gives authority or dignity, this may constitute, to one person, or even to many persons, a fair equivalent for a portion of the remuneration which, in a different avocation, he might expect and be able to exact. A judgeship is often accepted by eminent lawyers who have been accustomed in their professional practice to earn several times the salary of that office. "Forty pounds a year," wrote Adam Smith, in the last century, "is reckoned at present very good pay for a curate, and there are many curacies under twenty pounds a year. There are journeymen shoemakers in London who earn forty pounds a year, and there is scarcely an industrious workman of any kind, in that metropolis, who does not earn more than twenty." The conception of dignity which thus gives preference to one occupation over another, may be wholly false or mistaken, without losing anything of its power to influence the actions of men, which is all the economist has to consider. Thousands of young men, in every large American city, stand around the marts of trade, hoping, by some chance, or by influence or solicitation, to crowd themselves into hard-worked and ill-paid places as clerks, because they deem manual labor degrading, although a skilled mason or carpenter earns twice or thrice as much, and that in a shorter day of labor. On the other hand, there are avocations which are exceptionally unpleasant to the senses, or exceptionally dangerous to life and limb, or exceptionally discreditable, and which, on this account, would naturally, were all other conditions constant, command a higher rate of remuneration. If, in some instances, those who pursue such avocations do not only not receive higher wages, but are compelled to accept a smaller, perhaps a much smaller, remuneration, this is not because the force just adverted to does not operate, but because it is counteracted by another cause, viz., that large numbers of persons are, by reason of ignorance, or misfortune, or disrepute, debarred from more favorable employment, and shut up to one or another avocation of the class described. — Assuming the proper reduction of nominal to real wages, by allowances on the several foregoing accounts, we next come to inquire what are the causes which produce the wide differences which exist in the wages of labor, as between different countries, and as between particular avocations within the same country. — As between different countries, the tendency to equality of wages within the same or closely corresponding avocations, varies with the readiness with which emigration or immigration, which we may call the flow of labor, takes place. Between no two countries, however near, and however similar in social or political conditions, is the flow of labor sufficiently easy to secure a close approximation to equality of wages. Adam Smith, in his day (1776), declared that man is, of all sorts of luggage, the most difficult to be transported. "A difference of prices," he says, "which is not always sufficient to transport a man from one parish to another, would necessarily occasion so great a transportation of the most bulky commodities, not only from one point to another, but from one end of the kingdom to another, almost from one end of the world to another, as would soon reduce their prices more nearly to a level." Mr. Ricardo, writing a generation later (1817), assumed that the flow of labor from country to country would be so tardy and difficult as practically to leave the laboring classes to enjoy or to suffer the industrial advantages or disadvantages of their respective countries, without any important influence as the result of immigration or emigration. John Stuart Mill, writing still a generation later (1848), just at the beginning of an age of won-

tendency toward a freer migration of labor and capital, to take advantage of better opportunities of employment and investment." One generation later still, we may say, that, in 1883, the tendency pointed out by Mr. Mill acquires strength from year to year; but that the flow of labor still remains, as between country and country, so difficult and so tardy as to allow very great differences in real wages to remain, through long periods, but little affected by emigration or immigration. — As between different avocations within the same country, the earlier economists, like Smith and Ricardo, assumed a substantial equality of real wages; and in this they were followed, though with more or less qualification, by John Stuart Mill. In his great work of 1874, Prof. Cairnes, writing with especial reference, we may suppose, to English conditions, proposed his theory of "non-competing groups." "What we find," he said, "is, in effect, not a whole population competing indiscriminately for all occupations, but a series of industrial layers, superimposed on one another, within each of which the various candidates for employment possess a real and effective power of selection, while those occupying the several strata are, for all purposes of effective competition, practically isolated from each other." Prof. Cairnes held the practical isolation of these industrial groups to be not less complete than the isolation which Mill had attributed to the several commercial countries of his day; and he proceeded to apply to such groups, *mutatis mutandis*, Mr. Mill's law of international values. Whether Prof. Cairnes' view of the structure of industrial society, within any given country, say, England, will be found in all respects just, or not, it is evident that it contains enough of truth to deserve the careful attention of the student of wages. It is doubtless in this direction that the largest contribution to economic science now possible might be made by a competent investigator. — All the foregoing remarks relative to the rates of wages prevailing in different countries, and in different occupations within the same country, presuppose a practical equality in the powers and qualifications of laborers. In addition, however, to the difference in real wages produced by resistance to the flow of labor from country to country, or from one group of avocations to another group within the same country, are the effects upon the real remuneration of labor within particular avocations, produced by the differences in the powers, the faculties, and the aptitudes of individuals within the same country, and within the same great group of occupations. The rate of wages within any particular avocation will be determined exclusively by the operation of the principle of demand and supply. — Now, in economics, the words demand and supply alike have reference, 1, to a certain article, and, 2, to a certain price. Demand means the quantity of a given article which would be taken at a given price. supply, in the sense indicated, to any given market for labor, we find that supply reaches its maximum in the number of persons who are capable of rendering the service which is required, and its minimum in the number who are both capable of rendering that service and are willing to do so at the price which the demand for the service causes to be offered. The maximum supply of labor so determined, may, in a given occupation, be so small as, given a large demand for the service to be rendered, to allow a very high rate of wages to be reached, and to be maintained and even increased from generation to generation. Thus, the demand for the services of opera singers of the highest class was, forty years ago, so great as to permit the wages of a prima donna to equal the income of a lord; yet, during the entire human generation that has intervened, this magnificent premium upon operatic art, although open freely even to the peasantry of every land, has not sufficed to reduce, in the slightest degree, the price of such services. On the contrary, that price has steadily risen, under the influence of enlarged demand, until $2,000 is paid for an evening's singing. In a similar way, the wages of the lawyer of the first class is almost wholly uninfluenced by the presence of large numbers of persons of the same profession who would be rejoiced to earn a tenth or a twentieth part of his income. — Those who perform manual labor, again, seem, as one looks over the face of industrial society, to be organized into certain not very clearly defined "non-competing groups," to use Prof. Cairnes' phrase, within each of which the tendency to the equalizing of wages is in continual, if irregular, progress; but between any two of which, movement is so slow and difficult as to produce painfully small results, even from age to age. If we study the body of skilled artisans, in any country where caste does not exist, and the spirit of tradition is not very strong, we find that the interchange of the trades of carpenter, cabinet maker and carriage builder, for example, is freely made: that these trades, though less freely, interchange with those of blacksmith, mason and plumber, wherever strong reason exists for diminishing the supply of labor in one trade and increasing that supply in another. All the while, however, there is found below the class of skilled artisans a vastly greater class, consisting of factory operatives, of day laborers, etc., who are compelled not only to work for half the wages of the skilled artisan, but also, by what would seem, from almost unvarying recurrence, to be a moral necessity, to bring up their children, in the main, to take their own low places in the industrial order, however crowded and uncomfortable those places may be. Indeed, it may be said that the less desirable the place which the parent fills in life, the smaller his ability to provide for the advancement of his offspring. — The services performed by the laborer of this last-indicated

general class vary almost infinitely in form. So much, however, are the several recognized avocations within this group alike in the demands they make on the mental and physical powers, that a certain movement of labor exists, tardy and difficult, it is true, so tardy and difficult, indeed, as often to allow an individual who has been unfortunate in seeking employment, or has put himself at disadvantage by bad habits, to be cast down into the industrial grade which lies beneath; yet still the tendency to the equalization of wages here continues to operate appreciably, in spite of all obstructions. — Below the class described as including the ordinary factory operative, the ordinary day laborer, and others receiving an approximately equal remuneration, is found a great body of the more or less helpless, the more or less unfortunate, the very ignorant, the men and women of vicious habits, the weak, the crippled, and the "broken men" of the higher industrial grade. These constitute the lowest stratum of the industrial order. Movement, here, in the nature of change, whether of place or of occupation, is very tardy. A member of this class may with great difficulty pass from one avocation to another within his grade; it is most unlikely that he will ever, by any exertion of his powers, or any effort of self-denial, rise out of the class in which he was born or into which he has fallen. — We see, in the rude sketch here offered of modern industrial society, as existing, say, in England, how it is that the supply of labor within certain avocations, or groups of avocations, is restricted, so that, after making all needed allowances in reduction of nominal to real wages, the average remuneration of one class may be twice that of another, four times that of a third, though only a small fraction of that received by the members of a class still more fortunate; how it is that this may not only be at a given time, but that the causes which create these differences of condition may go on operating to produce inequality faster than competition can perform its leveling work; and that, thus, the range of wages, wide as it may be at any given time, shall steadily increase from year to year, and from generation to generation. — It is the effect of education, and, in a lower degree, of political franchises, by promoting the communication of news, from man to man and from place to place, by promoting self-reliance and power of initiative on the part of individuals, and by promoting self-respect and social ambition throughout the community, to promote, also, the flow of labor under economic impulse. Such causes, so far as they produce such effects, are strictly economic causes, to be recognized by the economist, and incorporated in his theory of the distribution of wealth. — The operation of the forces thus set in motion is clearly to be seen in such countries of the old world as Saxony, Switzerland and Scotland, rising to its maximum probably in the United States of America, where alike the inertia of the laborer and the external resistance to his migration in search of the best market for his services, are so far reduced as to become almost inconsiderable. Nine and a half millions of the native inhabitants of this country at the present time reside in states other than those in which they were born.* Doubtless an even greater number of those who reside within the states of their birth, are found in alien counties. If we consider only the heads of families in the United States, I personally believe, although no adequate statistical data are available to corroborate this opinion, that not more than one-fourth are to be found within the towns or parishes in which they were born. — Such a complete subjection of the laborer to economic impulse has, of course, no power to reduce those inequalities of wages which are due to differences in physical or mental strength, activity or persistence. It has no great power to reduce those inequalities which result from early mistakes and misadventures, or from vicious habits and courses, always most influential causes in arranging men upon the industrial scale; yet it has a certain unmistakable efficiency in this direction, through affording the opportunity to blot out a bad record and to begin a new career without prejudice. But over all those inequalities of wages which result from accidents of condition or circumstance, the force indicated has irresistible sway. — And this, too, is to be taken into account, that in the degree, and in more than the degree, in which the laborer, by change, whether of place or of occupation, secures an increase of his own remuneration, does he also promote the general production of wealth. Whenever the laborer, by the exercise of courage and intelligence, breaks away from the spot or the kind of work in which he has found an inadequate remuneration, and seeks and finds a better market, he does not only that which is best for himself, but that which is best for others. He not only gets more by resorting to the new place or the new trade, but, in the very act of doing so, he gives more also. If in that market his service bears a higher price than elsewhere, this is, of itself, a proof that his service is there in greater demand, more needed, the subject of an intenser want. By all the difference which the change works in his own condition, and, doubtless, by even much more than that difference, is the general industrial system re-enforced and stimulated by that change. — Hence we say, that freedom and facility of industrial movement as seen at their maximum in the United States, do not only reduce the range of remuneration, as between the classes naturally less favored and those more favored, but it also, by enhancing the productive power of the community, raises the remuneration of the whole body of laborers. — II. General Wages. The question, what portion of the product of industry passes, by the normal operation of economic laws, into the hands of that one of the co-operating agents of production whom we call, in economic discussion, the laborer, was,

* "The full-blooded American," said Michel Chevalier, "is encamped, not established, on the soil he treads upon."

cepted political economy of England and America. That answer made the capitalist employer to be the residual claimant upon the product of industry. Rent was first to be deducted, the amount to be determined according to the Ricardoan formula. Next, wages were to be deducted, the amount to be determined by the wage-fund formula. There were to remain profits, composed of interest upon capital and of the remuneration of business management. These constituted the share of the capitalist employer, who, after paying rent and wages, according to the formulæ indicated, retained all the rest of the product of industry as his own. In the article next preceding, we have traced the rise and fall of the wage-fund doctrine, and have stated the arguments which have led to its general abandonment by the economists of England and America, opening the way for a philosophy of wages. So long as that doctrine was accepted, wages remained purely a question in long division, and no philosophy of wages was possible. To what view of the distribution of the product of industry economic opinion will ultimately incline, can not be predicted with confidence. In 1871, Prof. Stanley Jevons, decisively rejecting the notion of a wage fund, advanced the proposition that "the wages of a laboring man are ultimately coincident with what he produces, after the deduction of rent, taxes, and the interest of capital." Upon this statement of the law of wages, Mr. Henry Sidgwick, in an article in the "Fortnightly Review" of 1879, remarked as follows: "It is to be observed that it does not attempt to settle the distribution of produce as between employers and employed, except so far as the employer's share consists of interest. That is, it does not help us to determine what Mill calls 'the wages of superintendence.' Now, it is just this latter that, in our practical discussions, usually appears the most prominent element of the problem. What English workmen grumble at, is not the rate of interest, but the undue extra profits which they suppose the employer to be making." Accepting as correct the judgment of Prof. Sidgwick, that the one undetermined point in the theory of the distribution of wealth is that which relates to the "wages of superintendence," the writer of the present article now proceeds to offer a view of profits, in their relation to the other shares of the product of industry, which, if it shall be accepted as based upon a just generalization of the facts of modern industrial society, will indubitably yield a complete and consistent theory of distribution, according to which the laborer, and not, as by the exploded wage-fund doctrine, the capitalist employer, is made the residual claimant upon the product of industry. — The line of argument which appears to lead to this momentous conclusion is as follows: The successful conduct of business, under free and active competition, must be due either to exceptional abilities or to exceptional opportunities. Whether due more to one than to difference in the matter of rent, whether the advantages, for productive purposes, of any piece of land under consideration be due to superior fertility or to proximity to market. As the economist, in writing of rent, is wont, for convenience of reasoning and simplicity of illustration, to attribute the productive advantages of land solely to superior fertility, assuming all tracts in question to be equally near the market, so, in the further progress of this paper, the more or less successful conduct of business will be attributed to the possession of higher or lower abilities, all employers being assumed, for convenience of reasoning and simplicity of illustration, to occupy industrial positions equally eligible. When we shall have passed over the field, it will then appear that all our conclusions, upon the foregoing hypothesis, would hold equally true upon the assumption that all differences in the degree of business success were due to differences of industrial opportunity, and not at all to differences of business ability. — Since, however, it can not be a matter of indifference to the social philosopher whether the power to secure profits be due more to exceptional abilities or to exceptional opportunities, it may be worth while to pause one moment to point out that the former are much the more efficient cause of profits. To justify this assertion, it will be enough to refer to the notorious fact that the great majority of all business houses in the United States which have achieved marked success have been founded by men who owed little or nothing to opportunity, perhaps by those who had to contend at the outset against positive disadvantages or actual misfortunes; while, on the contrary, great houses, enjoying high prestige, wide connections and vast accumulated wealth, are frequently brought to the ground, under the successors of the original founder, for no other reason than that the management, which had been wise and brave and strong, became, in other hands, vacillating, purposeless and unintelligent, or perhaps no worse than merely commonplace and tied to routine. So overwhelming is the preponderance, in this country at least, of business houses owing much or everything to ability, and little or nothing to unearned opportunities or advantages, that no American* is likely to dispute the proposition that the former are much the more efficient cause of profits. — Attributing, then, for convenience, the successful conduct of business to ability alone, we have to note, that, were the number of men of a high order of business ability throughout any large community more than sufficient to do all the business of all kinds which there required to be

* "Many employers of labor," says Prof. Alfred Marshall, "in some parts of England more than half, have risen from the ranks of labor." Accepting this statement as correct, it is to be noted, that, in addition to business ability being the efficient cause of profits, in comparison of the employer with the non-employer, business ability becomes, in a still higher degree, the cause of profits, as between the employer on a large and the employer on a small scale.

one; were these men, however much surpassing ther members of the industrial society, among hemselves equal in all respects which concern he conduct of business; and were this class, hus constituted and endowed, so clearly and conpicuously marked that no one of their number hould ever fail to be recognized as belonging to ;, while, on the other hand, no one lacking busiess ability in this degree should esteem himself apable of conducting business or be so esteemed, vith a view to his obtaining credit, by those who ave capital to loan or goods to sell: were these everal conditions to be all completely realized, we hould then have a situation closely analogous to hat which exists in the case of a community round which is found good land, of uniform uality, in amount more than adequate to raise all he produce required. The result would be, eiher that the employing class would, by forming combination and scrupulously adhering to its erms and its spirit, create and maintain a moopoly price for their services in conducting the usiness requiring to be done, which is so improbble as to be altogether out of our contemplation, r else they would, by competing among themelves for the amount of business to be done by hem individually, bring down the rate of profits o so low a point that the remuneration of each nd every one of this class would be practically qual to what he could earn for himself in other vocations, either as an independent laborer, workng in his own shop or on his own lot of land, or, s a wage laborer, hired by some one of his own ntellectual class, no more qualified in any way han himself to conduct business. Under such onditions, profits, as distinguished from wages, would be destroyed. The persons actually remaining in the conduct of business would, indeed, earn their subsistence—otherwise the function could not be performed; but, economically speaking, it would make no difference to them whether they did this as employers or as employed. — In fact, however, the qualifications for the conduct of business are not equal throughout all of a sufficiently numerous class. — First, we have those rarely gifted persons who, in common phrase, seem to turn everything that they touch into gold; whose commercial dealings have the air of magic; who have such power of insight that they almost appear to have the power of foresight; who are so resolute and firm in temper that apprehensions and alarms or repeated shocks of disaster never cause them to relax their hold or change their course; who have such influence and command over men that all with whom they have to do acquire vigor from the contact, and work for them as they would not work for others. — Next below, but far below, the class described, we have that much more numerous body of men of business, who possess a high order of talent, merely; whose success is easily comprehended, even if it can not be imitated, by their less gifted competitors; men of natural mastery, sagacious, resolute and prompt in their avocations. — Then, descending further in the scale, we have men who on the whole do well or pretty well in business; men who enjoy a harmonious union of all the qualities required for the conduct of affairs, though possessing those qualities each in but a moderate degree; or else in whom some defect, mental or moral, impairs a higher order of abilities; men who are never masters of their fortunes, are never beyond the imminence of failure, and yet, by care and pains and diligence, win no small profits from their business, and, if frugality be added to their other virtues, accumulate in time large estates. — Lower down in the industrial order are a multitude of men who are found in the control of business enterprises, for no very good reason that can be seen by those who know them; men of checkered fortunes, sometimes doing well, but more often ill; some of them, perhaps, filling a place which would not otherwise be filled, but more commonly in business because they have forced themselves into it under a mistaken idea of their own abilities, perhaps encouraged by the partiality of friends who have been willing to place in their hands the agencies of production, or entrust them with commercial or banking capital. — Now, in my view of the question of profits, we find, in the lower stratum of the industrial order, as thus sketched, a "no profits" class of employers. Notwithstanding all the magnificent premiums of business success, the men of real business power are not so many but that a great part of the posts of industry and trade are filled by persons inadequately qualified, who consequently have a very doubtful career, and realize for themselves, first and last, a very meagre compensation, so meagre that, for purposes of scientific reasoning, we may treat it as constituting no profits at all. Live they do, partly by legitimate toll upon the business that passes through their hands; partly at the cost of their creditors, with whom they make frequent compositions; partly at the expense of friends or by the sacrifice of inherited means. This bare subsistence, obtained through so much of hard work, of anxiety, and often of humiliation, we regard as that minimum which, in economics, we can treat as *nil*. From this low point upward we measure profits, just as we measure rent upward from the line of the no-rent lands, or lands whose selling price represents an annual interest of only a few cents an acre. — If the view of the employing class here presented fairly corresponds to the facts of industrial society, profits, manufacturing profits, for example, are, granted only perfect competition, not obtained by deduction from the wages of mechanical labor, any more than rent is obtained by deduction from the wages of agricultural labor; and, secondly, manufacturing profits do not constitute a part of the price of manufactured goods, any more than rent constitutes a part of the price of agricultural produce. All profits are drawn from a body of wealth which is created by the exceptional ability of the employers who receive profits, measured upward from the line of the no-profits employers, just as rents are drawn from a

lands which bear no rent. The normal price of manufactured goods, of any particular description, is determined by the cost of production of that portion of the supply which is produced at the greatest disadvantage. If the demand for such goods is so great as to require a certain amount to be produced under the management and control of persons whose efficiency in organizing and supervising the forces of labor and capital is small, the cost of production of that portion of the stock will be large, and the price will be correspondingly high; yet it will not be high enough to yield to employers of this grade any more than that scant and difficult subsistence which we have taken as the no-profits line. — The price at which these goods are to be sold, however, will determine the price of the whole supply, since, in any market, at any given time, there can be but one price for different equal portions of the same commodity. Hence, whatever the cost of production of those portions of the supply which are produced by employers of higher industrial grades, they will command the same price as those portions which are produced at the greatest disadvantage, just as wheat produced on rich lands at a cost of three shillings a bushel is sold for the same price with wheat produced on comparatively sterile lands, at a cost of six shillings a bushel. — Profits, therefore, do not enter into the price of any commodity; for the price of each and every commodity is fixed by the cost of production of that portion of the supply which yields no profits. — Do profits come out of wages? Not at all. The employer of the lowest industrial grade, the no-profits employer, must pay wages sufficient to hire laborers to work under his direction. The employer of a higher industrial grade will pay the same wages, no less, no more; but, selling his goods, so far as they are of equal quality, at the same prices as the employer who makes no profits, he will yet be able, by careful study of the sources whence his materials are drawn; by a comprehension of the ever-varying demands of the market; by steadiness and self-control; by organizing force and administrative ability; by energy, economy and prudence, to accumulate a clear surplus, after all obligations are discharged, which surplus is called profits, just as the cultivator of the better soils has a surplus left in his hands, after paying wages for labor and interest for capital, which surplus, in this case called rent, goes to the owner of the soil, as such, be he the actual cultivator or another person. — It will have been observed, that, throughout this discussion, I closely assimilate profits with rent. I believe this to be a sound and just view of the origin of profits and of their relation to the other shares of the product of industry. If this view shall be approved as correct, the demand of Prof. Sidgwick will be met, and we shall have, for the first time since the destruction of the wage-fund doctrine, a complete and consistent theory of the the old economic doctrine, the capitalist employer, but the laborer. Subject to three several deductions of a definite nature, the wages class will, upon the assumption here made of perfect competition, supplying all the conditions of a really good market, receive all they have helped to produce. — *First.* Rent is to be deducted. On the lowest grade of soils there is no rent. On the more productive soils, rent, at its economic maximum, equals the excess of produce after the cost of cultivating the no-rent soils has been deducted; this rent, as has been said, does not affect the price of agricultural produce, nor does it come out of the remuneration of the agricultural laborer. We thus see that the first deduction to be made from the product of industry is of a perfectly definite nature. Rent must come out before the question of wages is considered. The laborer, as such, can not get this, or any part of it, by any economic means. It must go to the owner of the lands unless confiscated by the state, or ravished away by violence. — *Second.* From the product of industry must be deducted a remuneration for the use of capital. That remuneration must be high enough to induce those who have produced wealth to save it and store it up, instead of consuming it immediately for the gratification of personal appetites or tastes. This may imply, in one state of society, an annual rate of interest of eight per cent.; in another, of five; in another, of three. The only reason, industrially speaking, for interest being paid at all, is, that by the use of capital production may be enhanced; and the interest so paid is, theoretically, only a part, often, such is the force of competition among would-be lenders, a very small part of the excess of product so generated. Since the product remaining after the payment of interest is always, in theory, equal to what would have been the product had interest not been paid (that is, had the capital for the use of which interest is paid, not been employed), and since, in fact, the product so remaining is always greater in general, vastly greater—at times inconceivably greater—than the product otherwise would have been, we see that that party to distribution whose claims are residual, that is, which takes all which no other claimant carries away, is benefited by every payment of interest on account of capital used in the production of wealth. Indeed, as high interest, under free competition, shows that the contribution made to production through each successive increment of capital is very large, it may fairly be said that the residual claimant upon the product of industry derives a greater relative benefit through the employment of capital where a high rate rather than a low rate of interest is paid. — The third and last deduction to be made from the product of industry, before the laborer becomes entitled thereto, is what we have called profits, the remuneration of the employer, the entrepreneur, the man of business, the captain of industry, the merchant, manufacturer or banker,

who sets in motion the costly and complicated machinery of modern production. — If I have rightly apprehended the nature of the employer's function and the source of his profits, those profits would, under free and full competition, not form a part of the price of commodities (price being determined by the cost of production under the most disadvantageous conditions, *i. e.*, in this instance, production by the no-profits employers); while no economic means whatsoever would suffice to carry any portion of profits over to wages, even were employers forbidden by law to receive them, just as no economic means can be devised by which rent could be made to enhance wages, even though landlords were forbidden themselves to touch it. In other words, profits consist wholly of wealth created by individual employers, over and above the wealth which would have been produced, in similar industrial enterprises, by the same labor force and capital force, under the control and direction of employers of lower economic efficiency. — These three shares being cut off, the whole remaining body of wealth daily or annually produced is, according to the economic theory presented, the property of the laboring class: their wages or the remuneration for their services. So far as by their energy in work, their economy in the use of materials, or their care in dealing with the finished product, the value of that product is increased, that increase goes to them by purely economic laws, provided, only, competition be full and free. Every invention in mechanics, every discovery in the chemical art, no matter by whom made, inures directly and immediately to their benefit, except so far as a limited monopoly may be created by law for the encouragement of invention and discovery. Every improvement in their own efficiency as laborers, whether due to quickened zeal, to heightened intelligence or to greater industry, sobriety or thrift, will, by this rule, serve directly to advance their wages. Unless by their own neglect of their own interests, or through inequitable laws, or social customs having the force of law, no other party can enter to make any claim upon the product of industry; nor can any one of the three parties already indicated carry away anything in excess of its normal share, as hereinbefore defined. — It will appear, at a glance, how widely the result here attained differs from that which was reached under the old economic theory of the distribution of wealth, according to which from the entire product of the exertions and sacrifices of the industrial community is cut off, first, rent, as determined by the Ricardoan formula; secondly, wages, the laborer's share, as determined by the wage-fund formula, the amount possibly to be paid in this way being irrespective of the number and of the industrial quality of the laboring class. All that remains belongs to the capitalist employer. By such a rule of distribution, no gain in the efficiency of the individual laborer, whether taking the direction of greater energy or of greater economy; no mechanical invention, no chemical discovery, however much the capability of production may be increased thereby, can profit the laborer anything, except as it first enhances the profits of the employing class, and thereby adds to the capital of the wage fund, to be thereafter expended in purchasing labor. — In opposition to this view, I hold, that, notwithstanding the formal attitude of the laboring class in industry, as hired by the employing class and working for stipulated wages, the normal operation of the laws of exchange is to make the former, in effect, the owner of the whole product, subject to the requirement of paying the definite sums charged against the product on the three several accounts of rent, interest and profits. FRANCIS A. WALKER.

"WALTHAM SYSTEM," a term much used in connection with the manufacture of cotton and woolen goods during the period from 1814 to 1830. Prior to the war of 1812, the processes of carding, spinning, weaving and fulling, were carried on in separate establishments under different proprietors. But in 1813, in consequence of the inventions of Francis Cabot Lowell, the Boston manufacturing company was enabled to combine all these processes in their establishment at Waltham. Boarding houses for their operatives, and the periodical payment of wages in money, in lieu of payment in provisions and clothing from the factory store, were also introduced. This system was soon afterward introduced at Lowell, and soon became general. The advantages of the Waltham system, alike to manufacturers and workmen, are too obvious to require explanation. C. C.

WANTS. Man alone, of all animate beings, possesses the faculty of constantly adding to his wants, and to the means of providing for them. This double faculty, in course of time, very materially modifies human life, and the life of most organic beings; it completely changes the primitive distribution of the different genera of animals and vegetables, as well as their respective proportions. It is that faculty which, in the words of Buffon, "ends by impressing our ideas upon the face of the earth"; the faculty which has given our intellect the exercise that has so prodigiously developed its power, and without which the human mind would have remained but little above that of the different species of apes. To this faculty we must also attribute the multiplication of our race upon the earth, whose spontaneous productions would not furnish sufficient sustenance for a millionth part of those who now dwell upon it. — The faculty of increasing our wants should always be joined to that of increasing the means of satisfying them, for these two faculties are inseparable; they stand to each other in the relation of cause and effect, and the latter could never act but under the spur of the former; so that we can not logically deplore, with certain schools of pretended philosophers, the continual extension which is given to human wants by the onward march of humanity, without at

which the second faculty, that is, industry, has procured for us. — Of all the publicists who have maintained the doctrine of the limitation of wants, J. J. Rousseau is the most radical, and the only consistent one; for he is the only one who, looking upon the faculty of extending our wants as a direful gift, has entirely repudiated, at least in theory, all the goods whose production is due to that faculty. According to him, mankind entered upon the path of degradation, from the very day that they thought of substituting a cabin for a cave in the rocks and the foliage of trees, or determined to add the bow and arrow to their teeth or their nails. (*Discours sur l'origine de l'inégalité.*) If Rousseau had reflected, that, in order to reduce the human race to this manner of living, it would be necessary to sacrifice it almost entirely, he would probably have acknowledged that the advantage of thus elevating a few rare individuals to the condition of the orang-outang, would not be worth such a sacrifice. — The theorizers of to-day do not push the doctrine of the limitation of wants as far as Rousseau did; and, although they hold the same principle, they assign different motives for it. They consider the generalization of the desire for well-being the principal source of our ills, because it is calculated to develop cupidity, envy and other maleficent motives; and they would counteract it by inculcating austere religious tenets, a contempt for the pleasures of this world, and resignation to present suffering, in anticipation of happiness in a future life. They think of perfecting man's life on earth by contemning and despising it. They assure us that the general observance of their doctrines or precepts is the best means to secure the tranquillity and happiness of nations, and of *strengthening social order*. — Unfortunately these modern defenders of what Bentham calls the *principle of asceticism*, do not preach by example. Fully provided themselves with all that can satisfy most completely awakened wants, it ill becomes them to censure in the impoverished classes the aspiration to a position more or less nearly resembling their own, unless they first themselves renounce the advantages of their position. This, however, they do not do; they very willingly make use of the goods which they pretend to despise; we generally find them very anxious to escape privation, and none of them has yet been able to persuade himself to live in a Diogenes tub. This contradiction between their theory and their practice gives ground for the belief that their faith in the truth and efficacy of their doctrine is not very lively or sincere, and this is probably one of the causes of the fruitlessness of their preaching. — But even if they were to join example to precept, as did some of their predecessors in past ages, they would succeed no better than did these in inducing mankind to live a life contrary to their instincts. We can not change the nature of things by ignoring it; it remains what it is despite all our opinions

tire time of its union with the body—from the cradle to the grave—is *an inexhaustible source of desires* (Frederick Bastiat, *Harmonies Économiques*); and a desire is nothing but a seeking for some satisfaction, or a shrinking from some pain, that is to say, *a tendency to well-being*. — This tendency, therefore, is essential to the soul; it is as intimately connected with, and inherent in, our nature, as the mysterious force which attracts them to the centre of the earth is to heavy bodies. All that the will of man can do is to direct this tendency toward some gratifications rather than toward others; but we obey them in all our resolves, even when we constrain present wants in order to enjoy a future gratification, or impose a hardship upon ourselves to escape still greater ones, or resist the temptation to a physical gratification with a view to intellectual or moral pleasure, or even when we practice the greatest possible renunciation, and deny ourselves all of this world's goods with the hope of thus obtaining a happy existence in a better world. — Among the infinite variety of directions that may be given to our wants, some are more and some less favorable, some are more and some less opposed to the perfecting or improvement of human life. Thus, for instance, nations whose desires are too exclusively directed toward sensual gratifications, soon degenerate, because it is the nature of such gratifications to weaken the vigor and manhood of those who give themselves over to them without restraint, to degrade their affective faculties, to render them at the same time less fitted for intellectual operations, and thus to weaken the principal element of our power. But too absolute a repression of the instincts which urge us to sensual gratifications would be attended with no less pernicious results. Whether this repression be inspired by religious belief, or prompted by the idea—an idea which bears the impress rather of laziness than of philosophy—that it is better for man to stifle his wants than to have to produce the means of satisfying them, the inevitable effect will be to degrade his most precious faculties by allowing them to remain inactive. For it is to their activity alone that we must attribute the immense development which they have acquired, a development which may be estimated by comparing the most civilized portions of the population of Europe with the tribes that have remained almost in their primitive state of barbarism. — The science of morals points out to us the reefs upon which our blind tendencies would wreck us; its duty is to show us as clearly as possible the good or evil courses which wants may take, by discovering and indicating to us all the consequences of our inclinations, whether proximate or remote. Of the many courses which these inclinations may take, there is one which will surely lead to our ruin, and others which lead as surely to the progressive improvement of humanity in every respect. It is the part of morals to tell us whither these differ-

ent courses lead, in order that, while obeying the irresistible impulse of our nature to seek after well-being, we may be less exposed to losing our way. — In the present state of science this mission of morals is scarcely even outlined, and the only real progress which we have made in this respect for over a century, is due to political economy. — But, although political economy has thrown a great deal of light upon the consequences of some of the tendencies and habits of mankind taken collectively, its object is not so much to influence us in the direction of our wants as to enlighten us on the general means of insuring their satisfaction. It is for this reason that it takes these wants as they are, and recognizes *utility* in everything which they cause us to seek, without stopping to examine whether they are rational or not. Those who find fault with it for proceeding in this manner, do not realize that it could not act otherwise without extending its field of investigation beyond measure; that it could not furnish suitable rules to guide us in the choice of our satisfactions, and in the development of our inclinations and tastes, without creating out of whole cloth a science which does not exist. The principles of political economy are in every way independent of the direction our wants take, and they will be none the less true and useful when the progress of morality shall have made the general wants of man better understood, and more strictly conformable to well-being and the perfection of life than they are at present. The natural laws of production, distribution and consumption of the objects of our wants remain the same, no matter what the nature of the satisfactions which these objects procure, and independently of the favorable or injurious results which the habit of these gratifications may have upon individuals and nations. It is with the principles of political economy as with those of mechanics: they remain the same whether applied to the creation of an implement of warfare—an instrument of death and destruction—or suggesting rules for the better employment of the forces employed in the production of means of subsistence. Thus, for instance, the principles of political economy are as well adapted to point out to the savages of North America the general means of obtaining abundantly the alcoholic wants which degrade and kill them, as they are to enlighten civilized nations upon the social conditions most favorable to the increase and diffusion of all that can contribute to the improvement of physical life and of the intellect. — It is nevertheless true that the progress of morality, without changing anything in the principles of political economy, must aid in rendering the application of those principles more profitable; and the realization of this truth has led most economists to some extent into the domain of morals, while they were seeking to measure the relative extent and merit of different classes of wants, while they were combating the errors and prejudices which favor luxurious and purely frivolous expenses, and condemning those which tend to enervate and degrade nations. — The wants of nations are never a fixed quantity; they are constantly varying and generally progressive; but they are endowed with such elasticity, even in what concerns food, that experience has frequently shown that great variations may occur in their yearly alimentary production without exercising any proportionate influence upon the number of the population, that the population may increase without an equivalent increase in the quantity of products, and that an increase of general production may coincide with the stationary state of the population. In this latter case the wants of each are more fully satisfied; in the former cases they are necessarily restricted, and there is, consequently, more suffering.

A. Clément.

WAR. (See Declaration of War, Belligerents, Exchange of Prisoners.)

WAR, The Civil. (See Rebellion, The, in U. S. History.)

WAR DEPARTMENT. One of the executive departments of the United States government, established by act of Aug. 7, 1789. (1 Stat. at Large, p. 49.) The head of this department, officially designated the secretary of war, has charge of all matters respecting military affairs, under the direction of the president; has custody of all records, etc., relating to the army, the superintendence of all purchases of military supplies, the direction of army transportation, the distribution of stores, etc., the signal service and meteorological records, the disbursement of all appropriations for rivers and harbors and their survey and improvement, and the superintendence and supply of arms and munitions of war. The secretary of war is a member of the cabinet (salary, $8,000). He is required to make an annual report to congress, with statement of all appropriations and their expenditure, contracts for supplies or services, reports of surveys, and of improvements of rivers and harbors, returns of the militia in the various states, etc. — The extensive business of the war department is distributed among ten military bureaus, each under a chief who is an officer of the regular army, and receives a salary of $5,000 while at the head of a bureau. The chief clerk of the department (salary, $2,750) has charge of the correspondence and accounts, communicates between the secretary and department officers, and has general superintendence of 90 to 100 clerks and other employés attached to the secretary's office. The adjutant general of the United States army is at the head of a bureau of 575 clerks, etc. He issues the orders of the president and the general commanding the army, conducts the army correspondence, the recruiting and enlistment service, issues commissions, receives reports and resignations, is custodian of the voluminous army records of the United States, keeps the muster rolls, and makes an annual report of the strength and discipline of the

military posts, as well as the accounts of its disbursing officers. The quartermaster general (132 clerks, etc.) has charge of army transportation, clothing, quarters, equipage, forage, wagons, horses and mules, fuel and lights, stationery, hospitals, medicines, etc. He employs and pays guides, spies, etc., defrays funeral expenses, and has charge of the national cemeteries. The commissary general (38 clerks, etc.) is charged with the subsistence department, army rations, and purchase and distribution of the same. The surgeon general (463 clerks, etc.) has control of the medical department, the selection, purchase and distribution of medicines, records of all wounded, disabled and deceased soldiers, the supervision of army surgeons and of the army medical museum at Washington. The latter contains an extensive exhibit of specimens, representing the effects upon the human body of wounds, morbid conditions, etc., with the complete hospital records of the army, and a very extensive library of nearly 60,000 volumes. The paymaster general (60 clerks, etc.) keeps the accounts and disburses the pay of the army, through a large body of paymasters. The chief of engineers (17 clerks, etc.) is commander of the corps of engineers, charged with fortifications, torpedo service, military bridges, river and harbor improvements, military and geographical surveys, etc. The chief of ordnance (86 clerks, etc.) is charged with artillery and all munitions of war, prescribing models and modifications of weapons, and their construction, preservation and distribution to the regular army and to the militia of the states. The chief signal officer superintends the signal service, and the weather bureau, with a corps of instruction in signal duties, prepares and issues maps and charts, and publishes daily meteorological reports from the numerous stations of observation, which are afterward consolidated in permanent form. The judge advocate general receives and reviews proceedings of courts-martial and other military tribunals of the army, and furnishes opinions and reports on questions of law, etc., to the secretary of war. — The war department is conducted at an annual expense for salaries of $1,936,855 (in 1884), and contingent expenses (including printing) of $340,000. The following is a complete list of the secretaries of war, with their terms of office:

1.	Henry Knox	Sept. 12, 1789
2.	Timothy Pickering	Jan. 2, 1795
3.	James McHenry	Jan. 27, 1796
4.	Samuel Dexter	May 13, 1800
5.	Roger Griswold	Feb. 3, 1801
6.	Henry Dearborn	March 5, 1801
7.	William Eustis	March 7, 1809
8.	John Armstrong	Jan. 13, 1813
9.	James Monroe	Sept. 27, 1814
10.	William H. Crawford	Aug. 1, 1815
11.	George Graham	*ad interim.*
12.	John C. Calhoun	Oct. 8, 1817
13.	James Barbour	March 7, 1825
14.	Peter B. Porter	May 26, 1828
15.	John H. Eaton	March 9, 1829
16.	Lewis Cass	Aug. 1, 1831
20.	James M. Porter	March 8, 1843
21.	William Wilkins	Feb. 15, 1844
22.	William L. Marcy	March 6, 1845
23.	George W. Crawford	March 8, 1849
24.	Charles M. Conrad	Aug. 15, 1850
25.	Jefferson Davis	March 5, 1853
26.	John B. Floyd	March 6, 1857
27.	Joseph Holt	Jan. 18, 1861
28.	Simon Cameron	March 5, 1861
29.	Edwin M. Stanton	Jan. 15, 1862
	Ulysses S. Grant, *ad int.*	Aug. 12, 1867
	Lorenzo Thomas, "	Feb. 21, 1868
30.	John M. Schofield	May 28, 1868
31.	John A. Rawlins	March 11, 1869
	William T. Sherman	Sept. 9, 1869
32.	William W. Belknap	Oct. 25, 1869
33.	Alphonso Taft	March 8, 1876
34.	Jas. Donald Cameron	May 22, 1876
35.	George W. McCrary	March 12, 1877
36.	Alexander Ramsey	Dec. 10, 1879
37.	Robert T. Lincoln	March 5, 1881

A. R. SPOFFORD.

WARS (IN U. S. HISTORY). I. FRENCH AND INDIAN WAR. This was the first *national* war of the United States, although no such nation as the United States had as yet a formal existence. Previous wars had been waged by but one colony or a few adjacent colonies in combination. They had been the inevitable Indian wars, such as the Pequot war in 1637, or King Philip's war in 1675, waged by Massachusetts and Connecticut, and the Tuscarora war, in 1711, waged by North and South Carolina; or conflicts with the neighboring French and Spaniards, into which the colonies had been dragged by their connection with the mother country. Such were *King William's war*, in 1689–97, in which Massachusetts, Connecticut and New York united to attack Canada by land and sea; *Queen Anne's war*, in 1702–13, in which the fighting was done separately by South Carolina in the south, and by New England, New York and New Jersey in the north; the *Spanish war*, in 1739–42, in which the brunt was borne by Oglethorpe and his new colony of Georgia; and *King George's war*, in 1744–8, in which all the northern colonies took part. In the course of these conflicts, an increasing community of interests had brought an increasing number of the colonies to act together; but none of them had been general, and still less could any of them be called *quasi*-national. The French and Indian war was essentially different from all its predecessors. It was not provoked by European diplomacy, but continued for two years in America before war was declared in Europe. It was not brought on by European interests, but was accepted by the colonies in defense of their own interests. It was waged by all the colonies in common, from New Hampshire to Georgia. In waging it, the first plain distinction appeared between Americans, or "provincials," and Englishmen. (See NATION.) And, as a part of it, the first effort was made to secure a formal union of the colonies. (See ALBANY PLAN OF UNION.) — In 1748 the Ohio land company was formed, as a Virginia and London speculation. Several of the Washington family were engaged

in it, and its object was to develop Virginia's western resources. The peculiar claims of Virginia, from the asserted northwest direction of her northern boundary line, made it doubtful whether the country around what is now Pittsburgh was in Virginia or in Pennsylvania. (See VIRGINIA; TERRITORIES, I.) The Ohio company obtained from the crown a grant of 500,000 acres in this neighborhood, and began preparations to make roads to it through the still unsettled country. The French colonial empire in America then consisted of two settled territories, in Canada and at New Orleans, the two having about one-tenth the population of the English colonies, joined by a line of some sixty forts between New Orleans and Montreal. Many of these forts, such as Detroit and Natchez, have since become the sites of flourishing cities. The country through which the line ran was an Indian territory, with a few French hunters and traders in addition to the garrisons. But the French asserted territorial claims up to the crest of the Alleghanies; and they naturally took alarm as the first feeble wave of English settlement appeared over the mountains. In 1749 they sent an expedition through the present states of Ohio and Kentucky, to bury leaden plates at important points, with the arms of France graven on them, to assert possession of the country, and to warn English traders out of it. In 1752 the rivals came closer together: the Ohio company built Redstone old fort (now Brownsville), on the Monongahela; and in 1753 the French built forts at Presque Isle, now Erie, and on the Alleghany to the south of it. Late in the same year, George Washington, then a young land surveyor, was sent to Presque Isle by Gov. Dinwiddie, of Virginia, to warn off the intruders. They declined to go, and made active preparations to extend their acquisitions. — The key of the country was the point at the junction of the Alleghany and Monongahela, now known as Pittsburgh. All parties understood its importance. Late in 1753 Dinwiddie bought from the Indians the right to build a fort there, and sent men to do the work. Early in 1754 came the conflict: the French descended from Presque Isle, drove away the English, and finished the fort themselves, calling it Fort Du Quesne; and the French and Indian war had begun. The battles, such as the defeat of Braddock in 1755, and Johnson's defeat of Dieskau, near Lake George, in the same year, were at first not very creditable to the English and provincials. Their discordant and inefficient efforts were easily foiled by the inferior forces of the abler French leaders. In 1757 Pitt became the head of the English ministry, and order, vigor, sense and success came with him into the English councils. Fort Du Quesne fell the next year, and Quebec in 1759. During the following year the various French forts were taken into possession, and the French empire in America was lost forever. In 1763, by the peace of Paris, Great Britain was formally vested with the jurisdiction of the whole of North America east of the Mississippi, the Floridas being ceded by Spain, the ally of France in the war, in exchange for Havana, which an English expedition had captured two years before. Of her former possessions in North America, France ceded the portion east of the Mississippi to her victorious enemy, Great Britain, and the portion west of that river to her partner in misfortune, Spain. — The persistence of Great Britain in retaining her conquests from France in North America, and thus relieving her other colonies from the constant danger impending from Canada, was at first sight a great mistake. The French minister for foreign affairs warned the British envoy at the time that the cession of Canada would only clear the way for the independence of the original British colonies; and from 1763 until 1775 French statesmen patiently watched the fulfillment of the prophecy, and were encouraged by the unanimous reports of French agents in North America. It even became the fashion in Great Britain, after the opening of the revolution, to attribute the boldness of the colonists entirely to the cession of Canada. But, after all, the change of jurisdiction in 1763 can not thus be made the universal scape-goat: it but substituted Great Britain for France as an enemy. Burgoyne's expedition would not have been any more dangerous to the colonies under a French than under a British standard. The truth seems rather to be that the cession of Canada would have postponed the day of conflict with the mother country for half a century, if the stupidity of British statesmen had not brought it to a head in 1775. France, Great Britain and all Europe combined could not finally have balked of its prey the Anglo-Saxon lust for land; but the cession of Canada to the mother country satiated it peaceably for the time, just as Napoleon's cession of Louisiana in 1803 (see ANNEXATIONS, I.) satiated it again for the time. From this point of view the action of Great Britain in retaining the western territory would seem to have been as blindly wise as her subsequent attempt to "govern" the colonies was blindly foolish. — II. See REVOLUTION. — III. See ALGERINE WAR. — IV. WAR OF 1812. The causes of the "second war for independence," as the war of 1812 is sometimes called, are elsewhere given. (See EMBARGO; DEMOCRATIC PARTY, III.) The internal political difficulties which accompanied it, and the great development of national feeling which followed it, have also been given a separate place. (See CONVENTION, HARTFORD; NATION, II.) It is designed here only to give, in some necessary detail, the course of action which closed it by the treaty of Ghent. — March 8, 1813, the Russian minister at Washington, Daschkoff, offered to the American government, by direction of the czar, his friendly mediation in the war. Madison accepted it, and nominated, May 29, Bayard, of Delaware (see that state), Gallatin, and John Quincy Adams, then minister to Russia, as negotiators. July 19, the senate confirmed them, except Gallatin, who was secretary of the treasury: the affairs of the treas-

Nov. 4, 1813, while the three American negotiators were in St. Petersburgh, one of them unconfirmed, Castlereagh wrote to the secretary of state, declining the Russian mediation, but offering to treat directly, and suggesting London as the place. It is supposed that Great Britain, not caring to offend Russia or to allow that country's friendship for the United States to influence the final treaty, wished to transfer the negotiations from St. Petersburgh. In January, 1814, Henry Clay and Jonathan Russell were nominated and confirmed as additional negotiators; and Gallatin, who had by this time resigned the treasury, was confirmed. — In August, 1814, the place of negotiation was transferred to Ghent; and here the five commissioners met Lord Gambier, Henry Goulburn, and William Adams, on the part of Great Britain. The time was hardly propitious for peace negotiations. On the 30th of the previous March the allies had entered Paris in triumph; in April Napoleon had departed for Elba; and the British government was free to settle accounts with the upstart people whose ships had won more flags from her navy in two years than all her European rivals had done in a century. And so, while negotiations were going on, detachments of Wellington's victorious veterans were being shipped to America, there to seize New Orleans and Louisiana, and make possession of them at least nine points of the final treaty of peace. — Behind the British negotiators were the clamorous demands of the British war party and war newspapers, demands rising, in some cases, to the banishment of President Madison to some convenient Elba. "Better is it," said the "London Times," "that we should grapple with the young lion when he is first fleshed with the taste of our flocks, than wait until, in the maturity of his strength, he bears away at once both sheep and shepherd." Nevertheless, the first demands of the British negotiators must have seemed to them quite moderate. They were: 1, the creation of a permanent and independent Indian territory, between Canada and the United States; 2, that the northern boundary of the United States should run along the southern shore of the great lakes; 3, that the United States should have no forts on the northern frontier, and no war vessels on the lakes, while Great Britain should not be so restricted; 4, that enough of the eastern part of Maine should be ceded to enable the British to build a military road from Halifax to Quebec; and, 5, that the right to use the Mississippi, guaranteed by the treaty of 1783, should be renewed to British subjects, while the American right to the Newfoundland fisheries, guaranteed by the same treaty, should be considered lost by the war. In June, as a last concession, the American government had allowed its negotiators to waive the questions of right of search and impressment, on which the war had been begun; but no instructions could cover such demands as these. They aroused the war spirit in the American negotiators themselves lost their tempers. — After four months of wrangling, a treaty was made in which not a point of the British demands was granted. This result can not be attributed to any friendly feeling between the two sets of negotiators, for they quarreled unremittingly from the beginning to the end of the negotiation; nor to any accord among the American negotiators, for they quarreled with one another almost as constantly. Clay wished to give up the fisheries and save the Mississippi; Adams wished to give up the Mississippi and save the fisheries: and Gallatin alone was busied in keeping the peace among his colleagues and with the British negotiators. The best explanation seems to be that the treaty was due mainly to the high tone taken by Russia and Prussia, at the congress of Vienna, in defense of neutral rights, and the desire of Great Britain to eliminate the United States from possible complications. Nevertheless, it remains very singular that the British negotiators should have signed a treaty without any mention of Louisiana, while the British expedition for its conquest was still in position before New Orleans, with high hopes of success. The treaty even provided that "all territory whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, * * * shall be restored without delay"; so that the lives of Packenham and his dead were absolutely thrown away, and their victory would have gained no more than their defeat. It is not easy to avoid the feeling that the inside history of the treaty of Ghent is yet to be written.— The treaty, dated Dec. 24, 1814, at Ghent, and ratified by the senate Feb. 17, 1815, was in eleven articles. The first three provided for peace and the restoration of prisoners; the fourth, fifth, sixth, seventh and eighth, for the northern boundary (see MAINE; NORTHWEST BOUNDARY); the ninth, for the cessation of Indian hostilities; the tenth, for the suppression of the slave trade; and the eleventh, for the exchange of ratifications. It will be seen that the treaty did not touch one of the points on which the United States had declared war. These had been more practically settled: one frigate battle at sea was worth more to that purpose than a host of treaties. — V. THE MEXICAN WAR. The settlement of Texas by Americans, its secession from Mexico, its annexation to the United States, and its admission to the Union as a state, have been given elsewhere. (See ANNEXATIONS, III.) Before the annexation Gen. Zachary Taylor was stationed in Louisiana, then the southwest frontier of the United States. May 28, 1845, he was ordered to cross the Sabine and take post in Texas, so as to protect it from invasion by Mexico. The apprehended invasion by Mexico did not take place; and, though diplomatic intercourse between Mexico and the United States was interrupted, war did not follow. Corpus Christi, on the western bank of the Nueces, was then the advanced Texas town; and here Taylor made his headquarters for

the rest of the year. The territory between the Nueces and the Rio Grande, a desert in the east but fertile in the west, had been claimed by Texas, but never reduced to possession. During the summer several dispatches were sent to Taylor, authorizing him to advance to the Rio Grande if he saw fit, because of hostile preparations by Mexico, and ordering him, in that case, not to wait for orders from Washington. But Taylor, Oct. 4, in a long dispatch declared that he "did not feel at liberty, under his instructions, particularly those of July 8, to make a forward movement to the Rio Grande without authority from the war department." There the matter rested until the following January. — In the meantime, Nov. 9, President Polk appointed John Slidell (see LOUISIANA) as ambassador to Mexico, in pursuance of an intimation from Mexico that she would receive a commissioner to settle the Texas dispute. In December the Mexican government declined to receive Slidell in the character of an ambassador, since such a resumption of diplomatic intercourse would imply an abandonment by Mexico of the points in dispute, which had led to the rupture; but the offer to receive him as a commissioner was renewed. This was refused by Slidell. Soon afterward a revolution in Mexico placed a new government in power. — Before any of these events could be known at Washington, but, as Mr. Buchanan, the secretary of state, admitted, "in anticipation" of them, an order, dated Jan. 13, 1846, was sent to Taylor to advance to the Rio Grande. Taylor arrived at the river March 28, established his camp opposite Matamoras, and was notified by Arista, the Mexican general, after a series of angry communications, that he considered war as already begun. April 26, a party of American dragoons was captured, with some bloodshed, by a superior force of Mexicans. As soon as Taylor's dispatch announcing this event reached Washington, the president sent a message to congress, in which he declared that Mexico had "at last invaded our territory, and shed the blood of our fellow-citizens on our own soil." Two days afterward, congress passed an act authorizing the president to call out 50,000 volunteers; but the gist of the act was in its short and simple preamble: "Whereas, by the act of the republic of Mexico, a state of war exists between that government and the United States." The whigs protested against the preamble, as a falsehood, but it was passed in the house by a vote of 123 to 67, and the whole bill by 174 to 14. In the senate the whole bill was passed by a vote of 40 to 2; five whigs protested against the preamble, and three refused to vote. War had thus begun; and, though the whigs had not been manœuvred quite into an attitude of opposition to it, they were for some time thrown into confusion by their efforts to evade the issue so unkindly thrust upon them. (See WHIG PARTY.) — The essential facts and dates of the proceedings preliminary to war have been given above. Taken as they stand, they might be considered as a case of blundering into the lucky acquisition of California and New Mexico, for President Polk has not usually been regarded as a very able man. But von Holst, as cited below, has focused upon Polk a great mass of evidence going to convict him of almost Satanic ingenuity in luring Mexico into war. It must be remembered that the Oregon dispute with Great Britain (see NORTHWEST BOUNDARY) was coincident with the series of events above given. It is certain that Mexico was not willing to fight about Texas; and it seems probable, that, in the beginning, she was no more willing to fight single-handed for even the disputed territory between the Nueces and the Rio Grande. The allegation, then, is that the long delay to order Taylor forward was diligently used in working the dispute with Great Britain apparently to a war point; that Taylor was then ordered forward; that Mexico, relying on Great Britain as an ally, incautiously accepted the gage of war; and that then every point in dispute was given up to Great Britain, peace was settled with that power, and California and New Mexico, the real objects of the war, were squeezed out of the grasp of Mexico. It has been said above that the array of circumstantial evidence is strong: and it is impossible to repress a certain feeling of admiration for the repulsive skill with which the diplomatic combinations were made, if they were really the result of design. The times and seasons were chosen with such consummate adroitness, the advantages gained by them were pressed with such resolute persistence, and the whole scheme was worked out to the end with such a complete repudiation of moral objections to it, that Machiavelli might have been proud to own it as his master-piece. Nevertheless, the conviction remains that Polk had not the ability requisite for the conception of such a plan, and that he was the creature of circumstances rather than their creator. The train of events may fairly have the two interpretations; and, while the first would have been the more natural in the case of Cardinal Richelieu, the second is certainly the more natural in the case of James K. Polk. Given the desire of the government to obtain California and New Mexico in case of war, the constant pressure behind it urging it toward war, and its natural hesitation to base the war on its excessively doubtful claim to the territory between the Nueces and the Rio Grande; and a little occasional *suppressio veri* by the president will explain the whole drift of events without supposing them to be the result of a carefully elaborated plot. But, if the reader inclines to accept the first interpretation, he will find that it is necessary to take Marcy, the secretary of war, not Polk, as the presiding genius. — During the year 1846 Taylor first drove the enemy in headlong retreat over the Rio Grande, and then followed them and finished the campaign in Mexico. He captured, in Monterey, an army nearly double his own numbers, in spite of very strong natural and artificial defenses. Finally, Feb. 23, 1847, with less than 5,000 undisciplined volunteers, he met and routed more than four

Vista. In the meantime an overland expedition from Fort Leavenworth had captured New Mexico; and the Pacific squadron, aided by Fremont and some irregular land forces, had taken possession of San Francisco and California. The year 1847 ended the war. Scott, with 12,000 men, took Vera Cruz, and forced his way up to the plateau of Mexico before summer set in. In August and September, he beat nearly three times his number in a series of brilliant battles around Mexico, overturned the government, and conquered the peace of Guadalupe Hidalgo, Feb. 2, 1848. (For its results, see ANNEXATIONS, IV., V.; WILMOT PROVISO; COMPROMISES III.; DEMOCRATIC PARTY, V.) — VI. See REBELLION. — (I.) See 2 Sparks' *Writings of Washington*, 478 (for the history of the Ohio company); H. B. Adams' *Maryland's Influence*, 13; 1 Marshall's *Life of Washington*, 2; 4 Bancroft's *United States*, 106, 460; 1 Draper's *Civil War*, 159. (II., III.) See articles referred to. (IV.) See 4–6 Niles' *Weekly Register* (index under *Mediation* and *Peace*); 3 Palmer's *Historical Register* (1814), 234; 6 Hildreth's *United States*, 530, 544; John Q. Adams' *Works*; 5 *Pamphleteer*; Morse's *Life of John Q. Adams*, 75 (the best account of the negotiations); 2 Parton's *Life of Jackson*, 87; Ingersoll's *Second War with Great Britain*; the treaty of Ghent is in 8 *Stat. at Large*, 218. (V.) See 3 von Holst's *United States*, 79, 159, 198 (and index); *Statesman's Manual* (Polk's Messages); Jay's *Review of the Mexican War*; Ripley's *History of the Mexican War*; Ramsey's *The Other Side* (Mexican authorities); 16 Benton's *Debates of Congress*, 64, 215; 9 *Stat. at Large*, 9 (act of May 13, 1846), and 922 (treaty of Guadalupe Hidalgo). — (VI.) See authorities under REBELLION. ALEXANDER JOHNSTON.

WASHINGTON CITY. (See CAPITAL, NATIONAL.)

WASHINGTON, George, president of the United States 1789–97, was born in Westmoreland county, Va., Feb. 22, 1732, and died at Mt. Vernon, Va., Dec. 14, 1799. In youth he became a land surveyor, and in the French and Indian war he was advanced to the grade of colonel and commander-in-chief of the Virginia forces, distinguishing himself in Braddock's defeat. In 1759 he married Martha, widow of John Parke Custis; and the care of her extensive property occupied him thereafter, though he was for fifteen years a silent member of the house of burgesses of his colony. He was a delegate to the continental congress in 1774–5, and the general anxiety to keep Virginia steady in resistance to the crown induced his appointment as commander-in-chief of the American forces, June 15, 1775. Whatever the motives may have been that governed his appointment, he very rapidly proved his extraordinary fitness for the place, and became the great and central figure of the revolution. The character of no other public man of the time can so suc- There seems to have been nothing little in him. Great in defeat, he was greater still in success, and the crowning event of his military career was his surrender of his commission to congress at the close of the war. (For the events of the war see the biographies cited below.) — After resigning his commission, he retired to Mount Vernon, to put his private affairs in order, and to pursue the line of investments in western lands to which he had been attracted during his early military life. In politics he was most interested in the evident and dismal failure of the confederacy. (See CONFEDERATION, ARTICLES OF.) During the revolution he had been the trusted adviser of congress and the state governors, and his correspondence with former political and military associates throughout the country now becomes voluminous. Every conscious step toward the formation of a new government was submitted to his inspection and approval, and when the time was ripe he was almost forced into becoming a delegate to, and president of, the convention of 1787. In that body he said little, but in each case his suggestion was final. On the subsequent question of ratification his influence was still greater. Multitudes of voters, particularly in the northern states, who would have hesitated to accept the legal arguments of the "Federalist," and similar publications on either side, supported the new constitution blindly by reason of their confidence in Washington's sound judgment, their certainty that he would not recommend a scheme of government which he thought to be of evil tendency, and the evident fact that the office of president had been cut to his measure by the convention. Here, as in the revolution, there was no getting on without him; and it is as certain as anything can be that the existence of such a character, from 1775 until 1790, changed the whole course of the history of the western continent, and thus of the world. — In the elections of 1789 and 1792 all the electors voted for him, and he became president. (See ELECTORAL VOTES, I., II.) No succeeding president has received this national compliment of a unanimous vote, the one who came nearest to it, Monroe, being probably the one who least deserved it. The events of Washington's administrations are elsewhere detailed. (See JUDICIARY; CAPITAL, NATIONAL; BANK CONTROVERSIES, II.; EXCISE; APPORTIONMENT; GENET, CITIZEN; DEMOCRATIC CLUBS; JAY'S TREATY; WHISKY INSURRECTION; FAREWELL ADDRESS; X Y Z MISSION; FEDERAL PARTY, I.; DEMOCRATIC PARTY, I., II.) He entered office with the impossible expectation that parties would be eliminated from his government; but his underlying consciousness that parties already existed is shown in his careful division of his cabinet offices between Hamilton and Knox on one side, and Jefferson and Randolph on the other. His expectation was of course disappointed; the companionship of Hamilton and Jefferson in the cabinet was, to use the latter's own comparison, like that of two

game-cocks in a pit. As Washington was by nature a sincere, though unconscious, federalist, the progress of party division drove the democratic leaders into opposition, and before the end of the second term all possibility, or even desirability, of further keeping the peace between the two parties was at an end. One party had overcome the prejudices of the people by help of Washington's name, and controlled the government by the continuance of the same help. The other party would have been more than human if it had not been impatient at finding Washington always in the way of its attacks upon its opponent. Its leaders successfully restrained themselves in prospect of his approaching retirement; but their impatience is shown by such symptoms as Jefferson's letter to Mazzei, though Jefferson always denied any intention to attack the president personally. The more violent members attacked Washington in plain terms, even accusing him of drawing more than his salary, publishing forged letters to show his desire to submit to the king during the revolution, and calling him the "stepfather of his country." Their malice undoubtedly embittered the closing years of his second term, and yet it was only one of the symptoms which showed that the time was past when he was absolutely necessary, and that, having successfully and strongly built the stage, he must now leave it clear for the actors. The firmness of his hold upon the national heart is proved by the venom of the impatient and yet helpless politicians. He might have died in the office if he had wished it: even after his final decision to retire, two electors obstinately voted for him for a third term in 1796. — Washington was slow of judgment, and anxious to see all sides of a case and to get all possible opinions upon it, but when he had formed an opinion or a judgment, it was his own, and he seldom changed it. Most of the state papers which pass as Washington's were originally written by other hands, though none of them were given to the world until they had been revised, digested and reproduced by him and made thoroughly his own. His letters, however, are his own; and though their editor has pushed his province of correcting them to an extreme, no editing can conceal the essential nature of the writer as shown in them. The strong judgment, the good sense, the calmness and patience, the consciousness of strength and of the ability to control the strength, the absolute freedom from self-seeking in any form, make his letters a monument which will always justify the instinctive popular estimate of him. Other men have surpassed him in particular phases of character and ability; but, in all phases together, his letters will show that he was the greatest man the earth has yet seen. — A bibliography of Washingtoniana would be altogether too voluminous for our space. The list of books, tracts and medals relating to his death alone fills two volumes, as collected by F. B. Hough in 1865. Among the lives may be mentioned Marshall's, Irving's, Sparks', A. Bancroft's, Lossing's, Ramsay's and Everett's; Custis' *Private Memoirs of Washington;* and Rush's *Washington in Domestic Life.* See also, Sparks' *Writings of Washington;* 1 *Statesman's Manual* (for his messages); Gibbs' *Memoirs of the Administrations of Washington and Adams;* Trescott's *Diplomatic History of the Administrations of Washington and Adams;* Thacher's *Life and Military Journal of Washington;* Griswold's *Republican Court;* 2 Pitkin's *United States;* 3–5 Hildreth's *United States;* 1 Schouler's *United States.* There is a forcible pen-portrait of Washington at pp. 77 and 114–126 of Schouler as cited above; and in fiction Thackeray has attempted the same thing in *The Virginians.*

ALEXANDER JOHNSTON.

WASHINGTON TERRITORY, a territory of the United States. Its area is a part of that doubtful portion of the Louisiana cession (see ANNEXATIONS, I.), whose jurisdiction was long a subject of dispute between the United States and Great Britain, but was finally decided to be in the former by the treaty of 1846. (See NORTHWEST BOUNDARY.) It was originally a part of Oregon territory, and, before the erection of that territory into a state, was set off as a separate territory by the act of March 2, 1853. As at first organized, it contained 198,071 square miles, but transfers to Idaho have reduced it to an area of 69,994 square miles. Its population, by the census of 1880, was 75,116, an increase of 213.57 per cent. in the decade previous. Its capital is Olympia, and its governor (1880–84) is William A. Newell. — The act of March 2, 1853, is in 10 *Stat. at Large,* 172.

ALEXANDER JOHNSTON.

WAYS AND MEANS. (See PARLIAMENTARY LAW.)

WEALTH. In the most ordinary acceptation of the term, the word wealth indicates, and always indicated, especially when it was applied almost exclusively to the precious metals, things having *an exchangeable value;* but the greater part of economists have applied it to all *useful* things, even to those which are entirely devoid of such value; but it is always inconvenient in scientific nomenclature to designate by the same word, things which differ by essential characteristics, for such designation invariably causes confusion and misunderstandings. It might easily be shown that a great part of the discussions to which some of the principles of political economy have given rise, was due only to the two-fold meaning given to the words *wealth* and *value,* which made them designate both gratuitous utility, that is to say, a utility acquired without cost or labor, and powerless to obtain anything by way of exchange, and the utility obtained by means of labor, and possessed of an exchangeable value. It will, therefore, be of interest to inquire whether the nomenclature of politico-economical science would not be rendered clearer and more precise if it were once well understood that the words *wealth* and

But we must first point out the difficulties which result from the two-fold scientific meaning given to these two words, or the lack of precision in the meaning given to each in the definitions of them by the principal economists. The intimate correlation of these two words, and of the ideas which they awaken, will not allow us to treat of wealth without at the same time treating of value; we will, however, as far as possible confine our observations on the latter word to what is necessary in order to elucidate the question of nomenclature which we are considering: the other questions relating to the subject are considered in the article on VALUE. — "Every man is rich or poor," says Adam Smith, "according to the degree in which he can afford to enjoy the necessaries, conveniences and amusements of human life. But after the division of labor has once thoroughly taken place, it is but a very small part of these with which a man's own labor can supply him. The far greater part of them he must derive from the labor of other people; and he must be rich or poor according to the quantity of that labor which he can command or which he can afford to purchase. The value of any commodity, therefore, to the person who possesses it, and who means not to use or consume it himself, but to exchange it for other commodities, is equal to the quantity of labor which it enables him to purchase or command." ("Wealth of Nations," book i., chap. 5.) — From this we see that Adam Smith at first seems to consider everything useful as wealth, but afterward restricts the qualification to things which have an exchangeable value. "The word value," he says elsewhere, "it is to be observed, has two different meanings; it sometimes expresses the utility of some particular object, and sometimes the power of purchasing other goods which the possession of that object conveys. The one may be called *value in use*, and the other *value in exchange*. The things which have the greatest value in use have frequently little or no value in exchange; and, on the contrary, those which have the greatest value in exchange have frequently little or no value in use. Nothing is more useful than water; but it will purchase scarce anything; scarce anything can be had in exchange for it. A diamond, on the contrary, has scarce any value in use, but a very great quantity of other goods may frequently be had in exchange for it." ("Wealth of Nations," book i., chap. 4.) Here we have the word value used to express both gratuitous utility and utility which brings a price. — "Everybody knows," says J. B. Say, "that things have sometimes a value in use very different from their value in exchange; that common water, for example, has scarcely any value, although very necessary, while a diamond has a very great value in exchange, although of very little service; but it is evident that the *value* of *water* is a part of our *natural wealth*, which does not belong to the domain of political economy, and that the value of the dia-

The word *exchangeable* is always indispensable, and included in the values with which political economy is concerned; it is unnecessary to repeat it continually, *for it is always understood.*" (*Cours Complet*, t. i., p. 74.) And again he says, "The value which constitutes wealth is not the arbitrary value which a person attaches to a thing he possesses, and which is purely relative to his particular wants; *it is the value given by industry and appreciated by the public.*" (*Ibid.*, p. 306.) Thus J. B. Say understood by value and wealth only what possesses an exchangeable value, and it was probably only by the example of Smith that he was induced to give to gratuitous utility the name of value in use (*valeur d'utilité*), or natural wealth. — Ricardo fully admits the distinction established by Smith between value in use and value in exchange ("The Principles of Political Economy in Taxation," ch. i.); however, in a letter to J. B. Say he maintains that we ought to give the name of wealth only to the things which have an exchangeable value (*Œuvres diverses de*, J. B. Say, p. 410). In turn J. B. Say writes him: "I can not admit what you and Adam Smith are pleased to call *value in use:* what is value in use, if it is not utility pure and simple? The word utility is therefore sufficient." (*Ibid.*, p. 409.) This remark is well grounded, and that of Ricardo is not less so. — M'Culloch recognizes that the double meaning given to the two words value and wealth has not always been clearly perceived, and that it often becomes a cause of confusion and error; hence, from the very beginning of his book, he makes it a rule to use the word *value* to signify only exchangeable value, and the word *wealth* only to specify products susceptible of appropriation, and which are obtained only by the use of human labor, and which consequently are not gratuitously acquired, but are possessed of an exchangeable value. — "When exchanges are introduced," says Storch, "the *useful things* or the *values* which we possess may serve us in two different ways: first, *directly*, when we employ them in our own use, and then *indirectly*, when we exchange them for other values. Thus, therefore, the utility of things is either direct or indirect, and so with their value. Notwithstanding the difference of expression, this distinction is the same as that established by Smith, for Storch includes gratuitous utility in direct value. — "What is value? what is wealth?" asks Rossi. "If common sense answers these questions easily, the books answer them in so many different ways that the critics have reason to assert they have not been answered at all. Once more, value is the expression of the *relation which exists between the wants of man and things.* Wealth is a generic term which embraces all the objects in which this relation is verified. Every object that can satisfy a human want possesses a value. The object itself is wealth. Thus value and wealth, without being synonymous, are two expressions necessarily correlative. Value is the

relation; wealth is the aggregate of all the objects in which this relation is realized. This is what common sense tells us, and science has no right to depart from common sense." — It is quite evident that Rossi confounds here, as in other parts of his course of political economy, the words value, utility, etc. It is to be regretted, that, after having pretended that the books did not at all answer the questions which he propounded, he himself answers them much more imperfectly than those who preceded him. But the confusion which prevented him from forming an exact idea of value is due to the fact that he admitted, with Smith, a *value in use*, which is nothing else than utility, and a *value in exchange*, which is the sole value. — Frederick Bastiat distinguished perfectly utility from value; utility is what may be called the *expression of the relation which exists between the wants of man and things*. Value, indeed, supposes utility, but admits of still other characteristics. Bastiat distinguishes *gratuitous utility*, that is, the utility we enjoy without labor or previous effort, such as the light of the sun, from *onerous utility*, which is acquired only after a service done. To procure this latter utility we must first overcome a difficulty which stands between the want and its satisfaction; we obtain it by means of the effort or service which by rendering utility onerous prevents it from being transmitted for nothing, and gives rise to value. Exchangeable value is the only value he recognizes; and he clearly demonstrates that the idea which this word expresses must be the result of exchange, and was introduced into the world when two men for the first time agreed to exchange their services or the results of their services. (*Harmonies Économiques*, p. 170, etc.) — But Bastiat held that the word wealth should be applied to gratuitous utility only. He distinguishes two kinds of wealth: *effective wealth*, which comprises all utilities, whether obtained gratuitously or with the assistance of human effort; and *relative wealth*, which consists exclusively of onerous utilities or utilities which have a price. The more gratuitous utilities increase by the progress of industry, the more effective wealth do nations or the whole human race possess. But the relative wealth of an individual, a family, or a limited agglomeration of individuals, depends upon the amount of values which it possesses, provided the share of the mass of existing wealth, which they can obtain by way of exchange, is proportioned to the sum of these values. — If we had to distinguish in political economy two kinds of wealth, we would rather admit the distinction made by J. B. Say, between *natural* wealth and *social* wealth, than that proposed by Bastiat, as the former seems to us much more exact; but how can Bastiat, who has so ably proved that exchangeable value is the only value, admit wealth *without value?* An examination of his motives seems worthy of attention, and we hope it will afford us an opportunity of elucidating one of the difficult points of political economy. — The "science of political economy," he says, "concerns itself with the general welfare of men, with the proportion which exists between their efforts and their satisfactions, a proportion which modifies to advantage the progressive participation of gratuitous utility in the work of production. The science can not, therefore, exclude this element from the idea of wealth. We may conceive two nations, one of which has more satisfactions than the other; but it has fewer values because nature has favored it, and because it meets with fewer obstacles: which is the richer of the two? Nay more, let us take the same people at two different epochs: the obstacles which it has to overcome are the same; but to-day it surmounts them with such facility (it effects, for instance, the *transportation of its merchandise, carries on its labor and manufactures with so little effort*) *that values are, in consequence, considerably reduced*. It may therefore adopt either of these two courses, remain content with the same satisfactions as formerly, and turn its progress into leisure. Can its wealth in this case be said to be retrograde, because that wealth possesses less value? Or it may devote its unemployed efforts to increase its enjoyments. In this latter case can we conclude that because the sum of the values of that people has remained stationary, its wealth has remained stationary also? This is a momentous question for political economy. Should it measure wealth by the satisfactions realized or by the values created?" (*Harmonies Économiques*, p. 284.) — This is really a very specious argument, and one which, if we are not mistaken, will appear unanswerable to many economists; and yet we believe we can show that all this argumentation is based upon an incomplete notion of value, and forgetfulness of some of its essential characteristics. The question is an important one. Is it true, as Bastiat asserts, that a people who by its progress in industry is enabled to procure the same satisfactions as formerly with less labor, thereby reduce the sum of these values? Or is it true that the latter remain stationary, if this same people, continuing to work as much as formerly, obtain more products? Let us see. — How is the value of a product, of a service, or of an aggregate of products and services, measured? *By the quantity of all other objects having a price which they enable one to obtain in exchange for them.* This is an axiom of political economy which has never been contested. — Let us now suppose that a people has, without greater effort or more human labor than formerly, succeeded in doubling the quantity of the products of all kinds which minister to its wants: we are told that then the value of these products, although their quantity has been doubled, has not been increased; but what is there to base such an assertion on? How is the value of the products measured *before and after the doubling?* If we measure it as we should do, by the quantity of all objects having a price which *each class* of products enables us to obtain in exchange, we shall inevitably find that in doubling the quantity of all the products we have likewise doubled their total value, since

that this double quantity will have no greater value than the single quantity had before. How is this possible? We ask again, what is there to base such an assertion on? Since the value of an object can not be better measured than by the quantity of all other objects having a price which can be obtained in exchange for it, is it not plain that a class of products, which, because it has been doubled at the same time that all others have been doubled, enables us to obtain, in exchange, the double of the latter, has doubled in value as well as in quantity? What misleads the mind, and prevents the clear apprehension of this truth, is that value is confounded with price, and it is very true, that if the quantity of money did not increase during this doubling of the other products, the price of the latter might have sunk one-half or nearly one-half; but what clearly proves that it is not their value which is sunk, is that if we suppose the quantity of money to have doubled in the same time as the quantity of all the other products, we shall see that the price of these latter, taken as a whole, must have doubled likewise. — What next hinders the conception and acceptation of the truth we have just stated, is, that many economists continue to suppose, with Adam Smith, that the value of products is measured by the quantity of human labor employed in their creation—an incorrect notion, which has led to many errors, and which prevents those who adhere to it from recognizing the fact that value may be increased without increasing the amount of labor. — But the greatest obstacle to a proper appreciation of the question we are considering is, in the first place, that it is too easily forgotten that value is a quality essentially relative, which can not vary in one object without varying at the same time, and in an *inverse sense* in all others; so that if sugar or wheat falls in value, all other products necessarily rise relatively to wheat or sugar, and that if iron or meat rise in value all other products fall in value relatively to meat or iron; and in the second place, that in considering the value of products the value of the *unit* is confounded with that of the *class*, and that when the fall in the value of the unit is observed, that fall is attributed to the entire class, and it is not remarked that the decline is compensated for, and often more than compensated for, by the increase in the quantity, as will appear from the following. It is noticed, for instance, that the use of the knitting machine enables us to produce a pair of stockings with half the labor or cost of production that was needed to produce the same pair of stockings when knit by hand; it is said that the value of the stockings has fallen one-half, and this is true so far as the unit is concerned; but is it equally true that the total value of the production of stockings has been reduced by half, since the introduction of the knitting machine? By no means, and it is very probable, on the contrary, that it has more than doubled; the same is true of the production compared with its production by the wheel or spindle; of transportation furnished by the locomotive, compared with that afforded by the peddler. In these different classes of production, the unit has considerably fallen in value, but the entire class represents a value incomparably greater than that which it possessed before the fall. The value of the unit of products has been more or less reduced in Europe since the beginning of the fifteenth century in many other branches of production, but there is probably not a single one which in the aggregate does not furnish a sum of values much greater than it was before that reduction. The value of products taken *en masse* is therefore far from being lessened by the effect of industrial progress; what men detract from the value of the unit, they far more than restore by the increase of the quantity. This evidently escaped Bastiat in the passage which we have quoted. He believed that a like quantity of labor could never produce anything but a like sum of values, and that the only result of industrial progress was to increase gratuitous utility: it is, however, very certain that industrial progress increases at the same time utility, which has a price; for nobody, surely, would hesitate to acknowledge that the most industrious peoples are also the richest in exchangeable values. Bastiat was imbued with the idea that values would go on constantly decreasing from the effect of industrial progress: this may be admitted in the case of various classes of products so far as the unit is concerned; but, so far as the class or the mass of products is concerned, the effect of this progress up to the present time has been to increase its value considerably, and there is nothing which authorizes us to think that it will be otherwise in the future. — This is not, therefore, so momentous a question as Bastiat imagined it to be; it may be boldly affirmed that wealth consists of objects possessed of exchangeable value, and that it is proportioned to the sum of those values, measured as it should be. — Although we realize how tiresome such discussions are to the mind, the desire to render them henceforth entirely superfluous by elucidating as clearly as possible the questions with which they are concerned, induces us to beg the reader's attention a few moments longer. — J. B. Say regarded, as one of the greatest difficulties of political economy, the solution of the question: *As the value of things possessed is what constitutes wealth, why is it, that, the lower prices are in a country, the richer that country is?* The question, it seems to us, is not here put in its true terms; for it would be difficult to show that the countries in which products have the lowest prices are always the richest. In certain large countries, as, for example, in Poland, or in certain provinces of Russia, in America, and Hindostan, the principal products (cereals, meat, wood, wool, leather, etc.) are lower in price than anywhere else; and yet these countries can not by any means be reckoned among the richest. It seems

evident to us that the problem which the illustrious French economist meant to propound is this: "*Wealth being made up of the value of things possessed, how can a nation grow wealthy in proportion as it succeeds in lowering the value of its products by reducing the cost of their production?*" J. B. Say answers, that the productive stock of such a nation has then more value, since the services which it furnishes are exchanged for *a greater quantity* of objects of every kind having a price; but this solution is incomplete, for it does not explain why the wealth produced (and no longer the power of producing) is greater in the country in which the progress of industry has reduced the cost of production, and the value of the different species of products, most. — To give a complete solution to this question, we must recall, first, that value is an essentially relative quality, and then all that we have said above. It results from this that the lowering of value brought about by industrial progress, in the unit of a class of products, does not diminish the value of the entire class, because it is at the very least compensated for by the increase in the quantity produced, while it increases proportionately the value of all other products relatively to that in which it has become manifest, because it allows these to be exchanged for a larger quantity of the products whose value has fallen. — We repeat, therefore: on the one hand, there is no reduction in the value of the class of products in which the fall has occurred, the increase in the quantity at least compensating therefor; on the other hand, this fall gives a superadded value to all other classes of products. Is not the final result, therefore, an increase in the sum of values? Thus a fall in the value in the unit of one class of products, may be perfectly reconciled with the increase of sum total of values or wealth. — This shows why we were able to prove, as we did above, that the doubling of the quantity of all the products obtained without an increase of cost or effort, would necessarily double the sum of their total value, since each class of products would then obtain in exchange a double quantity of all the others. — What precedes seems to us to have provided sufficiently for the solution of the question of nomenclature which we proposed to ourselves. The quality which renders things capable of satisfying our wants, is called utility. There are utilities like the air we breathe, or the light of the stars, which apply themselves to our wants, without requiring the least preparation or previous effort on our part; moreover, they are not susceptible of private or exclusive *appropriation*, being equally at the disposal of all. We agree with Bastiat, in classing all the utilities of this sort under the denomination of *gratuitous utility*. Others can not be applied to our wants except after some service performed by us; they become the property of those who have furnished that service, and they are endowed with a quality which enables their possessor to obtain other utilities of the same class, but of varied species, when he wishes to exchange them. This is the quality which is expressed by the word *value*. This class of utilities may be comprised under the general term of *utility having a price*.—Value exists only by labor and exchange; the value of any particular object is measured, not by the quantity of labor employed in producing it, *but by the quantity of all the other objects having a price which can be obtained in exchange for it*. — It is only the utility which has a price that constitutes *wealth*. The only politico-economical difference between the words *wealth* and *value* is, that the latter designates a quality, as Rossi has remarked, while the word *wealth* indicates the object in which that quality resides. — There is no value but exchangeable value: what many economists have called *value in use* is only utility. For an object to possess an exchangeable value, it is not indispensable, as Rossi supposes, that it be in circulation, that is to say, offered in exchange; it suffices that it be recognized to have some value if it be offered for sale; thus public monuments, or the clothes we wear, although they are not offered in exchange, still possess an exchangeable value. — There is no wealth but that which consists in objects possessing utility having a price. What J. B. Say calls *natural wealth* is only *gratuitous utility*. — When industrial progress enables us without more labor or effort to obtain greater quantities of objects that possess utility having a price, no fall in the sum of values takes place in consequence; for the reduction in value of the unit of the product in which that progress is realized, is immediately compensated for by the additional value acquired, relatively to this object, by all the other products for which it may be exchanged. On the contrary, the result is that the sum of values is increased proportionately to the surplus obtained in the quantity of products; this we think we have fully demonstrated. — Wealth, therefore, is really proportionate to the sum total of values, and this sum is itself proportionate to the quantity of products of all kinds, and, consequently, to the amount of gratifications we are able to procure. — The progress of industry, the increase of our power over natural agents, have not, therefore, as Bastiat supposes, the effect of reducing the sum of the utility which has a price. On the contrary, that progress increases it in proportion as it enables us to increase the objects which possess that utility. And this is the reason why the nations whose industry has made most progress are also the wealthiest, in the only legitimate sense of the word, the wealthiest in the utility which has a price in exchangeable wealth. — Every reduction in the cost of production, and in the value of the unit of any class of products, is none the less a benefit of that industrial progress; but it is a benefit only because it increases the units of that class, and because it gives an additional value to all the other products. — It seems to us that our propositions relating to the fixing of the meaning of the words *value* and *wealth* are sufficiently demonstrated.

A. CLÉMENT.

Oct. 24, 1852. He was graduated at Dartmouth in 1801, was admitted to the bar in 1805, and served as a federalist congressman from New Hampshire 1813–17. Removing to Boston in 1816, he served as congressman 1823–7, as United States senator 1827–41, as secretary of state 1841–3, as United States senator 1845–50, and as secretary of state from 1850 until his death. (See FEDERAL PARTY, II.; WHIG PARTY; FOOT'S RESOLUTION.) — Webster's first great success was in the decision of the Dartmouth college case, in 1819, in which he established the principle that a charter granted by a state legislature was a contract, unalterable without consent of the corporation, unless the power of alteration was reserved in the charter. This success made him one of the foremost lawyers of the country; but it was not until 1830 that he became, by his speeches on Foot's resolutions, one of the recognized political leaders of the country. Northern men were exultant in the belief that their representative had overthrown Hayne, and thus indirectly Calhoun also. Southern writers have never admitted this, their reason apparently being that Webster, as well as Hayne, admitted the validity of the argument from authority, on which state sovereignty (see that title) mainly rests, and that he was unable to meet Hayne's, or (afterward) Calhoun's arguments from this source. No one, however, has ever disparaged the brilliancy and force of Webster's eloquence, and from that time he has been confessedly the foremost orator of America, or, as many have thought, of all time. His speeches have a massive directness which, backed by careful polish, extent and precision of knowledge, and power of repartee, made them almost irresistible, and made him an antagonist to be avoided rather than desired. — A leader so distinguished had a right to think of the presidency, but from 1833 until 1852 this honor was always just beyond his reach. In 1836 he was nominated for the presidency by the Massachusetts legislature, and received fourteen electoral votes. In 1840 he had no chance against the candidacy of Harrison, as in 1848 he had none against the kindred nomination of Taylor, which latter Webster publicly declared to be "one not fit to be made": the whig opposition to both these nominations had to be concentrated on Clay, and was then unsuccessful. In 1844, all Clay's other rivals being out of the way, Webster had been discredited with the whigs by his very creditable conduct in remaining in Tyler's cabinet to arrange the dangerous and disputed northeast boundary. (See MAINE.) As the convention of 1852 drew near, it was evident that Clay was out of the field, that southern whigs were suspicious of Seward's influence over Scott, and that Webster's chance was now or never. Under these circumstances his speech of March 7, 1850 (see COMPROMISES, V.) was delivered, which aroused such intense indignation in the north. It is difficult to see now why it should have done so, without taking into account the to compare the speech itself with the general course of political oratory which had preceded it, without reaching the conclusion that the audience had changed rather than the orator, and that the veteran no longer represented the north. If it was the speech of a candidate, it was unsuccessful. The southern whigs, loudly as they had applauded Webster's speech, took Fillmore as their choice, and Webster had but about 30 of the 293 votes of the convention. His death followed closely upon this final failure. — See Webster's *Works* (and Everett's life of Webster in volume I.); Webster's *Private Correspondence;* Tefft's *Webster and his Master Pieces;* Whipple's *Great Speeches of Webster;* Knapp's *Life of Webster* (1835); March's *Reminiscences of Congress* (1850); Lanman's *Private Life of Webster* (1856); Curtis' *Life of Webster* (1870); 1 Choate's *Writings;* 3, 4 Everett's *Orations;* 1 Whipple's *Essays and Reviews;* Parton's *Famous Americans;* Loring's *Hundred Boston Orators;* 6 *Harper's Magazine;* 81 *North American Review*, 474; 68 *ib.*, 1; 75 *ib.*, 84; 84 *ib.*, 551.

ALEXANDER JOHNSTON.

WEIGHTS AND MEASURES. It is with proposals to adopt the metric system that this subject now mainly comes up before legislative bodies; and we shall treat it chiefly in this aspect. — The English standards for many years subsequent to 1760 were a certain brass weight constituting a troy pound, and a certain brass bar, the distance between two points on which, at a temperature of 62°, constituted a yard. Accurate copies of these were obtained for America in 1827, and have since constituted the standards for the United States. The English standards were destroyed by fire in 1834, but were carefully replaced; subsequently the troy pound has been done away with, and a standard pound avoirdupois substituted. The old unit of capacity was the gallon. It was supposed that a gallon, of whatever commodity, ought to weigh eight pounds; hence the variation of liquid and dry measure, while the further variation of wine and beer measure bears an almost exact proportion to the difference of the troy and avoirdupois pounds. All these standards are still in use in America, but are defined in cubic inches; in England the reforms of 1826 substituted a common "imperial" measure for all the three. Besides these there are more than seventy different units in general use, verified as being determinate multiples or fractions of some one of these standards. — Up to the end of the last century the systems in use in other parts of Europe were equally chaotic, and bore no relation to one another. Most of them had indeed their foot and their pound, representing somewhat the same length or weight; but there was too much difference in them to be available for anything like exact comparison. — In the year 1790 the French assembly undertook to lay the foundations of a system in which all the parts should

ıave the simplest mathematical and practical re-
ations to one another, and which should rest ulti-
nately upon some fixed natural standard. Neither
of these ideas was new; but they had never—in
nodern times at least—been put in practice. It
was at first proposed to adopt the length of the
seconds pendulum as the unit, but finally the ten-
millionth part of the earth's quadrant was selected
nstead, and attempts at determining this were at
once instituted. After some preliminary legisla-
ion the system was established in France in its
present shape in 1799. Its details are familiar; it
s only for us to consider the history of its adop-
ion in different countries, whether sudden or
gradual, and the advantages and difficulties at-
ending the change. — In France itself it was not
carried through with the completeness which the
egislators had expected. The opposition of the
ower classes was so great that Napoleon in 1812
adopted a compromise, returning to a certain ex-
ent to the old names, but making the pound ex-
actly half a kilogramme, and the foot exactly one-
hird of a metre. This compromise continued in
use till 1840, when, by a decree passed three years
earlier, the metric system went into effect in its
original form. — The French conquests at the be-
ginning of this century had extended the use of
he system beyond the permanent frontiers of
France. In the Netherlands, both Belgium and
Holland, its use continued without interruption
after the separation from France. Its use for
government purposes continued in parts of Italy;
and its effect was never lost in Baden. A large
part of the states which had been led to introduce
t temporarily under French domination, had
adopted it permanently before the middle of the
century. Neither there nor elsewhere has the
change as a general rule taken place suddenly.
Either the use of the metric system has been op-
tional for a time and afterward made obligatory;
or it has been first introduced in certain depart-
ments, such as coinage, postage, customs, or rail-
way freight charges, and afterward made general;
or, very commonly, as a transition measure the
old standards of the country have been slightly
modified so as to be commensurable with the
metric system, as in the case of the metric foot
and metric pound above mentioned. The dates of
these changes in different countries are shown by
table in following column, based largely upon the
report of J. K. Upton, 45th Cong., 2d Sess., Ex.
Doc. 71, which contains many additional details.
— The growth of the system has been so gradual
that it is hard to divide it into periods. The de-
cisive points in its history were its partial adoption
by the German zollverein in 1852; its complete
adoption by Germany and Austria, 1868–76; and
the establishment in 1875 of the international bu-
reau of weights and measures at Paris, with rep-
resentatives of all the leading nations, except
England and the United States; even including
Russia, which has otherwise done nothing in this
direction. — Both in England and in the United
States the metric system is used in scientific work;

COUNTRIES.	Weights and Measures made commensurable with Metric System.	Metric System made permissive.	Metric System made obligatory
Europe, etc.:			
Austria	(1852)	1871	1876
Belgium	1816	1816	1856
Denmark	1863	1876?	1860?
France	1812		1799
Germany	1858	1870	1872
Baden	1810		1881
Palatinate			1840
Oldenburg			(1858)
Great Britain		1864	
British India	1871	1871	
Greece			(1836)
Hungary		1873	1876
Italy		1861	1863
Sardinia		1846	
Piedmont		1850	
Venetia			1869
Holland	1816	1816	1821
Norway		1879	1882
Portugal		(1860)	1868
Sweden		1879	1889
Spain		1852	1859
Switzerland	(1835)	1868	
Turkey		1871	1874
Egypt		1875	
America:			
Brazil		1862?	1874
Chili		1848	(1868)
Colombia		1853	
Ecuador		1856	1866
Mexico		1857	1865
Peru			1869?
United States		1866	
Venezuela		1864	1874

Dates in parentheses denote gradual or partial changes.

and in the United States the smaller coins have metric weights; but the act making its use permissive has had no effect upon ordinary business. The subject of making its use compulsory has been agitated in both countries. The British standard commission, in 1869, while admitting the desirableness of the change, deprecated hasty legislation in that direction. In 1877 the house of representatives passed a resolution that the heads of executive departments be asked what objections there were, if any, to making the use of the metric system compulsory. The answers varied exceedingly in their tenor, but the majority were decidedly conservative. The arguments in favor of making the change as soon as possible are the practical convenience of the metric system for calculation and business, the confusion of names under the old system, and the importance of common units in international trade. Against the change is urged the fact that our present standards are well established, that the people are satisfied with them, and that the inconvenience and expense of a hurried change outweigh any practical advantages likely to be felt at present. They are the arguments of conservative feeling, in a case where that feeling is unusually strong.

ARTHUR T. HADLEY.

WEST VIRGINIA, a state of the American Union. Its organization had several peculiarities. Like Vermont, Kentucky, Maine, Texas and California, it had no previous territorial existence; and, like Kentucky and Maine, it was formed from a part of a state already in existence. But,

was so regularly given that no exception could be taken to it; while the existence of West Virginia is based upon a legal fiction by which congress recognized a revolutionary loyal legislature in western Virginia as the legitimate legislature of the state so far as to accept the consent of the former body to the erection of the new state of West Virginia. — The manner in which the secession of Virginia was accomplished is elsewhere given. (See VIRGINIA.) There had long been a division of interests and feelings between that part of the state west of the Alleghanies and the rest of the state. The former fraction, comprising nearly one-half the territory of Virginia and about one-fifth of her population (355,526 whites and 18,371 slaves), was rather a northern than a southern state in sympathy; its representatives in the Virginia convention opposed secession; and their constituents supplemented parliamentary by forcible opposition. Early in May, 1861, a delegate convention at Wheeling declared the ordinance of secession null and void, and summoned a [Virginia] state convention. It met at Wheeling, June 11, and two days afterward passed an ordinance vacating the state offices arrayed against the federal government. June 20, it elected Frank Pierpont governor of Virginia. July 2, the Virginia legislature, elected under the convention's ordinance, met at Wheeling, and elected United States senators, who were admitted by the senate. Aug. 20, the convention passed an ordinance to create the state of Kanawha, and this was approved by popular vote, Oct. 24. At the same election delegates were chosen to a new convention, which framed the first constitution, now adopting the name of West Virginia. This constitution was ratified by popular vote, April 3, 1862, and in the following month the legislature, representing the forty counties of western Virginia, but claiming to represent the whole state, formally gave Virginia's consent to the erection of the new state. Dec. 31, 1862, West Virginia was admitted by act of congress, the admission to take effect on the adoption of gradual abolition by the new state (see ABOLITION, III.); and the state thus became a member of the Union, June 19, 1863. The whole process of the formation of the state is a difficult problem in American constitutional law. It was evidently revolutionary in the main; but there are many features in it which go to support Sumner's "state suicide" theory. (See RECONSTRUCTION.) After the downfall of the rebellion Virginia admitted the validity of the formation by beginning suit in the supreme court against West Virginia for the restoration of Berkeley and Jefferson counties; but the suit was decided against Virginia in 1871. — CONSTITUTIONS. The first constitution was framed by a convention at Wheeling, Nov. 26, 1861 – Feb. 18, 1862. It provided that the state should "be and remain" one of the United States of America; that only white male citizens should vote; that the senate should consist of eighteen year; that the membership of both houses should be reapportioned by the legislature after each census; that the capital should be Wheeling until changed by the legislature; that the governor should be chosen by popular vote for two years; that the judiciary should be elective; and that no slave should be brought into the state. The last feature was changed to a gradual abolition of slavery as above specified. This constitution also made an attempt to introduce the township system of government for local affairs; but the system was repugnant to the feelings of the people, and was abolished by the next constitution. May 24, 1866, an amendment was added disfranchising all persons who had voluntarily given aid and comfort to the rebellion since June 1, 1861; and the provision of the constitution that no one could hold office unless entitled to vote made the amendment still more sweeping. The capital has since remained at Wheeling, except from April, 1870, until May, 1875, when it was located at Charleston. April 27, 1871, an amendment was ratified by popular vote, striking out the word "white" from the suffrage clause, and also the disfranchising amendment of 1866. — The present constitution was framed by a convention at Charleston, Jan. 16 – April 9, 1872. Its principal changes were the increase of the senate to twenty-four members, chosen for four years, and of the house to sixty-five members, chosen for two years; a prohibition of registration laws, and of special legislation in a number of specified cases; the increase of the governor's term to four years (see also RIDERS, VETO); and the abolition of the township system. — BOUNDARIES. The boundaries of the state are not defined in the constitution, which only specifies the counties of Virginia included within it. — GOVERNORS. Arthur J. Boreman, 1863-9; Wm. E. Stephenson, 1869–71; John J. Jacob, 1871–7; Henry M. Matthews, 1877–81; Jacob B. Jackson, 1881–5. — POLITICAL HISTORY. Until 1870 the majority of the voters of the state were republican, and its state officers even of that party. Even in 1860 the republicans had contested two of the counties, and had given Lincoln a popular vote of 1,929 in this part of the state. When war fairly began, the republicans, under the name of "unconditional Union men," took complete control of the new state. In 1864 Lincoln received nearly 70 per cent. of the total popular vote; and in 1868 Grant received nearly 60 per cent. But when the war ended, the return of disbanded confederate soldiers, particularly in the southern and eastern parts of the state, introduced a troublesome complication into politics. At first the dominant party met this by the disfranchising amendment of 1866, enforcing it by registration laws and test oaths, and suppressing resistance by force. The result was that in 1869 the number of disfranchised citizens was officially reported as 29,816, the number of actual voters being about 50,000; and as no disfranchised person could hold office, public busi-

ness was seriously interfered with in many parts of the state. The first sign of compromise was the "Flick amendment," finally adopted in 1871. It was supported by moderate republicans and democrats, as it combined amnesty with negro suffrage, and in the struggle over it the democrats, or "conservatives," carried the state and the lower house of the legislature in 1870, and the senate in the following year. In 1872 Grant carried the state by a majority of 2,264 out of a total vote of 92,366; but since that time the state has been so steadily democratic that the republicans almost ceased opposition until 1882, when they elected one of the state's four congressmen. In 1882 the legislature was composed as follows: senate, twenty democrats, three republicans, one independent; house, forty-six democrats, seventeen republicans, two independent. — Among the political leaders of the state have been the following: Arthur J. Boreman, governor (republican) 1863–9, and United States senator 1869–75; Wm. G. Brown, democratic congressman (from Virginia) 1845–9, and Unionist congressman 1861–5; J. U. Camden, democratic candidate for governor in 1868 and 1873, and United States senator 1881–7; Allen T. Caperton, whig member of the state legislature 1858–60, confederate senator 1862–5, and United States senator (democrat) 1875–6; Henry G. Davis, democratic United States senator 1871–8; Nathan Goff, secretary of the navy under Hayes, and republican congressman 1883–5; Frank Hereford, democratic congressman 1871–7 and United States senator 1877–81; John E. Kenna, democratic congressman 1877–85; and Waitman V. Willey, republican United States senator (from Virginia) 1861–3, and (from West Virginia) 1863–71. — See 1 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions;* authorities under VIRGINIA; 8 Wilson's *Slave Power*, 142; 2 Draper's *Civil War in America*, 241; *Tribune Almanac*, 1861–82; Appleton's *Annual Cyclopædia*, 1861–82.

ALEXANDER JOHNSTON.

WHEELER, William A., vice-president of the United States 1877–81, was born at Malone, N. Y., June 30, 1819, was admitted to the bar in 1843, and served in the state legislature 1850–51 and 1858–9, and in congress (republican) 1861–77. See LOUISIANA.) In 1876–7 he was elected vice-president. (See DISPUTED ELECTIONS, IV.; ELECTORAL COMMISSION.) See authorities under HAYES, R. B. A. J.

WHIG PARTY (IN U. S. HISTORY). I. 1829–33. From 1801 until after the presidential election of 1828 the unity of the democratic or republican party was still nominally unbroken. Membership in it was so essential to political advancement that after 1817 all national opposition to it came to an end. In 1824 the nomination of presidential candidates by a congressional caucus was urged on the ground that all the aspirants belonged to the same party: and, even through John Quincy Adams' administration, the "Adams and Clay republicans," who supported the president, and the "Jackson republicans," who opposed him, steadily acknowledged each other's claim to the party name. (See DEMOCRATIC-REPUBLICAN PARTY, III.; FEDERAL PARTY, II.; CAUCUS, CONGRESSIONAL.) — Notwithstanding this surface unity, there had long been a departure from the original democratic canons, and a break in the dominant party, which first becomes plainly visible after the war of 1812. The idea that the people were to impose their notions of public policy upon their rulers, and not altogether to receive them from their rulers, which the federalists had always detested at heart, had now been accepted by all politicians; but, working under this limitation, a strong section of the dominant party now aimed at obtaining, by Jefferson's methods, objects entirely foreign to Jefferson's programme. This was particularly the case in the northern states, where commerce, banking, and the other interests, not bounded by state lines, on which Hamilton had depended for the building up of nationality, were now supplemented by another, manufactures, non-existent in Hamilton's time. (See NATION.) All these looked to the republican party for a support and protection which the *laissez faire* of the Jeffersonian theory would have refused them. It is, then, very significant of the republican drift that banking was recognized by a national bank in 1816, commerce by a great system of public improvements in 1821, and manufactures by a slightly protective tariff in 1816, strengthened in 1824 and 1828. (See BANK CONTROVERSIES, III.; INTERNAL IMPROVEMENTS; TARIFF.) But this was the federalist policy, with the new feature of a protective tariff, which was at least rudimentary in the federalist policy; and the principal difference between the federalists and the Adams republicans was, that the former intended to be the guides, and the latter the exponents, of the people in carrying out the policy specified. The election of Adams as president in 1824, with his appointment of Clay as secretary of state, long denounced as a guilty bargain, was really the organization of a party, and the work was only hindered by Clay's angry denials of a "bargain." A frank acknowledgment of party birth, with the complete formulation of its principles which was given by President Adams in his annual messages, would have brought an intelligent support; the attempt to retain Jefferson's party name for the Adams faction only served to call attention to their complete departure from Jefferson's theory, and thus repelled every voter to whom "republicanism" was still the touchstone of politics. — It was not until toward the end of Adams' term of office that any of his followers began to take the step which should have been taken at first, and assumed the name of "national republicans." Even when it was assumed, the assumption was only tentative, and was confined to a few northern and eastern newspapers. To the mass of the Adams party the struggle still seemed to be only one between two

the better "republicans" to the country at large. Adams' electoral vote was that of the old federal party, the vote of the New England states, New Jersey and Delaware, sixteen of New York's thirty-six votes, and six of Maryland's eleven votes. But the popular vote showed a wider strength than the federalists had ever had. Jackson's majority was but 508 out of 8,702 votes in Louisiana, a state whose sugar-planting interest was always to incline it toward a protective tariff; 4,201 out of 130,998 votes in Ohio, where New England immigration and ideas were strong; in North Carolina and Virginia 30 per cent. of the popular vote was for Adams; and his total popular vote, in spite of the practical unanimity of most of the southern states, was 509,097 to 647,231 for Jackson. This was at least an encouraging growth for a party which as yet aimed at a total reversal of the republican policy while retaining the republican name. — The year after Jackson's inauguration was one of sudden political quiet. The newspapers of the year were busied mainly with internal improvements, the first struggle of the railroad toward existence, and the growth of manufactures. It was not until the beginning of the year 1830 that Jackson's drift against the bank, the protective tariff, internal improvements, and the other features of the Adams policy, became so evident that his opponents were driven into renewed political activity. The name "national republican" at once became general. But the new party was at first without an official leader. In October, 1828, an indiscreet or treacherous Virginia friend of Adams had obtained from Jefferson's grandson and published a letter from Jefferson, written three years before, which named Adams as the authority for the allegation of a federalist secession scheme in 1808. (See EMBARGO, SECESSION.) Adams' newspaper organ, the "National Intelligencer," at once confirmed Jefferson's statement, with some corrections, and asserted that the president had known in 1808, "from unequivocal evidence, although not provable in a court of law," that the federalist leaders aimed at "a dissolution of the Union and the establishment of a separate confederation." The former federalist leaders of Massachusetts, or their sons, at once demanded his evidence, which he refused to give, and the quarrel died away in mutual recriminations. Adams' purpose seems to have been to emphasize his own original "republicanism"; but he only succeeded in alienating from himself the legitimate successor of the federal party. His inability to see that he had created a new party cost him the party leadership, which passed at once to Henry Clay. Adams was out of politics, and, when he entered the house again, in December, 1831, came as an anti-masonic representative; Clay, when he entered the senate in the same month, came as the most conspicuous advocate of the Adams policy. Dec. 12, 1831, the national republicans, in convention at Baltimore, No platform was adopted, but an address to the country formulated the party principles very distinctly in its attacks on Jackson's policy. May 7 following, a "young men's national republican convention" met at Washington, renewed the nominations, and adopted ten resolutions indorsing a protective tariff, a system of internal improvements, the decision of "constitutional questions" by the supreme court, and a cessation of removals from office for political reasons. The popular vote of 1832 was proportionally very similar to that of 1828; but the electoral vote was very different. Maine, New Hampshire and New Jersey were now democratic; the "unit system" in New York gave the whole vote of that state to Jackson; Vermont gave her votes to the anti-masonic candidates; and the result gave Jackson 219, Clay 49, and others 18. (See ELECTORAL VOTES, XII.) Something was evidently lacking. Support of the United States bank (see BANK CONTROVERSIES, III.) helped the party in the middle and eastern states, but worked against it in the south and west. Support of a protective tariff helped the party in the middle and eastern states, where manufactures flourished, and growers of wool, flax and hemp desired a market in their own neighborhood, but again it exerted an unfavorable influence in the south and west. Too impatient to trust to time and argument for a natural increase of their national vote, and hardly willing to trust to a general system of purchase by "internal improvements" alone, the national republicans began, after the election of 1832, a general course of beating up for recruits, regardless of principle, which was the bane of their party throughout its whole national existence. No delegate could come amiss to their conventions: the original Adams republican, the nullifier of South Carolina, the anti-mason of New York or Pennsylvania, the state-rights delegate from Georgia, and the general mass of the dissatisfied everywhere, could find a secure refuge in conventions which never asked awkward questions, which ventured but twice (in 1844 and 1852) to adopt a platform, and which ventured but once (in 1844) to nominate for the presidency a candidate with any avowed political principles. The "national republicans" formed a party with principles and the courage to avow them; their reckless search for recruits placed their principles at the mercy of their new allies, and the bed became "shorter than that a man could stretch himself on it, and the covering narrower than that he could wrap himself in it."— II. 1833–53. However heterogeneous was the mass of dissatisfaction in 1833–4, there was community of feeling on at least one point, dislike to the president. In South Carolina, nullification (see that title) had received its death-blow from the president's declared intention to usurp, as the nullifiers believed, the unconstitutional power to make war on a sovereign state, and the bitterness of this feeling was aggravated

in the case of their leader, Calhoun, by a preliminary personal dispute with the president. The nullifiers were thus ready and willing to become the allies of the national republicans; and it is asserted by Hammond that Clay's compromise tariff of 1833, which gave the nullifiers a road of retreat, was one consideration for the alliance. The anti-masons of the northern and eastern states (see ANTI-MASONRY) had failed to make any impression in the election of 1832, and in transferring their national allegiance it was easier for them to go to the national republicans, whose leader, Clay, had publicly declared that he had not attended a masonic meeting for years, than to the Jackson party, whose leader was a warm and avowed free mason. In the south, particularly in Tennessee and Alabama, many democrats disliked Van Buren as the predestined successor of Jackson. Their leader was Hugh L. White, and, though his candidacy was at first that of a revolting democrat, his supporters soon came to feel that they were also fighting against the president and his dictation of his successor. In Georgia, the state-rights, or Troup, party, which had ousted the Indians from the state (see CHEROKEE CASE), had really been assisted by Jackson, and opposed by Adams, in accomplishing their purpose. Nevertheless, as a sort of connecting link between the nullifiers and the White party, they became the anti-Jackson party of their state, though their entrance to the general alliance was not perfected until 1835–7. All these elements, indeed, remained in nominally separate existence throughout the year 1833, though their approach was daily becoming closer. Jackson's removal of deposits from the United States bank, Oct. 1, 1833, in defiance of a previous adverse vote of the house (see DEPOSITS, REMOVAL OF), seemed to the entire opposition such a flagrant executive usurpation of power as could not escape popular condemnation, and the national republican leaders seized upon it as an opportunity for cementing their new alliances. The task seemed difficult, in view of the radically different political beliefs of the two leading elements of the alliance, and it was only made possible by the personal character of the opposition to Jackson, and by the political tact of James Watson Webb, of New York, in finding an available party name. His newspaper, the "Courier and Enquirer," had originally supported Jackson, and had been driven into the opposition by the president's course. In February, 1834, he baptized the new party with the name of "whig," with the idea that the name implied resistance to executive usurpation, to that of the crown in England and in the American revolution (see AMERICAN WHIGS), and to that of the president in the United States of 1834. In reality, the objects of the name were to oppose a verbal juggle to the verbal juggle of the opposite party, to balance the popular name of republican or democrat by the popular name of whig, and to give an apparent unity of sentiment to fundamental disagreement. In all these it was successful. The name "took." Within six months the anti-masons and national republicans had ceased to be, and the whigs had taken their places. In the south the change was slower. It was not until after the election of 1836, in which White was unsuccessful, that the White and Troup parties fairly took the name of whigs; and in South Carolina the nullifiers in general never claimed the name, and at the most only allowed whigs elsewhere to claim them as members of the party. — In 1836 the party was entirely unprepared for a presidential contest. Harrison was nominated for the presidency, as a "people's candidate," by a great number of mass meetings of all parties, and, in December, 1835, by whig and anti-masonic state conventions at Harrisburgh, and by a whig state convention at Baltimore, the former naming Granger and the latter Tyler for the vice-presidency. Harrison's politics were of a democratic cast, but he satisfied the whig requisite of opposition to the president, while he satisfied the anti-masonic element still better by declaring that "neither myself nor any member of my family have ever been members" of the masonic order. Webster was nominated in January, 1835, by the whig members of the Massachusetts legislature, but he found little hearty support outside of his state. White had now gone so far in opposition that copies of the official "Washington Globe," containing bitter attacks upon him, were franked to the members of the Tennessee legislature by the president in person. The legislature, however, in October, 1835, unanimously re-elected White senator, and by a vote of 60 to 12 nominated him for the presidency. Soon afterward, the Alabama legislature, which had already nominated White, rescinded the nomination, having become democratic. The South Carolina element, having control of the legislature, by which electors were to be appointed, made no nominations, and finally gave the state's electoral vote to Willie P. Mangum, a North Carolina whig, and John Tyler, a nullifier. All the factions of the opposition thus had their candidates in the field, and at first sight their discordant efforts might have seemed hopeless. But all the politicians of the time expected a failure of the electors to give a majority to any candidate, and a consequent choice by the house of representatives, in which the opposition, though in a numerical minority, hoped to control a majority of states. These forecasts proved deceptive. Van Buren received a majority of the electoral votes, and became president. — Van Buren's whole term of office was taken up by the panic of 1837, the subsidiary panic of 1839, and the establishment of the sub-treasury system in 1840, to take the place of the national bank and complete a "divorce of bank and state." (See BANK CONTROVERSIES, IV.; INDEPENDENT TREASURY.) Seldom have so many alternations in political prospects filled a presidential term. In 1837 Van Buren entered office with an overwhelming electoral majority, and his opponents prostrate before him; and within two years the whigs "had the loco-focos at their mercy." So poor had the administration grown that

weak as to be harmless, and that the real danger was from the whigs. Preston, of South Carolina, and John Tyler, were almost the only leading nullifiers who nominally remained whigs. To balance this, the White and Troup party had now come into the whig ranks, the former bringing John Bell as its most prominent leader, and the latter John M. Berrien, John Forsyth, Thos. Butler King, Alexander H. Stephens, and Robert Toombs. Before 1840 returning prosperity had changed the scene. The democrats were now more than confident: they predicted the dissolution of the whig party, and declared that they would be satisfied with nothing less, with no mere victory; and, to crown the whole, they were completely defeated in the presidential election of 1840 by the "moribund" whig party. In the accomplishment of this sudden victory, the whig leaders have been reproached with an entire sacrifice of principle to availability, but it is well to remember that their party was as yet no complete vessel, but rather a raft, composed of all sorts of materials, and very loosely fastened together. — Of the opposition candidates who had been in the field in 1836 it was evident that Harrison was the only available candidate for 1840. The whig party was not homogeneous enough to take its real leader, Clay, or its perhaps still better representative, Webster; nor had it sunk so low in its own coalition as to take a real democrat like White. Harrison was the favorite of the anti-masonic element; his western life and military services gave him strength at the west; and, in a less degree, at the south; and it was possible in the north and east to keep his very doubtful attitude as to the establishment of a new national bank under cover, while laying special stress on his determination to respect the will of the people's representatives in congress, and to spare the veto. This last point decided his nomination, for the whig leaders saw that his name would bring votes, while under cover of it the real contest could be carried on for congressmen, the actual governing power under Harrison's proposed disuse of the veto. And yet it is plain now that the whig party was more homogeneous in 1840 than it thought itself, and that it had a "fighting chance" of success under Clay. Its leaders ought to have learned this, if from nothing else, from the desperate expedients to which they were driven in the effort to dragoon the convention into nominating Harrison. And never was a convention so dragooned. It met at Harrisburgh, Dec. 4, 1839, and was treated as a combustible to which Clay's name might be the possible spark. By successive manœuvres it was decided that a committee of states should be appointed; that ballots should be taken, not in convention, but in the state delegations; that in each delegation the majority of delegates should decide the whole vote of the state; that the result of each ballot should be reported to the committee of states; and that this committee should only ballot gave Clay 103 votes, Harrison 94, and Scott 57, and it was not until the fifth ballot that the committee of states was able to report the nomination of Harrison by 148 votes to 90 for Clay and 16 for Scott. In the same fashion Tyler was nominated for the vice-presidency on the following day. — The "campaign of 1840" was based entirely on Harrison's popularity and the general desire for a change, and under cover of these the whigs carried on a still hunt for congressmen, the real objects of the campaign. In all points they were successful. Log-cabins and hard cider, supposed to be typical of Harrison's early life, were made leading political instruments; singing was carried to an extent hitherto unknown; mass meetings were measured by the acre, and processions by the league; and in November "Tippecanoe and Tyler, too," received 234 electoral votes to 60 for their opponents, and were elected. The popular vote was nearly evenly balanced. The whigs had carried New England (except New Hampshire), New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Indiana, and Michigan, north of the Potomac; and south of it they had carried the "White and Troup party" states, Tennessee, Mississippi and Georgia, the whig states, Kentucky, North Carolina and Louisiana, and had made an exceedingly close contest in Virginia, Arkansas, Missouri and Alabama. Evidently, the conjunction of Harrison and Tyler had kept all the elements of the opposition well in hand. More important still, the new congress, to meet in 1841, had a whig majority in both houses, though the majority was not sufficient to override a veto. — In spite of its diversity of opinion, the party had now developed a number of able leaders, Clay and Webster at their head, who for the next half dozen years were fast giving their party a definite policy, very similar to that of its most valuable element, the former national republicans. Among these were, Evans, Kent and Fessenden, of Maine; Slade, Collamer and George P. Marsh, of Vermont; J. Q. Adams, Winthrop, Choate, Everett, John Davis, Abbott Lawrence and Briggs, of Massachusetts; Truman Smith, of Connecticut; Granger, Fillmore, Seward, Spencer, N. K. Hall, Tallmadge, Weed and Greeley, of New York; Dayton, of New Jersey; Forward, Meredith and Ingersoll, of Pennsylvania; Bayard, Clayton and Rodney, of Delaware; Kennedy, Cost Johnson and Reverdy Johnson, of Maryland; Archer, Botts, Leigh and W. B. Preston, of Virginia; Graham, Mangum, Rayner, Clingman and Badger, of North Carolina; Legaré, of South Carolina; Berrien, Forsyth, King, Stephens and Toombs, of Georgia; H. W. Hilliard, of Alabama; S. S. Prentiss, of Mississippi; Bell and Jarnagin, of Tennessee; Crittenden, Morehead, Garret Davis, Wickliffe, John White and Underwood, of Kentucky; McLean, Giddings, Vinton, Corwin and Ewing, of Ohio; R. W. Thompson and Caleb B. Smith, of Indiana; and

Woodbridge and Howard, of Michigan. Of the old nullifier element, Rives, Wise, Gilmer and Upshur drifted off to the opposite party under Tyler's leadership. — Harrison's sudden death, and the accession of Tyler, were severe blows to the rising party, for they placed it temporarily under the feet of the remnants of its former allies, the nullifiers, just as it had begun to learn that it had a policy of its own which nullifiers could not support. But the whigs themselves, and particularly Clay, made the blow needlessly severe. Seeing here an opportunity to secure for himself an undisputed party dictatorship in a war on Tyler, he declared war and carried it on *a l'outrance*. Its bank details are elsewhere given. (See BANK CONTROVERSIES, IV.) In 1842, by the act of Aug. 30, the whigs secured a protective tariff, closely following that of 1832, but only after sacrificing a section continuing the distribution of land to the states (see INTERNAL IMPROVEMENTS), because of which Tyler had vetoed the whole bill. In the elections of 1842 for the second congress of Tyler's term, the democrats obtained a two-thirds majority in the house, a result usually regarded as an infallible presage of the succeeding presidential election. And yet the whigs do not seem to have really been weakened. Their convention met at Baltimore, May 1, 1844, the first and last really representative convention of the party. For the presidency Clay was nominated by acclamation; and for the vice-presidency Theodore Frelinghuysen, then of New York city, was nominated on the third ballot. For the first time the party produced a platform, a model in its way, as follows: "that these [whig] principles may be summed up as comprising a well-regulated national currency; a tariff for revenue to defray the necessary expenses of the government, and discriminating with special reference to the protection of the domestic labor of the country; the distribution of the proceeds from the sales of the public lands; a single term for the presidency; a reform of executive usurpations; and generally such an administration of the affairs of the country as shall impart to every branch of the public service the greatest practicable efficiency, controlled by a well-regulated and wise economy." Even beyond the day of election the whigs were confident of success. But their original ally, Calhoun, had been for some years at work on a project which was, directly and indirectly, to dissolve the fragile bond which as yet united the northern and southern whigs, and made them a national party. It seems wrong to attribute the proposed annexation of Texas (see ANNEXATIONS, III.) entirely to a desire for extension of the slave area: it seems to have been a subsidiary object with southern democratic leaders to throw into politics a question which would cost Clay either his northern or his southern support, and the scheme was more successful even than they had hoped. The popular vote was nearly equal, and the electoral votes were 170 for Polk to 105 for Clay; but in the former were included the thirty-five votes of New York and the six votes of Michigan. In both these states the Polk electors were only successful because the abolitionists (see ABOLITION, II.) persisted in running a candidate of their own. Had their votes gone to Clay, as they would have done but for Calhoun's "Texas question" and Clay's trimming attitude upon it, Clay would have been president by 146 electoral votes to 129, and a very slight popular majority. What added bitterness to the disappointment was, that the democrats had taken a leaf from the whig book of 1840, by being protectionist in some states, and free trade in others; that Polk's majority of 699 in Louisiana was the fruit of about 1,000 unblushingly fraudulent votes in Plaquemines parish; that fraudulent voting and naturalization were charged upon the New York city democrats; and that Texas annexation had cost Clay the vote of all the southern states except Delaware, Maryland, North Carolina, Tennessee and Kentucky. The consequent bitterness of feeling died away, except in one respect, the foreign vote and its almost solid opposition to the whigs. "Ireland has conquered the country which England lost," wrote one of Clay's correspondents after the election; and the permanence of this feeling did much to turn the whig party into the "native American," or "know-nothing" party of after years. — The question of Texas annexation had not sufficed to destroy the bond between northern and southern whigs, for, while both opposed this and subsequent annexations, the former did so for fear of slavery extension, and the latter nominally on economic grounds, but really for fear of the introduction of the slavery question into politics. But the war with Mexico gave their opponents another opportunity, which they used. The act recognizing the existence of war with Mexico declared the war to have arisen "by the act of the republic of Mexico." The object was to force the whigs to vote against the war, a vote much more dangerous to a southern than to a northern whig, or else array the two elements of the party against one another. The whigs managed to evade it, however, most of them by refusing to vote, some senators by adding formal protests to their affirmative votes; and fourteen in the house and two in the senate (Thomas Clayton and John Davis) found courage to vote against the bill. During the war the whigs voted steadily for supplies to carry it on, on the principle that an American army had been thrust into danger and must be supported; so that the democrats made very little political capital out of it. Indeed, the next congress, which met in 1847, had a slight whig majority in the house, a strong indication of a whig success in the presidential election of 1848.— But the "Wilmot proviso" (see that title) had been introduced, and it was to find at last the joint in the whig armor. As the effort to restrict slavery from admission to the new territories went on, it became more evident month by month that it would be supported by the mass of the northern whigs, and opposed by the mass of the southern

en deeper. Men began to talk freely of a "reorganization of parties," but that could only affect the whigs, for their opponents were already running the advocates of the proviso out of their organization. As the presidential election of 1848 drew near, the nomination of Taylor, urged at first by mass meetings of men of all parties, became more essential to the whigs. The democrats, after banishing the proviso men, were sufficiently homogeneous to be able to defy the slavery question; no such step could be taken by the whigs, and they needed a candidate who could conceal their want of homogeneity. In the north Taylor's antipathy to the use of the veto power was a guarantee that he would not resist the proviso, if passed by congress; in the south he had the tact which enabled him to answer an inquiring holder of 100 slaves thus briefly and yet suggestively: "I have the honor to inform you that I, too, have been all my life industrious and frugal, and that the fruits thereof are mainly invested in slaves, of whom I own *three* hundred. Yours truly. Z. Taylor." And his nomination was pressed harder upon the whigs by his declared intention to remain in the field in any event, as a "people's candidate." Nevertheless, when the whig convention met at Philadelphia, June 7, 1848, though Taylor had 111 votes, Clay had 97, Scott 43, Webster 22, and 6 were scattering. It was not until the next day, on the fourth ballot, that Taylor was nominated by 171 votes to 107 for all others. Fillmore was nominated for the vice-presidency on the second ballot, by 173 to 101 for all others. Clay had thus received his discharge from party service, for he was now over seventy years of age, and evidently this was his last appearance before a whig convention. To Webster, also, though five years younger than Clay, the blow was severe, and he publicly declared Taylor's nomination one which was eminently unfit to be made; but he and the other northern whigs finally supported the nomination. Taylor carried all the middle and eastern states (except Maine and New Hampshire), and, in the south, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, North Carolina and Tennessee, and was elected by 163 to 127 electoral votes. In both the north and the south he had also a plurality of the popular vote, the vote for Van Buren (see FREE-SOIL PARTY) preventing him from having a majority. But the election of Taylor was in itself deceptive. It was the result of democratic division in one state, New York, whose thirty-six votes would have elected Cass by an exact reversal of the electoral votes as above given. The division had really very little basis in principle, but was one of those contests between national and state party "machines" which have always been common in that state (see NEW YORK); but it sufficed to elect Taylor, and to give the whigs almost as many representatives in congress as their opponents. — The meeting of the new congress in 1849 showed the first strong sign of whig dissolution. A half Georgia, insisted on a formal condemnation of the proviso by the whig caucus; and when that body refused to consider the resolution, the Toombs faction refused to act further with the party. The loss was not large, but it was the opening which was very soon to be fatal. All through the session, which ended with the compromise of 1850 (see COMPROMISES, V.), the whole body of southern whigs exhibited a growing disposition to act together, even in opposition to the northern whigs, wherever the interests of slavery were brought into question. On the final votes, in August and September, 1850, it is practically impossible to distinguish southern whigs from southern democrats. Not that the northern whigs generally resorted to anything stronger than passive opposition: Thaddeus Stevens' suggestion, after the passage of the fugitive slave law, that the speaker should send a page into the lobby to inform the members there that they might return with safety, as the slavery question had been disposed of, lights up the whole line of policy of the northern whigs during 1850. They saw only that action of any kind must offend either their southern associates or their own constituents, and in either event ruin the party; and like the prudent man who foreseeth the evil and hideth himself, they took temporary refuge in refusal to act. — Such a policy could not be permanent, and yet most of the northern whig leaders at first thought that they could at least make its advantages permanent; that they could retain their southern associates by acquiescing, however unwillingly, in the final decision, and their northern constituents by their unwillingness to indorse the decision itself. Taylor's death, in 1850, and Fillmore's accession, committed the northern whigs to the official policy of regarding the compromise of 1850 as a law, to be obeyed until repealed, and of opposing any attempt to repeal it as a reopening of the slavery excitement. Webster's speech of March 7, 1850, which is far oftener reviled than read, was really only the first declaration of this policy and one of the least objectionable. But the popular clamor which it excited was largely an indication that northern whig leaders were already out of sympathy with a large fraction of their constituents. In several northern states schisms opened at once, the most prominent instances being those between the "conscience whigs" and the "cotton whigs" in Massachusetts, and the "silver gray" or administration whigs, and the dominant Seward faction in New York. But the general spread of any such schism was not possible. No new leaders had been developed as yet to take the place of the old ones, who still held their hands on the party machinery; reflection, and the absence of further agitation, made the mass of northern whigs willing to retain their southern wing, if the events of 1850 could be tacitly treated as a past episode in the party history; and the first twenty months of Fillmore's administration went by with a great deal of murmur,

but no open revolt. While there was no great disposition to excommunicate men like Seward and Giddings, who retained whig views on every subject outside of the slavery agitation, there was at least a disposition to relegate them to the limbo of "free-soilers" and disclaim responsibility for them. — In the spring of 1852 the southern whigs again intervened to finally break up the party. For twenty years they had accepted a northern alliance mainly as a point of resistance to southern democracy, and they had now consorted with their old opponents long enough to have lost their abhorrence of them. As the presidential election of 1852 approached, they prepared an ultimatum for the northern whigs which they must have known meant either the division or the defeat of the party. At the whig caucus, April 20, 1852, to arrange for the national convention, a southern motion was made to recognize the compromise of 1850 as a "finality." The motion was evaded, as not within the powers of the meeting, but its introduction was ominous. Northern whigs were willing to yield to such a recognition, tacitly: to do so expressly would have hazarded their majority in every northern whig state. But, when the whig national convention met at Baltimore, June 16, the southern ultimatum was pressed again, and more successfully. The platform was in eight resolutions: 1, defining the federal government's powers as limited to those "expressly granted by the constitution"; 2, advocating the maintenance of both state and federal governments; 3, expressing the party's sympathy with "struggling freedom everywhere"; 4, calling on the people to obey the constitution and the laws "as they would retain their self-respect"; and 7, urging "respect to the authority" of the state as well as of the federal government. Of the remaining three, the fifth and sixth are the last economic declaration of the party, as follows: "5. Government should be conducted on principles of the strictest economy; and revenue sufficient for the expenses thereof ought to be derived mainly from a duty on imports, and not from direct taxes; and in laying such duties sound policy requires a just discrimination, and, when practicable, by specific duties, whereby suitable encouragement may be afforded to American industry, equally to all classes and to all portions of the country. 6. The constitution vests in congress the power to open and repair harbors, and remove obstructions from navigable rivers, whenever such improvements are necessary for the common defense, and for the protection and facility of commerce with foreign nations or among the states—said improvements being in every instance national and general in their character." The eighth and last was the southern ultimatum, as accepted and formulated by the recognized northern leaders, the words "in principle and substance" being interlined in the draft by Webster at the suggestion of Rufus Choate. "8. That the series of acts of the 32d congress, the act known as the fugitive slave law included, are received and acquiesced in by the whig party of the United States as a settlement in principle and substance of the dangerous and exciting questions which they embrace; and, as far as they are concerned, we will maintain them and insist upon their strict enforcement, until time and experience shall demonstrate the necessity of further legislation to guard against the evasion of the laws on the one hand and the abuse of their powers on the other—not impairing their present efficiency; and we deprecate all further agitation of the question thus settled, as dangerous to our peace, and will discountenance all efforts to continue, or renew such agitation, whenever, wherever or however the attempt may be made; and we will maintain this system as essential to the nationality of the whig party and the integrity of the Union." This was the famous resolution that gave rise to the popular verdict upon the party, "died of an attempt to swallow the fugitive slave law." The other resolutions were adopted unanimously: this by a vote of 212 to 70, the latter all from northern whigs. — Three candidates were before the convention. On the first ballot Fillmore had 133 votes, Scott 131, and Webster 29. On the second ballot, the votes for Fillmore and Scott were reversed, and from this point there was little change until, on the 53d ballot, Scott was nominated by 159 votes to 112 for Fillmore and 21 for Webster. Graham was then nominated on the second ballot for the vice-presidency. Scott's availability was much like that of Taylor, less the latter's popularity: his military services were great, and very little was known of his political opinions. But the whigs were beaten long before election day. In the north the eighth resolution cut deep into the whig vote, and it gained no votes in the south. For some unintelligible reason Scott had been the candidate of the anti-slavery vote in the convention, and he was believed to be much under the influence of Seward: the consequent refusals of southern whigs to vote made the popular vote in southern states noticeably smaller than in 1848. As a result of both influences the whigs carried but four states, Massachusetts and Vermont in the north, and Kentucky and Tennessee in the south, and even these by very narrow majorities. Scott and Graham were defeated; but 71 whigs were chosen out of 234 representatives in the next congress; 22 of these were southern whigs, most of whom, like A. H. Stephens, had publicly refused to support Scott in 1852, and were soon to be openly democrats; and the great whig party was a wreck. The country had no use for it: its economic doctrines were not a subject of present interest, and on the overmastering question of the extension of slavery it could neither speak nor keep silence without sealing its own fate. — III. 1853–60. For the first few months of Pierce's term there was an unwonted quiet in politics. New men sought to build up a new party on the ruins of the whig organization by utilizing the old whig feeling against the foreign vote (see AMERICAN PARTY); and, as this promised a possible escape from the slavery

indorsed the American nomination of Fillmore and Donelson, "without adopting or referring to the peculiar doctrines" of the party which had at first nominated him. But, by this time, most of the former northern whig vote had gone into the new republican party (see its name) under new leaders, while a large part of the former whig leaders had gone into the democratic party. Thus the former element gave the republican party its economic doctrines, while the latter lost all distinction as it changed its habitat. Still, the whig remnants lived on in a few northern states until 1857–8, when they were finally absorbed into the republican party. In 1860 the old whig element in the border states nominated Bell and Everett (see CONSTITUTIONAL UNION PARTY), and was still strong enough to dispute the southern states with the ultra democracy; but the outbreak of the rebellion dissipated this last trace of the once-powerful whig party. — The history of the party nominally covers a quarter of a century, 1828–52, but it must be confessed that its real and distinct existence covers only about four years, 1842–6, and that its only real party action was its nomination of Clay in 1844, with the possible exception of Clay's nomination in 1831. During all the rest of its history the party was trading on borrowed capital, and its creditors held mortgages on all its conventions, which they were always prompt to foreclose. And yet it had its own office to perform, for in its members, rather than in its leaders, was preserved most of the nationalizing spirit of the United States. (See NATION, III.) In this sense, if we may not altogether accept the epitaph suggested by one of its leaders, that "the world was not worthy of it," we may at least believe that the nation was not ready for it. — There is no good history of the whig party. Ormsby's *History of the Whig Party* gives so much space to events before 1824 that only the last 200 pages treat of events thereafter, and the treatment is itself of little value. Niles' *Register*, though a periodical, is about the best record of the party, though Wilson's *Rise and Fall of the Slave Power* is more convenient. The *American Whig Review*, published monthly 1844–52, will give the party's view of its own work; and 2 A. H. Stephens' *War Between the States*, 237, will give the inside history of the party's downfall. Its platforms in full may be found in Greeley's *Political Text Book of* 1860, 11–18. See also 2 von Holst's *United States; North American Review*, January, 1876 (W. G. Sumner's "Politics in America"); Wise's *Seven Decades;* 8–16 Benton's *Debates of Congress;* 2 Hammond's *Political History of New York;* Sargent's *Public Men and Events;* Clay's *Works, Private Correspondence*, and Colton's *Life and Times of Clay;* Webster's *Works, Private Correspondence*, and Curtis' *Life of Webster;* Adams' *Memoir of John Quincy Adams;* Everett's *Orations and Speeches;* Seward's *Works;* Coleman's *Life of Crittenden;* Tuckerman's *Life of Kennedy;* Prentiss' *Memoir of S. S. Prentiss;* Choate's *Writings, Speeches and Addresses;* Cleveland's *A. H. Stephens in Public and Private;* the series of biographies in the *Whig Review;* the antagonistic authorities under DEMOCRATIC PARTY; and authorities under articles referred to, particularly BANK CONTROVERSIES, III., IV.; DEPOSITS, REMOVAL OF; CENSURES; INDEPENDENT TREASURY; BROAD SEAL WAR; INTERNAL IMPROVEMENTS; ABOLITION; COMPROMISES, V.; FUGITIVE SLAVE LAW; AMERICAN PARTY; REPUBLICAN PARTY.

ALEXANDER JOHNSTON.

WHISKY INSURRECTION (IN U. S. HISTORY), a revolt against the execution of a federal excise law, which came to a head in western Pennsylvania and was suppressed in 1794. — The series of disorders to which the above general name is given, were the outcome of a number of moving causes. 1. The western counties of Pennsylvania, Virginia and North Carolina, among or beyond the Alleghanies, were far removed from the main body of American civilization. The distance to the seaboard was three hundred miles; roads were few and bad; to secure any profit from grain it was necessary to convert it into the more portable form of whisky; and whisky was the money of the community, in the general scarcity of cash. Under these circumstances a tax levied specially upon the distillation of whisky seemed to the mountaineers an invidious selection of themselves for imposition, a singling out of a few counties for taxation in order to relieve the richer east. 2. The people of these counties had been so long exempt from the fetters of the law that they felt the first touch keenly. Lying within an area whose jurisdiction had long been disputed by Virginia and Pennsylvania (see VIRGINIA, TERRITORIES), they had generally escaped any troublesome interference from either state. In 1783 the supreme executive council of Pennsylvania had sent a special agent to remonstrate with "those deluded citizens in ye western counties who seemed disposed to separate from ye commonwealth and erect a new and independent state." Canada was not far away to the north; Spain not much farther to the southwest; and between the two lay the great and unoccupied "northwest territory," to the west of Pennsylvania. Who can tell how many abortive negotiations with agents of one or the other power, with the erection of a new and nominally independent northwestern power as an ultimate object, were never committed to paper, but died with the backwoodsmen who had conducted them? It is certain that, when Genet (see that title) reached the United States in 1793, his infallible instinct for troubled waters at once led him to send his agents to Kentucky and western Pennsylvania; and when the last scene in the present insurrection was being acted, the more reckless leaders showed their hand by urging the formation of a new state. When vague dreams of empire had been so long cherished, it was intolerable that they should be broken in upon by the

summons of a federal exciseman, and this sudden dissolving of frontier independence had very much to do with the whole difficulty. 3. In any event, an excise law had always been odious to English and Americans from the necessary power given to officers to enter houses and search. Blackstone had curtly said that "from its original to the present time its very name has been odious to the people of England"; and Noah Webster's predecessor, Dr. Johnson, had defined it as "a hateful tax, levied upon commodities, and adjudged not by the common judges of property, but by wretches hired by those to whom excise is paid." The continental congress, in a proclamation to the people of Canada, in October, 1774, had warned them that they would be "subjected to the impositions of excise, the horror of all free states"; and an English pamphleteer, long before, had said, "We know what a general excise is, and can not be ignorant that it hath an army in its belly." The constitution plainly gave congress power to lay and collect excises; but it was certain that the exercise of the power would be difficult and dangerous; and the first project of an excise was defeated in congress, June 21, 1790. In the following year, when the project was revived, the Pennsylvania senators were instructed by their legislature to oppose such a law, "established on principles subversive of peace, liberty, and the rights of the citizens." 4. Complicated with all these reasons was a political opposition to the excise, which will be more in place under the main reason for its passage. — Hamilton's reason for insisting upon the passage of an excise law must be judged from the standpoint of the statesman, not from that of the financier, though a hope of future revenues might have been considered. If we take into account the expense of suppressing the inevitable insurrection which it provoked, the excise cost as much for collection as it produced, and the sides of its account were fairly balanced. Hamilton had prescience enough to forecast this immediate result, and yet he felt that great gain would come from the passage of the law. His reason, as given in the letter to Washington cited below, was, that it was necessary to assert at once the power of the federal government to lay excises, which the people were accustomed to look upon as a state prerogative, and that "a thing of the kind could not be introduced with a greater prospect of easy success than at a period when the government enjoyed the advantage of first impressions, when state factions to resist its authority were not yet matured, and when so much aid was to be derived from the popularity and firmness of the actual chief magistrate." But this last paragraph shows that there was an ulterior design, and that Hamilton was endeavoring to find the line of least resistance in exhibiting to the states for the first time that which had never before been heard of, "the authority of the national government." Heretofore, "authority" had been in the state governments, and the functions of the national government, if there ever was any, were to recommend, to remonstrate, to soothe, and to bear rebuffs with patience and becoming humility. Somewhere the new national authority must be first brought upon the stage, and no safer or more undeniably legal opportunity could be imagined than in the suppression of an insurrection against an excise law. To assert that Hamilton willfully sought to provoke as weak a sedition as possible in order to make its suppression easy and certain, would be a hard saying if his object had been personal advantage, or if a hecatomb of innocent victims could be invoked in condemnation of his plans. But neither was true: not only was the success of his plan perfect and bloodless, but there seems to have been no trace of self-seeking in it. He was playing for high stakes (see NATION), and he played, as his antagonists did in 1800–1, with the rigor of the game. That he used opportunity, the disorganization of the opposition, the constitutional permission to lay excises, and the presidency of Washington, with such skill and effect, shows only what a master of the game he was. — Had Hamilton's purpose been plainly stated, to force an issue on which he could safely introduce the "authority of the national government" to popular view, the excise law would have received little support from a people or from politicians accustomed to regard the states as sovereign and independent, and the federal government as their creature. (See STATE SOVEREIGNTY.) But he took one step after another so skillfully that he ended, as he began, with the almost unanimous support of the people, who concurred in maintaining a national authority which they had hardly dreamed of ten years before. Nevertheless, there were some of the opposition, particularly Jefferson, who detected and vainly endeavored to counteract Hamilton's design. Their failure was one great moving cause of the rise of the new republican party (see DEMOCRATIC PARTY, I.), but it also helped to give the leaders of the new party the bitter dislike which they always cherished for Hamilton. That he had forced them to learn new ideas was bad enough, but it was intolerable that he should also compel them to kiss the rod to which they had unwillingly submitted. Their evident wrath has given some credence to a notion that some of them had been laying plans for a general disruption of the Union, and that Hamilton's shrewdness in provoking a premature explosion had balked them. The only documentary evidence to this effect is in a passage of an intercepted dispatch of Fanchet, Genet's successor, in 1794 (see RANDOLPH, EDMUND), that the insurrection was "indubitably connected with a general explosion for some time prepared in the public mind, but which this local eruption would cause to miscarry, or at least check for a long time." But the Frenchman's characteristic use of the word "indubitably," his failure to support it by any evidence from Randolph or elsewhere, and the failure of every other attempt to find any such evidence, put his passage out of court. Democratic anger came altogether from the dis-

ican politics, together with the independence of the states and of the citizen. They could no longer say, as was said in congress in 1794, that their constituents "love your government much, but they love their independence more"; for the federalists could retort, as Tracy, of Connecticut, did to Gallatin in 1796, that, "whatever might be the case in other parts of the Union, his constituents were not of a temper to dance round a whisky pole one day cursing the government, and sneak the next day into a swamp on hearing that a military force was marching against them." In this alteration of the fundamentals of political discussion was the head and front of Hamilton's offending. — The excise bill became a law March 3, 1791. Little open resistance was made to it in Virginia or North Carolina, but in Pennsylvania the agitation was headed not only by violent men, one Bradford being the most noted, but by abler and quieter leaders, such as William Findley, then and for many years afterward a member of congress; John Smilie, also a member of congress after 1792, and Albert Gallatin. (See his name.) The first meeting to protest against the law was held at Redstone old fort, now Brownsville, July 27. Its proceedings were moderate; but another meeting, Aug. 23, in Washington county, nearest to the Virginia line, and most disordered, resolved to consider as an enemy any person who should take office under the law. Violence could not but follow this, and it began Sept. 6, with the tarring and feathering of a revenue officer. Throughout the winter the disturbance smoldered, but it was so threatening that an act was passed, May 2, 1792 (see INSURRECTION), empowering the president to use militia in suppressing disturbances within a state. With it went another act, May 8, reducing the duties. An attempt to hire an office in Washington county for the revenue officers, in August, led to renewed disorder, and the president felt compelled to warn the rioters, by a proclamation of Sept. 15, to abandon their unlawful combinations. Occasional tarrings and featherings followed throughout the year 1793, but the law itself was not as yet very effectively exercised. Early in 1794 the organization of secret societies began, coincident with the introduction into the house of representatives of a plan to secure and collect the excise duties; and these seem to have made full preparations for resistance. One great reason for the popular dislike to this particular law was, that offenses under it were cognizable only in federal courts, and that an accused person would therefore be compelled to journey to Philadelphia, at the other end of the state, to answer the charge. To backwoodsmen this was certainly no slight grievance; and congress very justly removed it in the act of June 5, 1794, giving state courts concurrent jurisdiction of excise offenses, so that accused persons might be tried in their own vicinage. But while the law was in process at Philadelphia, May 31, against various persons in the western counties. These were served in July; as each was served, the person served joined the mob which followed the marshal; the cry was raised that "the federal sheriff was taking away people to Philadelphia"; and the short-lived whisky insurrection began. The marshal was captured, and sworn to serve no more processes: the inspector fled down the Ohio, and thence around through a wilderness to Philadelphia; and within two days the operation of the law was stopped. It is not known who was responsible for the issue of the writs of May 31, which were the spark for the explosion. There is no evidence whatever that Hamilton had anything to do with it.— The insurgents, two days after the outbreak, seized the mail from Pittsburgh, in order to ascertain the names of those of their fellow-citizens who were opposed to them. A mass meeting was called for Aug. 1, on Braddock's field. Some 7,000 armed men were present; a county judge presided, and Gallatin acted as secretary; none, even of those who disliked the posture into which affairs were growing, dared to remonstrate; and a reign of terror was begun, Bradford being the ruling spirit. Personal violence was offered to any person suspected of obeying the law, and the more reckless spirits began active preparation to call out the whole force of the counties for a defensive war against the United States. — The emergency had now come, and the manner in which it was met showed to the dullest understanding the difference between the present government and that which had been balked by Shay's rebellion. (See CONFEDERATION, ARTICLES OF.) The federalist members of the cabinet instantly advised the calling out of militia; and, when Gov. Mifflin of Pennsylvania declined to take the initiative, the "national authority" showed that it no longer was absolutely dependent on the state governments. A certificate of the existence of the insurrection was obtained from a federal judge; a proclamation from the president, Aug. 7, ordered the insurgents to disperse; a requisition for 15,000 militia was issued to the governors of Pennsylvania, New Jersey, Virginia and Maryland; and Sept. 1 was fixed as the date for the departure of the troops. A federal commission of three persons, and a state commission of two, preceded the troops with offers of amnesty on full submission. The mission was apparently a failure. It found Gallatin, Findley, Brackenridge and the other leaders of standing engaged in a desperate effort to induce submission, but impeded by Bradford and the reckless borderers, who terrorized every meeting they attended. Aug. 28, the controlling committee of sixty met at Redstone old fort. Bradford urged armed resistance, but Gallatin, by securing a secret ballot, obtained a resolution, 34 to 23, to accede to the proposals of the federal commissioners. These proposals were mainly that town

meetings should be held Sept. 11, that the people should vote yea or nay on the question of submission, that those who voted yea should obtain amnesty by signing a declaration of submission, and that the unanimity of the vote should govern the movements of the troops. Many, however, refused to sign the declaration, for the reason that they had taken no part in the outrages, and had no need of amnesty; and the reckless part of the insurgents supplemented the meagreness of the vote by a renewal of the outrages, and even by an attempt to seize the commissioners on their way home. — The report of the commissioners was so unfavorable that the president issued a new proclamation, Sept. 25, giving notice of the advance of the troops, mostly volunteers. Washington accompanied them to Carlisle, where he left the chief command to Gov. Lee, of Virginia. The Pennsylvania and New Jersey troops were led by Govs. Mifflin and Howell; the Virginia troops by Gen. Morgan; and the Maryland troops by Samuel Smith, a member of congress from Baltimore. Hamilton accompanied the expedition throughout. In the meantime a new popular convention, Oct. 2, had sent Findley and another commissioner to the president with unanimous assurances of submission; but the president could see no evidence that the assurances represented any general feeling. Another meeting, Oct. 24, therefore declared that all suspected persons ought to surrender at once for trial, and that it would be perfectly safe to open inspection offices and put the excise laws in operation immediately; and four commissioners were appointed to carry these resolutions to the president. No halt took place in the movement of the troops, however. They arrived in the disturbed district early in November, and their commander, after giving the inhabitants time to obey his proclamation and take advantage of the proffered amnesty, arrested by a general sweep those accused persons who had not yet exonerated themselves. These culprits, however, were insignificant. Bradford and the more violent leaders had fled the country, and the more moderate leaders had protected themselves by taking advantage of the amnesty: as Wolcott, a warm federalist, expressed it, "all the great rogues, who began the mischief, had submitted and become partisans of the government." The result was, that two or three were tried and convicted, and these were pardoned. But there was for a long time an angry feeling that Hamilton, Knox and Judge Peters had acted as a "star chamber" in their manner of taking testimony, and in their sending a number of accused persons to Philadelphia, "to be imprisoned for ten or twelve months without even an indictment being found against them." — The first show of force had suppressed the insurrection, and the troops returned home, leaving 2,500 men, under Morgan, who encamped in the disturbed district throughout the winter. Its suppression had been almost bloodless, but two persons having been killed, and these in personal conflicts with soldiers for which the soldiers were punished. But the effects were greater than if a "Peterloo" battle had been fought. The early political struggles of the United States are none the less important because they were peaceful; and the bloodless suppression of the whisky insurrection is as significant in its way as the bloody emergence of the English nation from the chaos of the heptarchy. For five years the people had been enjoying all the comforts of a national government without feeling any of the responsibilities which accompanied them; and the politicians had been developing the idea that individual obedience to the federal government under the constitution was to be as fundamentally voluntary as state obedience had been under the confederation, that all Americans were by nature good citizens, and that discontent with a law was *prima facie* evidence that the law was bad and ought to be repealed. The year 1794 completed what the year 1787 began; it revealed a power which, though seldom exerted, must always be finally decisive. The swiftness and thoroughness with which the resistance had been put down; the evident fact that, as Wolcott said, "the whole resources of the country would be employed, if necessary"; and the reflection that a part can never be equal to the whole: all combined to show the hopelessness of any future insurrection which individual dissatisfaction could be expected to produce. It is clearly within bounds to say, that this single lesson would have been sufficient to free the United States from future danger of insurrection but for the influence of slavery in binding together a number of states in organized insurrection. Its influence is certainly evident in a comparison of the congressional debates before and after it occurred. Before 1794 there is in many of the speakers almost an affectation of voluntary obedience to federal laws, and of monition to others not to provoke resistance. After that year, this characteristic disappears almost entirely, and the debates have no longer the background of possible club law. — A broader result is easily visible now, though few others than Jefferson and Hamilton saw it then. If a federal army, without the summons of the governor or legislature, was to march through a state to suppress resistance to federal laws within the state, state sovereignty, in its hitherto accepted sense, could hardly be found by searching. Little was said at the time, but when the federal party was finally overthrown, one of the first steps in reform was the abolition of the excise laws by the act of April 6, 1802. (See STATE SOVEREIGNTY.) — See 4 Hildreth's *United States*, 498; 1 von Holst's *United States*, 94; 1 Schouler's *United States*, 275; 2 Pitkin's *United States*, 421; 1 Tucker's *United States*, 552; Bradford's *Federal Government*, 84; 1 Gibbs' *Administrations of Washington and Adams*, 144; Wharton's *State Trials*, 102; authorities under GALLATIN, HAMILTON and JEFFERSON; 8 Jefferson's *Works* (edit. 1833), 308; 4 Hamilton's *Works*, 231 (letter to Washington); 6 *Pennsylvania Hist. Soc. Memoirs*, 117 (Ward's "Insurrection of 1794")

Brackenridge's *Incidents of the Insurrection*; 11 *Pennsylvania Archives;* the acts of March 3, 1791, May 8, 1792, June 5, 1794, and April 6, 1802, are in 1 *Stat. at Large*, 202, 267, 380, and 2 : 148; the proclamation of Sept. 25, 1794, is in 1 *Statesman's Manual*, 54. ALEXANDER JOHNSTON.

WHISKY RING, the popular name for an association of revenue officers and distillers to defraud the government of the internal revenue tax on distilled spirits. The nature and natural effect of this tax are so fully described elsewhere that it is needless to do more than refer to them. (See DISTILLED SPIRITS.) It is only intended to enter a little more minutely into the formation and operation of the ring. — The ring had its origin in St. Louis, when the "liberal republican" movement had achieved its first success. (See MISSOURI, LIBERAL REPUBLICAN PARTY.) The distillers were assessed by the revenue officials for money with which to secure the support of an influential St. Louis newspaper. The ring soon widened, and in 1874 it had spread into national proportions. Distillers who refused to enter it were watched, and entrapped into technical violations of law. Then, having become liable to seizure, they had to choose between ruin and surrender to the ring. There were branches at Milwaukee, Chicago, Peoria, Cincinnati and New Orleans, and an agent, who has not been legally identified, at Washington; but the headquarters of the ring were still at St. Louis. It had acquired so large an influence in the national republican party, that, when the new secretary of the treasury, Bristow (see ADMINISTRATIONS), issued an order to transfer supervisors, which would have thrown the ring into confusion, the politicians obtained a direct countermand of the order from the president. The special treasury agents were corrupted, and the ring maintained its ground. — When the statistics of the St. Louis merchants' exchange for 1874 were published, a comparison of the shipments with the revenue returns showed that about $1,200,000 of taxes had not been paid. Nevertheless, the secretary of the treasury was unable to reach the individuals at fault, for the ring had prompt information from the department itself of any step toward investigation. Early in February, 1875, the editor of the "St. Louis Democrat," Mr. George Fishback, sent a message to Mr. Bristow, offering to furnish him with a trustworthy agent, who would unearth the frauds. The secretary accepted the offer, and Mr. Fishback named Mr. Myron Colony, secretary of the cotton exchange. Mr. Bristow appointed the solicitor of the treasury, Mr. Bluford Wilson, to cooperate with him, and the work was begun. — At first the attempt was made to watch the operations of suspected distilleries, the amount of grain carried in and of liquor carried out; but the officials and distillers discovered the attempt, and suspended the frauds until they had organized gangs of the city's receipts and shipments, placed a man at each landing and freight depot, to copy bills of lading. The copyists were ignorant of the purpose of their employer, and were directed to copy the records of all staple articles, *including whisky*. Finally, by assorting the bills, Mr. Colony had a description of all shipments of liquors by each distillery for three months, with the serial numbers of the stamps. Comparison with the official returns of course laid the whole fraud bare; and, within a month after Mr. Colony's appointment, he had made all the leading houses of St. Louis liable to seizure. The work was then transferred to special agents of the internal revenue bureau, most of whom were kept in ignorance of the real object of their investigations; and a new commissioner of internal revenue, ex-senator Pratt, of Indiana, was appointed. Under his direction, experts compared the returns of other distilleries with the records already obtained, and thus the secretary was enabled, through his agents, to work up similar frauds at Milwaukee and Chicago, and to discover the manner in which the distillers, by connivance of the officials, accomplished the frauds, by shipping secretly barrels whose contents they had reported as "dumped" into the common cistern of the distillery for storage. Finally, May 10, 1875, the blow fell simultaneously at St. Louis, Milwaukee and Chicago, by the seizure of all the implicated distilleries, sixteen in number, and as many rectifying houses. The records seized enabled the government to make further seizures in almost every important city in the United States, for the seizure of May 10 had been entirely unexpected and unprepared for. One telegram had gone from Washington to St. Louis: "Lightning will strike on Monday. Inform our friends in the country." But it was found that the sender and receiver of the message were both opponents of the ring; and, with this exception, no intimation of the secretary's purposes seems to have passed outside of his own little circle. As a result of this secrecy of operation, the government was able to bring into court a total amount of about $3,500,000 of property seized, with suits on gaugers' bonds, and indictments against 238 persons, including distillers, rectifiers, wholesale liquor dealers, collectors, deputy collectors, supervisors, gaugers, storekeepers, and other persons. It was shown that the government had been defrauded of about $1,650,000 of taxes during the ten months from July 1, 1874, to May 1, 1875. — When the papers in the case were first laid before President Grant, he indorsed one of them with directions to "let no guilty man escape," and had supported Bristow heartily. But the first effort of the ring was to persuade the president that Bristow's zeal was inspired by a desire to obtain the presidency. The investigators had come to believe that the president's private secretary, Babcock, was one of the ring, and they directed his movements to be watched. The letter, which ordered the fraud to

be exposed "from bottom to top," was stolen from the office of the government counsel: and, when it reached Babcock, the letters "W. H." had been added at the end of a line after the word "top," so as to make it appear to be the intention to investigate the White House from bottom to top. A press copy of the letter exposed the interpolation, and prevented the removal of Wilson, for which the president had hastily given orders on first reading the letter. This, however, was but one of the efforts which were made from every side to break up all confidence and co-operation between the president and the secretary; others seem to have been more successful. — Indictments for conspiracy to defraud, and for destruction of public records, began in June, 1875, and continued throughout the year. The most important were those against John A. Joyce, revenue special agent, John McDonald, supervisor, Wm. O. Avery, chief clerk in the treasury department, and General O. E. Babcock. The trials began in the autumn at Jefferson City, Mo. Joyce was convicted, Oct. 23, McDonald Nov. 22, and Avery Dec. 3. One of the leading counsel for the government in these prosecutions was John B. Henderson, of Missouri. In the Avery trial he had occasion to introduce certain suspicious telegrams from Babcock, and he commented on them and on the president's general action in the case in terms which, to say the least, were indiscreet. "What right," said he, "had Babcock to go to Douglas [the former internal revenue commissioner] to induce him to withdraw his agents? What right had the president to interfere with Douglas in the proper discharge of his duties, or with the secretary of the treasury? Why did Douglas bend the supple hinges of his knee, and permit any interference by the president?" Henderson claimed that this language was meant only to justify the president in *not* interfering; but it must be evident that the president could not have been fairly expected to endure this mode of attacking the whisky ring. Henderson was removed; but his place was given to Jas. O. Broadhead, a leading democratic lawyer of St. Louis. Dec. 9 the federal grand jury indicted Babcock. Babcock had already asked for a military court of inquiry, to investigate the charges against him in the Avery trial, and the president was strongly disposed to direct the attorney general to suspend all civil proceedings in the Babcock case, and turn the matter over to the military court. This was successfully resisted by Bristow; but the court was granted, and met at Chicago, Dec. 9. The attorney general directed the district attorney to send to the military court his evidence against Babcock, and the names of his witnesses; but the district attorney (Dyer) refused to obey an order which would have made him punishable for contempt of court. The military court met, suspended its proceedings, and soon afterward dissolved. — The Babcock trial began Feb. 8, 1876. One of the most important witnesses, a gauger named Everest, who was alleged to have personal knowledge of payments to Babcock by the ring, had been induced to go to Europe. District attorney Dyer had induced him to return by a promise of exemption from prosecution, met him in Philadelphia, and obtained an outline of his testimony. As soon as this became known, the attorney general issued an order to the district attorneys at St. Louis, Chicago and Milwaukee, dated Jan. 26, 1876, ordering them to give no promises of exemption, but to punish every guilty person, who should be convicted or should confess his guilt. It is hardly necessary to say that this letter excited a general indignation, and was looked upon as an official effort to screen Babcock. — It must be confessed, that, in spite of the fact that there was not a breath of suspicion upon the president personally, there was a very general feeling that he was to some extent on trial with his private secretary; and there was an equally general feeling of relief when the jury, Feb. 24, brought in a verdict of not guilty. Immediately afterward the president took another private secretary in Babcock's place. — Most of the remaining defendants either plead guilty or were convicted; and a few, in whose cases there were extenuating circumstances, were non-prossed. Of the leading defendants, Avery, McKee and Maguire were pardoned in about six months. — In March, 1876, a select committee was appointed by the house of representatives to ascertain whether any federal official had aided or given information to the defendants. It sat for six months, examined a great number of witnesses, and gave their testimony in House Misc. Doc., No. 186, 1st session, 44th congress, 1875–6. The whole makes up a startling revelation of the political methods of the time, and of the disgraceful and dangerous condition of the civil service. — Every effort had been made to blacken the private and public character of Secretary Bristow, but without the slightest success. In the spring of 1876 he opened an attack upon a whisky ring on the California coast. Here, at last, he was beaten. As soon as his investigations became dangerous, a California senator demanded the removal of several of the more active special agents of the treasury at San Francisco. The secretary refused, but was not supported by the president; and in June, 1876, he resigned. His retirement relieved the ring from further prosecution; but its active energies were broken and were never revived. C. & J.

WHITE, Hugh Lawson, was born in Iredell county, N. C., Oct. 30, 1773, and died at Knoxville, Tenn., April 10, 1840. He removed to Tennessee with his father in 1786, was admitted to the bar in 1795, and served as judge of the state supreme court 1801–7 and 1809–15, as state senator 1807–8 and 1817–18, and as United States senator 1825–33 and 1837–40. In 1836 he received twenty-six electoral votes, from Tennessee and Georgia, for the presidency, being the representative of that "state rights" southern faction which thereafter became the southern wing of the whig party.

WHITE LEAGUE. (See KU-KLUX KLAN.)

WILMOT PROVISO (IN U. S. HISTORY). Although this principle has been baptized with the name of David Wilmot, a democratic congressman from Pennsylvania, who attempted to apply it in 1846 to the territory about to be acquired from Mexico, it is in reality the outcome of that principle of congressional control over the territories which has constantly been applied in practice since the nation first owned territories. The ordinance of 1787 (see that title) prohibited slavery in the northwest territory; and in the territory southwest of the Ohio the prohibition of slavery was not imposed, because congress, in accepting the cessions of it by the states, had voluntarily bound itself not to do so. In the organization of the territories, while congress has allowed the election of the lower house of the legislature by the people, it has always retained to the national government the appointment of the judges and of the governors, with a veto on the territorial legislatures, and has even retained a power to veto, in the last resort, the action of territorial governors and legislatures together. Its power to prohibit polygamy and slavery in the territories has always rested on exactly the same foundation. (See TERRITORIES.) In the case of slavery it would probably never have been denied, but for the influence occasioned by the growth of slavery. Jefferson's prohibition of slavery in both the northwest and southwest territories came within a hair's breadth of success in 1784; and the more limited prohibition of 1787 had practically no opposition. In the case of Missouri, in 1819–20, there was hardly any denial in the south, while there was a unanimous affirmation in the north, of the power of congress to prohibit anything in the territories, even slavery. The southern argument was altogether different from any such denial. It showed that the national government had acquired the territory west of the Mississippi, when slavery was permitted therein by law; that it had taken no steps whatever to prohibit slavery therein, but had allowed it to extend north through Missouri; and that, when Missouri had thereby become a slave state through the continued policy of congress, confirmed by the admission of Louisiana as a slave state in 1812, it was not just, by a sudden reversal of policy in the case of Missouri, to destroy property rights which congress, at least by *laches*, had allowed to grow up. Leaving out of question the morality of slavery, the southern reasoning was just, and indeed, *mutatis mutandis*, was exactly the reasoning of the free-soilers of after days. In 1820 (see COMPROMISES, IV.), congress recognized its justice: it refrained from touching slavery in that part of the annexation where it had been allowed to grow up, in the states of Louisiana and Missouri, and in the territory of the annexation, that part lying north of latitude 36° 30′. The mistake lay in allowing this to go forth as a compromise, a bargain, a division of territory between the sections, instead of a plain exercise of rightful power by congress, coupled with an act of condonation for the past. There could then have been no attempt to stamp the Wilmot proviso in 1846 as a novelty in American legislation. — I. BEFORE ANNEXATION. Prohibitions of slavery were inserted in the organization of the new territories formed from the Louisiana purchase, Iowa in 1838, and Minnesota in 1849, by the following provision: "The laws of the United States are hereby extended over and declared to be in force in the said territory, so far as the same, or any provision thereof, may be applicable." The prohibition of slavery therein, passed in 1820, thus attached to them as organized territories. It was very doubtful whether Oregon was really a part of the Louisiana purchase (see NORTHWEST BOUNDARY), and for greater safety an explicit prohibition of slavery was inserted in the first house bill to organize the territory. In this form the house passed the bill, Feb. 3, 1845, by a vote of 140 to 59. Pending difficulties with Great Britain made the organization of the territory at that time a matter of doubtful prudence, and it was not considered by the senate until after the treaty of June 15, 1846. — All parties who voted for the annexation of Texas did so with a silent recognition of slavery therein, as established by local law. But the remainder of the Mexican republic was absolutely barred to slavery, at first by a decree of the dictator Guerrero in 1829, and then by the constitutions of the Mexican republic. If, then, any portion of it should be annexed to the United States, it would come in as free territory, just as all other acquisitions had been slave territory when acquired. Early in the Mexican war an arrangement seems to have been made by the administration with the banished Mexican president, Santa Anna, by which he was to be allowed to return to Mexico, reorganize his party, and conclude a peace on the basis of a payment by the United States for a cession of territory. Aug. 8, 1846, in a special message, the president asked for the appropriation of a sum of money for "the adjustment of a boundary with Mexico such as neither republic will hereafter be inclined to disturb," that is, for the purchase of Mexican territory outside of Texas. Such a bill, appropriating $2,000,000, was at once introduced in the house, and debate was limited to two hours. Northern and southern whigs were alike opposed to any acquisition of territory, for fear of introducing with it the question of slavery: and White, of New York, and Winthrop, of Massachusetts, now expressed their party's views clearly and forcibly. Most of the northern democrats, while determined on acquisition of territory, were equally determined that it should remain free. Brinckerhoff, of Ohio, at once drafted, and Wilmot introduced, the

amendment afterward famous as the "Wilmot proviso," as follows: "provided that [as an express and fundamental condition to the acquisition of any territory from the republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the executive of the moneys herein appropriated] neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted." The words in brackets were not essential, except under temporary circumstances, and the remainder forms the Wilmot proviso proper, as it is usually cited. It followed the language of the ordinance of 1787. — Remarkably little opposition was made to this first appearance of the proviso, and that little came from southern democrats who alleged that the territory in question was already free; that the proviso was thus needless; and that it was also mischievous, as a piece of supererogatory and offensively anti-southern legislation, which would provoke the election of extreme southern representatives and endanger the Union. This view will be found best stated by Benton, as cited below, and he himself was one of the first victims. (See MISSOURI.) The proviso was quietly accepted; the house decided it in order by a vote of 92 to 87, and adopted it (88 to 64) and the whole bill (85 to 79) on the day of its introduction. Two days afterward, on the last day of the session, the senate voted, 19 to 10, to take up the bill for consideration. Lewis, of Alabama, moved to strike out the proviso. Davis, of Massachusetts, argued against the motion, and persisted in his argument until the time fixed for adjournment came, and he was cut off in the full flow of debate. The proviso thus fell with the bill. It was claimed at the time that it would have been passed by the votes of all the free-state senators, and those from Delaware and Maryland; but Wilson makes a very convincing showing that it would have been voted down. Nevertheless the denunciations of Davis' action in democratic newspapers and in the "Union," the official newspaper at Washington, were far more severe than in those of their opponents. Cass, in conversation, censured Davis severely. Polk, in his message of the following December, without any condemnation of the proviso, expressed his regret that the bill had not passed, and his confidence that a majority of both houses was still in favor of it. The legislatures of every northern state east of Indiana, excepting Maine, but including Delaware, formally approved the proviso, democrats and whigs uniting in the vote. Everything seemed to point to its passage, as a democratic measure, at the following session. — Before the following session the southern members had been naturally forced into an attitude of stronger opposition to the proviso. Every southern aspirant to a seat in congress was certain to represent the sitting member's active or passive support of the proviso as an act of treason to the south; and thus all the southern democrats, who desired an acquisition of territory, were arrayed against the proviso. Southern whigs, who were against the acquisition, could safely vote against the proviso with its bill, and could carry enough northern whigs with them on that issue to preserve the national integrity of their party. How were northern democrats to keep their party intact? This pressing question was answered by the evolution of the new dogma of "popular sovereignty" (see that title) in the territories, by virtue of which the status of slavery in any territory was to be remitted to the decision of the people of the territory. Urged at first as a prudent way of settling the difficulty, it almost immediately became the touchstone of democracy, and Wilmot and democrats who supported him were driven out of the party. — Jan. 4, 1847, in the house, Preston King, of New York, asked leave to offer a bill like that of the previous session, changing $2,000,000 to $3,000,000, but adding the proviso. Before it could be considered, bills of like nature, but without the proviso, had been reported in both houses. In the senate the southern whigs unsuccessfully tried to add a prohibition of any purchase of territory; and the bill, without the proviso, passed March 1. In the house the proviso was moved by Wilmot as an amendment, Feb. 8, renewed by Hamlin, Feb. 15, and adopted by a vote of 115 to 106, Douglas unsuccessfully trying to restrict it to territory north of latitude 36° 30′. March 3, in the house, the proviso was added to the senate bill in committee of the whole by a vote of 90 to 80, but rejected on the report of the committee (97 to 102); and the bill, without the proviso, was finally passed (115 to 81). — In the meantime, a bill to organize Oregon territory, with a provision that the inhabitants should enjoy all the privileges, and be bound by all the prohibitions and restrictions, of the ordinance of 1787 (which prohibited slavery), was passed by the house, Jan. 16, 1847. But Oregon was now to be linked in, for a time, with the territory to be annexed; and the senate, after twice committing the bill, laid it on the table, March 3. — II. AFTER ANNEXATION AND BEFORE COMPROMISE. Before any further measures could be attempted at the next session, peace had been concluded, Feb. 2, 1848, and the great territories of California and New Mexico (see ANNEXATIONS, IV., for their extent) had been transferred to the United States. The fact of possession greatly changed political conditions. Southern democrats simply continued to oppose the proviso; northern democrats now opposed it by force of the doctrine of popular sovereignty; and southern whigs, who had opposed it together with the $3,000,000 bill, on account of the acquisition of territory, found little difficulty in continuing the opposition after annexation. In short, the proviso had now no friends in congress, excepting a part of the northern whigs and the few remaining Wilmot democrats. Only the imminent presidential election of 1848, and the unknown possibilities of a northern free-soil uprising, prevented the organization of the territories, without the proviso, in the spring of 1848; and

congress to the pressing necessity of organizing Oregon territory; and the necessity was emphasized by the fact that the popular provisional government (see OREGON) had begun to make laws forbidding slavery. The necessary bill, which Douglas had reported, Jan. 10, was at once brought up; Hale offered as an amendment a section imposing the prohibitions, as well as the privileges, of the ordinance of 1787; and debate continued until July 12. A select committee of eight was then chosen, and it reported, July 18, a bill in thirty-seven sections, commonly known as the "Clayton compromise," from the chairman of the committee, organizing the territories of Oregon, California and New Mexico together. No power was given to the territorial legislatures to legislate on slavery, and questions of its legality or illegality in any particular territory were to be decided by the territorial courts, with a right to appeal to the United States supreme court. In this form the bill was passed, July 26, but the house laid it on the table by a vote of 112 to 97, and it was never revived. The majority was made up of seventy-four northern whigs, thirty northern democrats, and eight southern whigs. Aug. 2, the house passed an Oregon bill, with the section relating to the ordinance of 1787. Aug. 10, the senate passed it with an amendment declaring the Missouri compromise line to extend to the Pacific, and to be binding in all future organizations of territories; and on the following day the house non-concurred. Aug. 12, the senate receded, passed the bill as it originally came from the house, and Oregon was a free territory. The secret of the senate's action was in the Buffalo convention three days before, and the nomination of candidates pledged against extension of slavery. (See FREE-SOIL PARTY.)—The southern leaders were doubly embarrassed at the meeting of congress in December, 1848. The discovery of gold in California, Jan. 19, 1848, was increasing the population so rapidly that a state government would soon be even more necessary than a territorial government; and the mass of northern democrats in congress were so thoroughly provoked by Taylor's election through southern electoral votes as to be ready even for the proviso. Nothing could have postponed the proviso but the shortness of the session, and the still controlling influence of the south in the senate. Congress had hardly organized, when the house, Dec. 13, by a vote of 108 to 80, instructed the committee on territories to bring in territorial bills for California and New Mexico, "excluding slavery therefrom." The committee, one week later, reported the California bill, but it was not reached until Feb. 26, 1849. The next day it was passed by a vote of 126 to 87, almost exactly sectional. The New Mexico bill was reported Jan. 3, but was not reached. In the senate the California bill was referred, but never considered, and the committee was discharged, March 3. In place of it, an unadjournment the territories were still left unorganized.—No one, as yet, denied the right of the people of a territory, when forming a state constitution, to prohibit slavery; and the new administration (Taylor's) at once undertook to solve the problem by procuring the formation of state governments in both California and New Mexico. In both of these the Wilmot proviso was a part of the state constitution. This forced the further proceedings into a new line, which is detailed elsewhere. (See COMPROMISES, V.) In reviewing the whole current of events, at the close of September, 1850, it will appear that the object of the proviso, the prohibition of slavery, had been successfully attained in all the territory outside of the Louisiana purchase, except the modern state of Nevada, and the territories of Utah, New Mexico and Arizona (then included in New Mexico); and that, as to the excepted portions, the Mexican laws abolishing slavery therein had never been interfered with by American laws. But the struggle over the Wilmot proviso, which was essentially only a declaration of the existing law of the territories, was a very sufficient warning that some influence was at work, which would resist any such declaration for the future. This was the doctrine of Calhoun, that the constitution's guarantee of security to property covered the territories also; and that congress was bound to enforce it in the case of slave property, as well as other property. The objection now seems insuperable that the slaves were always referred to as "persons" in the federal constitution, and as "property" only in state constitutions and laws, which could have nothing to do with the territories. But at the time Calhoun's doctrine fell in too closely with southern feeling to be resisted. It was adopted, openly by some, tacitly by others, and the comparative strength of the former class steadily increased. Calhoun's resolutions of Feb. 19, 1847, protesting against discrimination in the territories against any state, were the first, though vague, expression of the doctrine, and their effect was seen in the unanimous resolutions of the Virginia legislature, March 8, following: 1, that such a discrimination was in violation of the compromises of the constitution; 2, that it was to be "resisted at every hazard"; and 3, that, in the event of the passage of the Wilmot proviso or any law abolishing slavery or the slave trade in the District of Columbia, the governor should immediately convene the legislature "to consider of the mode and measure of redress." As the proviso discussion went on, the southern tone grew still warmer; and at the time of the final compromise most of the southern states had statutes or resolutions in existence directing the governor to call a popular convention in the event of the passage of the proviso. (See SECESSION, II.)—III. AFTER THE COMPROMISE. The general ratification of the compromise of 1850 seemed at first to have put an end to the desire for the pro-

viso. When was it to be applied? California was a free state, and the territories had been completely organized, those acquired under the Louisiana purchase having the proviso under the Missouri compromise, and those acquired under the Mexican purchase merely ignoring it. Not content to let well enough alone, the northern democratic leaders, in 1854, attempted to apply the "popular sovereignty" principle to the new territories of Kansas and Nebraska, formed from the Louisiana purchase (see KANSAS-NEBRASKA BILL), and thus to wipe out the proviso when it was already established by law. The attempt naturally revived the proviso on a far stronger ground. It was now an evidently conservative effort to reapply to the Louisiana purchase the prohibition which had been its organic law from 1820 until 1854; and it thus secured a breadth of support greater than it could have obtained in 1849–50, and became the basis of a great northern party. (See REPUBLICAN PARTY, I.) But of course the new party could not be content to limit the assertion of the proviso to the Louisiana purchase: law for one territory was law for all, for Utah and New Mexico as well as for Kansas and Nebraska; and thus the work of 1850 was to be done over again, with no chance now for compromise. In 1857 the supreme court decided that the proviso had always been unconstitutional in the case of any territory (see DRED SCOTT CASE); but this had little effect on the supporters of the proviso. They still asserted the right of congress to impose a prohibition of slavery upon the territories, disregarding the *obiter dicta* of the supreme court, and leaving the constitutional question to be decided by the court when the case should come directly before it. Against this permanent programme a bald negative was but a poor reliance: the south was compelled to choose between admitting the validity of a prospective prohibition, or taking Calhoun's extreme ground of the duty of congress to protect slavery in the territories. It chose the latter (see DEMOCRATIC PARTY, V.), its ultimatum being expressed in Jefferson Davis' senate resolutions of May 24–25, 1860. The most important of these, in this connection, were the fourth and fifth, as follows: "4, that neither congress nor a territorial legislature, whether by direct legislation or legislation of an indirect and unfriendly character, possesses power to annul or impair the constitutional right of any citizen of the United States to take his slave property into the common territories, and there hold and enjoy the same while the territorial condition remains; 5, that, if experience should at any time prove that the judicial and executive authority do not possess means to insure adequate protection to constitutional rights in a territory, and if the territorial government should fail or refuse to provide the necessary remedies for that purpose, it will be the duty of congress to supply such deficiency." At least a part of these resolutions was explained by a territorial law of New Mexico, in 1859, establishing slavery. It was disapproved by the house of representatives, but the senate did not act on the veto bill, so that the territorial slave law remained in force. On the contrary, the eighth resolution of the republican platform in May, 1860, declared "that the normal condition of all the territory of the United States is that of freedom; that, as our republican fathers, when they had abolished slavery in all our national territory, ordained that no person should be deprived of life, liberty or property without due process of law, it becomes our duty, by legislation, whenever such legislation is necessary, to maintain this provision of the constitution against all attempts to violate it; and we deny the authority of congress, of a territorial legislature, or of any individuals, to give legal existence to slavery in any territory of the United States." The issue was thus fairly made up on both sides: all or nothing. The republican programme was indorsed by Lincoln's election, and secession and war followed. (See SECESSION, III.; REBELLION.) — IV. FINAL ESTABLISHMENT OF THE PROVISO. The withdrawal of southern senators and representatives left the republicans in a majority in both houses of congress before the end of the session of 1860–61; but they made no attempt to enforce the eighth section of the Chicago platform. The propositions of Crittenden (see COMPROMISES, VI.), and of the peace congress (see CONFERENCE, PEACE), both of which aimed to forbid the future application of the Wilmot proviso to territory south of latitude 36° 30′, were rejected; but, on the other hand, the territories of Colorado, Dakota and Nevada were organized without the Wilmot proviso, in entire silence as to slavery, and therefore with all the benefits to the south of the Dred Scott decision. Slavery in the territories remained undisturbed until 1862, immediately after its abolition in the District of Columbia, April 16. (See ABOLITION, III.) In the house, March 24, a bill was introduced "to render freedom national, and slavery sectional," and was referred to the committee on territories. It was reported, May 1, recommitted, and again reported, May 8. It was now a bill to prohibit slavery in the territories, in federal forts, dockyards, etc., in vessels on the high seas, in national highways, and in all places where the national government had exclusive jurisdiction. It was debated until May 12, when it had been modified into a simple prohibition of slavery in the territories, and was then passed by a vote of 85 to 50. In the senate, June 9, its language was slightly changed to the following: "that, from and after the passage of this act, there shall be neither slavery nor involuntary servitude in any of the territories of the United States now existing, or which may at any time hereafter be formed or acquired by the United States, otherwise than in punishment of crime, whereof the party shall have been duly convicted"; and it was then passed (28 to 10). June 17, the house concurred (72 to 38); and the bill became law, June 19. It was never brought before the supreme court, in

cision; but all doubts on that score were removed by the national abolition of slavery in 1865, through the ratification of the 13th amendment. (See CONSTITUTION, III.) — See 3 von Holst's *United States*, 286; 1 Greeley's *American Conflict*, 189; 2 Wilson's *Rise and Fall of the Slave Power*, 18; Harris' *Political Conflict in America*, 114; 2 A. H. Stephens' *War Between the States*, 165; *Buchanan's Administration*, 18; 1 Dix's *Speeches*, 179 (Three Million Bill); Gardiner's *The Great Issue*, 94; 16 Benton's *Debates of Congress*, 223–254 (Oregon), 399 (summary of Mexican laws abolishing slavery); Cleveland's *A. H. Stephens*, 343 (and law authorities there cited in favor of the continuance of Mexican laws after conquest); 3 *Statesman's Manual*, 1613 (Message of Aug. 8, 1846), 1710 (Message of May 29, 1848); 15 Benton's *Debates of Congress*, 645 (introduction of the proviso); 16 *ibid.*, index under *Slavery;* 4 Calhoun's *Works*, 339 (resolutions of Feb. 19, 1847); 1 A. H. Stephens' *War Between the States*, 409 (Senate resolutions of May 24–25, 1860); 12 *Stat. at Large*, 432 (act of June 19, 1862); Wilson's *Anti-Slavery Measures in Congress*, 92. The different shades of opinion as to the proviso may best be studied as follows: moderate democratic (south), 2 Benton's *Thirty Years' View*, 695 (north), 1 Dix's *Speeches*, 281; extreme southern democratic, 4 Calhoun's *Works*, 535 (Speech of Feb. 24, 1849); southern whig, Cleveland's *A. H. Stephens*, 332 (Speech of Feb. 12, 1847); northern whig, 5 Webster's *Works*, 253 (Speech of March 1, 1847); free-soil, Horace Mann's *Letters and Speeches*, 10 (Speech of June 30, 1848); abolitionist, Jay's *Review of the Mexican War*, 183, and Warden's *Life of Chase*, 314; administration, 1849–50, 3 *Statesman's Manual*, 1847 (Message of Jan. 21, 1850). The *Democratic Review* carefully avoids the subject until September, 1847 (p. 103), and the *Whig Review* until August, 1848 (p. 193), and then both pronounce against the proviso, the former as an abolition measure, the latter as a democratic measure.

ALEXANDER JOHNSTON.

WILSON, Henry, vice-president of the United States 1873–5, was born at Farmington, N. H., Feb. 16, 1812, and died in office at Washington city, Nov. 22, 1875. His name, Jeremiah Jones Colbath, was changed to Henry Wilson by an act of the legislature in 1830. He was self-educated during the time which he could save from his labors as a farm hand and shoemaker. From 1841 until 1852 he served frequently in the state legislature, as a whig with strong anti-slavery opinions. In 1848 he withdrew from the whig national convention, entered the free-soil party, and was its candidate for governor in 1853. He then went into the "know-nothing" organization (see AMERICAN PARTY), but withdrew from it in 1855. Before his withdrawal he had been elected United States senator by a coalition of know-nothings, free-soilers and opposition democrats; and he served as chairman of the senate military committee, and took a leading part in the conduct of the war by congress. His leading work is the *History of the Rise and Fall of the Slave Power in America;* his minor works are the *History of the Anti-Slavery Measures in Congress*, 1860–64; *Military Measures of the United States Congress; History of the Reconstruction Measures in Congress*, 1865–8; *History of the Part of Congress in the War to suppress the Rebellion.* See Stowe's *Men of Our Times;* Mann's *Life of Wilson;* Nason's *Life of Wilson.*

ALEXANDER JOHNSTON.

WIRT, William, was born at Bladensburgh, Md., Nov. 8, 1772, and died at Washington city, Feb. 18, 1834. He was admitted to the bar in 1794, and practiced in eastern Virginia until 1817, when he became attorney general of the United States, serving until 1829. In 1830 he removed to Baltimore. In 1832 he was the anti-masonic candidate for the presidency (see ANTI-MASONRY, I.), and received the seven electoral votes of Vermont. See Kennedy's *Memoir of Wirt* (1852); 70 North American Review, 255; 92 *ib.*, 277.

ALEXANDER JOHNSTON.

WISCONSIN, a state of the American Union, formed from the northwest territory. (See TERRITORIES, ORDINANCE OF 1787.) Its area was included successively in the territories of Indiana, Illinois and Michigan, and was finally organized into the territory of Wisconsin, April 20, 1836. An enabling act was passed Aug. 6, 1846, and under its provisions a convention at Madison, Oct. 5–Dec. 16, 1846, framed a state constitution. An act was then passed, March 3, 1847, to admit the new state under this constitution, if it should be ratified by popular vote. It was rejected by the people, owing to its attempt to prohibit banks and banking, and Wisconsin remained a territory. May 29, 1848, the state was finally admitted under its first constitution. — BOUNDARIES. As this was the fifth state erected from the northwest territory, which, by the ordinance of 1787, was to be divided into not more than five states, it would seem fitting that Wisconsin should have comprised all the remnant of the original territory. This, however, was not done: five and a half states were really formed, that portion west and north of the western end of Lake Superior being taken from Wisconsin and given to the trans-Mississippi territory of Minnesota. The boundaries of the state, as fixed by the enabling act and accepted by the first constitution, are as follows: Beginning in the middle of Lake Michigan, in latitude 42° 30' north (the northern boundary of Illinois); thence, with the Michigan boundary, through Lake Michigan, Green Bay, and the Menomonee, Brulé and Montreal rivers to Lake Superior; thence through the middle of Lake Superior to the St. Louis river at the head of the lake, up the St.

Louis to its first rapids, due south to the St. Croix river, down the St. Croix to the Mississippi, down the Mississippi to the northwest corner of Illinois, and thence east to the beginning. — CONSTITUTION. The constitution under which the state was admitted, still in force, was framed by a convention at Madison, Dec. 15, 1847 - Feb. 1, 1848, and ratified by popular vote March 13. It forbade slavery; gave the right of suffrage to white males over twenty-one, on one year's residence, but with power to the legislature to extend the limits of the elective franchise on ratification by popular vote; fixed the numbers of the assembly at not less than fifty-four nor more than 100, to serve one year, and of the senate at not less than one-fourth nor more than one-third of the assembly, to serve two years; gave the governor, elected by popular vote, a term of two years; made the judiciary elective for a term of years, and removable by address of two-thirds of the members elected to each house; forbade the loaning of the state's credit, or the contracting of a state debt of more than $100,000 except in case of war or insurrection; and made Madison the capital of the state. Slight amendments were made in 1867, 1869 and 1870; in 1871 the legislature was forbidden to pass special laws in a number of specified cases; in 1874 county and municipal governments were forbidden to contract debts to an amount greater than 5 per cent. of their taxable property; and in 1882 the sessions of the legislature were made biennial. — GOVERNORS. Nelson Dewey, 1848–51; Leonard J. Farwell, 1851–3; Wm. A. Barstow, 1853–5; Coles Bashford, 1855–7; Alex. W. Randall, 1857–61; Louis P. Harvey, 1861–2; Edward Salomon, 1862–3; James T. Lewis, 1863–6; Lucius Fairchild, 1866–72; C. C. Washburn, 1872–4; Wm. H. Taylor, 1874–6; Harrison Ludington, 1876–8; Wm. E. Smith, 1878–82; Jeremiah M. Rusk, 1882–4. — POLITICAL HISTORY. In national politics the state was democratic until 1856, casting her electoral votes for Cass and Pierce in 1848 and 1852. In 1856, and at every presidential election since that year, the state has been republican, about 55 per cent. of the total popular vote being cast for the republican electors, except in 1876, when it fell to 51 per cent. In more local elections, the results have been closely similar. Until 1855 the state governments and congressmen were democratic, with the following exceptions: in 1851 Gov. Farwell was elected by a temporary coalition of whigs and free-soilers; and until 1852 the southeastern or Milwaukee district elected a free-soil congressman, the southwestern district a whig, and the northeastern district a democrat. The coalition of 1851 dissolved almost immediately, and for the next two years democratic supremacy was hardly disputed. Early in 1854 the organization of the republican party (see that title) was begun, and before July it had been completed, the whig and free-soil committees disbanding, and new committees of whigs, free-soilers and democrats, being appointed in their stead. In the fall elections the new party carried two of the congressional districts and the lower house of the legislature, and elected twelve of the twenty-five senators: the Milwaukee district was now democratic. In the following year, though the democrats carried the lower house and elected all the state officers except the governor, the republicans secured the senate, and, after a struggle, the governorship also. For this office the first official count gave Barstow (dem.) 36,170 votes, and Bashford (rep.) 36,012. Bashford claimed a miscount, took the oath as governor in January, 1856, and brought a *quo warranto* suit in the state supreme court against Barstow, who had also taken the oath. The assembly voted to recognize Barstow as governor, and the senate voted to recognize him as governor *de facto* until the decision of the supreme court. Barstow denied the court's jurisdiction, which the court after argument affirmed, Feb. 19. Barstow then withdrew from the case under protest, and left the office to Bashford. Since that time all the governors, with the exception of Gov. Taylor, have been republican, as well as the legislatures, the United States senators and the congressmen, with some exceptions, most of which are noted below. — In 1856 the republicans again elected the governor, a majority of both houses of the legislature, and as a consequence the United States senator (Doolittle): the democrats again elected the other state officers. This was the last election for many years in which the result was close or doubtful. Since 1863 the Fond du Lac district has always chosen a democratic congressman; and to this must be added the northeastern or Green Lake district in 1859–65, the Milwaukee district in 1863–5 and 1871–85, the Winnebago district in 1875–85, and the general democratic success in 1882. In all other congressional elections the republicans have been successful, having usually five of the six congressmen from 1861 until 1871, and five of the eight congressmen from 1871 until 1881. In the election of 1882, under a new apportionment, the state was entitled to nine congressmen, and the democrats were successful in six of the districts. — In state politics the most interesting issues have been the Graham law in 1872, and the Potter law in 1874. The former was an act requiring a license for the sale of liquor, together with a bond for the payment of any damages recovered against the seller by a town for the support of an intoxicated person, or by any person injured in the means of support by the sale of liquor to husband, wife, parent or child. It was decided constitutional by the state supreme court in 1873, and, with other moving causes, led to a slight republican reverse in that year: the liberal republicans and democrats elected Taylor governor. March 11, 1874, the Potter law was passed. It was a general railroad law, fixing railroad rates for passengers and freight, and creating a board of commissioners to enforce the law. The railroads took the case to court, and in the interim refused to obey the law; but the case was decided against them by the state court and the federal circuit court, and steps were at once

railroads yielded, but the good understanding between the "grangers" (see that title) and the democrats gave the latter most of the state officers, and their candidate for governor, Taylor, was only defeated by the close vote of 85,155 to 84,314. But throughout these slight vicissitudes the republicans retained control of the legislature, except that in 1875 their regular candidate for United States senator, Carpenter, was defeated by Cameron, also a republican, through the votes of democrats and "bolting" republicans. The legislature in 1882–3 stands as follows: senate, twenty-four republicans, nine democrats; house, seventy-eight republicans, twenty-two democrats.—Among the political leaders of the state have been the following: Angus Cameron, republican United States senator 1875–85; Matthew H. Carpenter, republican United States senator 1869–75 and 1879–81; Lucien B. Caswell, republican congressman 1875–83; Orsamus Cole, whig congressman 1849–51, state chief justice at present (1884); P. V. Deuster, democratic congressman 1879–85; Henry Dodge, governor of Wisconsin territory 1836–41, delegate to congress 1841–5, democratic United States senator 1848–57; James R. Doolittle, state circuit judge 1853–6, republican United States senator 1857–69, democratic candidate for governor 1871; Charles Durkee, free-soil congressman 1849–53, republican United States senator 1855–61, governor of Utah territory 1865–70; Charles A. Eldredge, democratic congressman 1863–75; Richard Guenther, republican congressman 1881–5; George C. Hazelton, republican congressman, 1877–83; Timothy O. Howe, state circuit and supreme court judge 1850–55, republican United States senator 1861–79, postmaster general under President Arthur; Wm. Pitt Lynde, democratic congressman 1848–9 and 1875–9; Halbert E. Paine, republican congressman 1865–71; E. G. Ryan, chief justice of the state supreme court; Philetus Sawyer, republican congressman 1865–75, and United States senator 1881–7; Cadwallader C. Washburn, republican congressman 1855–61 and 1867–71, and governor 1872–4; and Charles G. Williams, republican congressman 1873–83.—The state was named from its principal river, the Wisconsin, "Ouisconsin," a mixed French and Indian word, said to mean "westward flowing."—See 2 Poore's *Federal and State Constitutions;* 2 Hough's *American Constitutions; Wisconsin Historical Society Collections;* Lapham's *Wisconsin: Its Geography and Topography* (1846); Smith's *History of Wisconsin* (1854); Love's *Wisconsin in the Rebellion* (1866); 2 Wilson's *Slave Power*, 409; *Wisconsin Reports; Tribune Almanac*, 1846–83; Appleton's *Annual Cyclopædia*, 1861–82; the acts of April 20, 1836, and March 3, 1847, are in 5 *Stat. at Large*, 10, and 9 *Stat. at Large*, 178.

ALEXANDER JOHNSTON.

WOMAN SUFFRAGE. (See SUFFRAGE.)

1847. He was graduated at Middlebury college in 1815, was admitted to the bar in 1819, and almost immediately entered politics as a democrat. He served as surrogate of Rockland county 1821–4, as state senator 1824–7, as congressman 1827–9, as state comptroller 1829–33, as United States senator 1833–44, and governor 1844–6. About 1824 his ability had made him a leading member of the "Albany regency" (see that title), which controlled the state democratic party; and he held his place in it until his death. Van Buren's failure to receive the democratic nomination for the presidency in 1844 placed the regency in an attitude of armed neutrality toward the incoming administration of Polk; and, when this state of things had developed into open war in 1846, Wright was defeated for re-election as governor by the refusal of administration democrats to vote. His death soon afterward added to the bitterness of feeling between his followers and their opponents, and the state party in 1848 made the conflict national. (See BARNBURNERS; HUNKERS; FREE-SOIL PARTY; NEW YORK; DEMOCRATIC PARTY, IV.)—See Hammond's *Life and Times of Wright;* Jenkins' *Life of Wright;* Jenkins' *Governors of New York*, 722; 12 *Democratic Review*, 198, and 19 *ib.*, 849 (with portraits); Gillet's *Democracy in the United States*, 176; 2 Benton's *Thirty Years' View*, 700.

ALEXANDER JOHNSTON.

WYOMING, a district in the northeastern part of Pennsylvania, the seat of a long conflict of jurisdiction between Pennsylvania and Connecticut. Attention is elsewhere called (see TERRITORIES) to some of the difficulties which were occasioned by the undefined western boundaries of Massachusetts, Connecticut, Virginia, and the three colonies south of Virginia. In the case of Connecticut the difficulty was increased by the fact that a western prolongation of its territory, passing over the Dutch settlements on the Hudson river, specially excepted under the head of possessions of "any other Christian prince or state," would have taken a strip of land about 120 miles wide from the northern part of Pennsylvania. Connecticut's assertion of her rights took the form of a private association, the "Susquehanna company," organized in 1753, and backed by the colonial government. In 1754 the company sent commissioners to meet the council of the Six Nations at Albany (see ALBANY PLAN OF UNION), in order to purchase the Indian title. Franklin and the other Pennsylvania commissioners, aided by Sir William Johnson, of New York, endeavored to prevent the purchase, but it was effected for £2,000. The eastern boundary was to be an irregular northerly line at a distance of ten miles east of the Susquehanna from latitude 41° north to latitude 42° north; thence two degrees of longitude west; thence 120 miles south; and east to the place of beginning. In 1762 the company sent

its first party of settlers, 200 in number; but the Indians attacked and dispersed them, sent a deputation to Hartford in 1768 to repudiate the sale to the company, and in 1768 resold the same territory to Pennsylvania. In 1769 the company, disregarding the Indian transactions, again began to throw immigrants into Wyoming, and a desultory civil war began between the Connecticut settlers and the Pennsylvania men to whom the district had been leased. The former were several times driven altogether out of the valley, and compelled to return to Connecticut, but their persistence was successful within two years in obtaining a permanent lodgment. This result was due in great measure to the faulty land policy of Pennsylvania, whose proprietors, the Penn family, made it their regular policy, whenever it was possible, to grant leases only. Franklin says of Penn's initiation of this policy: "The scene of action being shifted from the mother country to the colony, the deportment of the legislator was shifted too. Less of the man of God now appeared, and more of the man of the world. One point he had already carried against the inclination of his followers, namely, the reservation of quit rents, which they had remonstrated against as a burden in itself, and, added to the purchase money, without precedent in any other colony; but, he artfully insinuating that government must be supported with splendor and dignity, and that by this expedient they would be exempt from other taxes, the bait took, and the point was carried." It was unnatural to expect that mere lessees would exhibit the same spirit in conflict as men who were maintaining a claim for absolute ownership. In other words, the struggle was between two opposite land systems, that of freeholders and that of leaseholders. While this was the case, the result was not doubtful, and the success of the Connecticut settlers was not displeasing to most of the Pennsylvania people, who disliked the proprietary government and the proprietary land system.—In 1773 the Wyoming settlement had gained so much strength that it began to have ambitious views of independent existence as a separate colony, and the company, meeting at Hartford, June 2, 1773, adopted a form of government for it. But the legislature of Connecticut, having been fortified by the favorable opinion of a number of the best lawyers in Great Britain, Dunning, Jackson, Widderburn and Thurlow, asserted the colony's jurisdiction over the Susquehanna company's territory. In 1774 it was made a town under the name of Westmoreland, and was to be considered a part of Litchfield county, Connecticut. The town for several years sent delegates to the Connecticut legislature. The breaking out of the difficulties with the mother country suspended all minor disputes, and the contest was suspended throughout the revolutionary war, except that the attack on Wyoming and massacre of its defenders, in July, 1778, seem to have been influenced in a slight degree by the feeling that the settlers were interlopers. — In 1779 an act of the Pennsylvania legislature transferred all the proprietary quit rents to the state, reserving the proprietors' private property to them, and granting them $524,000 compensation for quit rents, payable in installments after the peace. The new lord of the soil, the state, at once abandoned the leasehold system in future sales, and thus renewed the contest with the Connecticut settlers on equal terms. Under the provision of the articles of confederation which made congress a court of last resort for the trial of title to territory disputed between the states, Pennsylvania brought suit against Connecticut to decide the jurisdiction of Wyoming. The case was heard by five judges at Trenton, and in November, 1782, their unanimous decision, afterward confirmed by congress, was given in favor of Pennsylvania. By this time a number of Pennsylvanians had settled in the territory, and when these proceeded to elect justices of the peace the Pennsylvania legislature, in September, 1783, directed the governor to commission the officers so elected. This began the "war of the Pennamites and the Yankees." The Connecticut settlers had submitted to the decision of congress, and given up their town organization; but they expected that their Connecticut titles to land would be respected or quieted. The conditions offered by Pennsylvania were intolerable: the Connecticut settlers were to surrender half their lands at once, to retain possession of the other half for one year, and were then to surrender the whole to claimants under Pennsylvania titles. The settlers resisted, led by John Franklin and others, and prevented state agents from laying out townships or counties; and their resistance had so much sympathy from the people of Pennsylvania that the legislature, Sept. 15, 1784, suspended proceedings. For the next two years the district was in a very anomalous condition, until in September, 1786, Pickering (see his name) procured the adoption of two complementary measures which bade fair to settle the whole difficulty. Luzerne county was established, and the district was thus brought within the jurisdiction of Pennsylvania, and the petitions of the Connecticut settlers for a confirmation of their titles were granted by a confirmatory act. By Pickering's active exertions the settlers were brought to agree to the settlement in May, 1787; but in the following year the legislature, having secured the organization of the county, repealed the confirmatory act, and this shocking piece of bad faith ("unjust and cruel," Pickering calls it) reopened the difficulty. Suits were brought by Pennsylvania claimants against the settlers; but it required more than eight years to decide the first suit, and the unfavorable issue of this one had no effect on the persistence of the other settlers. Finally, April 4, 1799, the legislature passed a compromise act, which secured possession to those who held Connecticut titles, acquired before the Trenton decision of 1782, on the payment of small sums ranging from 8¼ cents to $2 an acre. The war of the Pennamites and Yankees was thus ended. — See

Miner's *History of Wyoming;* Stone's *History of Wyoming;* Peck's *History of Wyoming;* 8 Franklin's *Works*, 123; Pickering's *Concise Narrative of the Wyoming Dispute* (1798), and authorities under PICKERING. ALEXANDER JOHNSTON.

WYOMING TERRITORY, a territory of the United States, north of Colorado and Utah. Its area (97,883 square miles) was a part of the Louisiana cession (see ANNEXATIONS, I.), except the southwestern strip, about one degree in width, about two-thirds of the length of the territory, and containing 14,320 square miles, which was a part of the Mexican cession. (See ANNEXATIONS, IV.) The territory was organized by act of July 25, 1868, and by the census of 1880 its population is 20,789. Its capital is Cheyenne. The act of July 25, 1868, is in 15 *Stat. at Large*, 178.

ALEXANDER JOHNSTON.

X

X Y Z MISSION (IN U. S. HISTORY). The relations between the French republic and the United States had been steadily becoming more tightly strained for years before the inauguration of President John Adams in 1797, more especially by reason of the manner in which France had seized American provision ships (see EMBARGO, I.), and permitted illegal captures of American vessels by her privateers. The position of France was more advantageous from the fact that she respected, and pretended to respect, no international law whatever. Her assumed place was not that of a coequal unit in the family of nations, but that of an apostle of liberty, limited in her action only by her own conceptions of expediency. Appeals to treaties violated by France met an easy answer in declamatory references to liberty; and any nation refusing to strengthen the hands of France was a self-confessed enemy to liberty and to France. In dealing with both France and Great Britain, Washington's policy was an armed neutrality, but no party supported him cordially in all its features. The republicans (democrats) tended from the beginning to an unarmed dependence upon France; and the federalists, as they grew to be more openly a commercial party, tended to an armed dependence upon Great Britain. Washington's policy was successful in checkmating Genet (see his name), and in keeping succeeding French envoys within limits for some years. But even Washington had to yield to the growing change in the federal party which dates from Jay's treaty (see both these titles) with Great Britain; and Adams, at his inauguration, found his party as much disposed to pick a quarrel with France as France was certain to furnish the opportunity, and far less disposed to submit to a counterbalancing influence from him than from his predecessor. — In return for the recall of Genet, the French republic had asked and obtained the recall of Gouverneur Morris, the American minister, who had not even affected any sympathy with the course of the French revolution. In his place was sent James Monroe, who proved much more acceptable to France. The French republic (see EMBARGO, I.) had already begun those interferences with American commerce which provoked English retaliatory interferences; and these consequences, in their turn, made the French aggressions increasingly annoying. Most of the English annoyances were removed by Jay's treaty; as to France the United States still depended upon the old treaty of alliance of 1778. But France, in addition to her long-standing grievance arising from Washington's policy of neutrality, of which she could hardly complain openly, had now a plausible ground of complaint in what she chose to consider the American alliance with Great Britain. In February, 1796, one of the directory informed Monroe that the treaty of 1778 was at an end from the moment of the ratification of Jay's treaty; to which Monroe very properly replied that the treaty had already been brought to nothing by the constant French captures of American vessels. — In other points of his diplomatic intercourse Monroe had not so well satisfied either Washington or the cabinet. He had been given in advance a complete vindication of Jay's treaty for the information of the French government, but had not presented it, believing that it was intended to be held in readiness to answer formal complaints. And in general his diplomatic language was altogether ill advised and unfitting an ambassador. As a single instance, his letter of Sept. 3, 1794, to the committee of public safety, declared that, if they should be of opinion that the French infractions of the treaty were productive of "any solid benefit to the republic, the American government and my countrymen in general will not only bear the departure with patience, but with pleasure." Their tone of pitiful subservience makes it difficult to read Monroe's official communications, as collected and published by himself, with either pleasure or patience; and, after a sharp rebuke from Pickering, in June, 1796, he was recalled, and Charles Cotesworth Pinckney was sent in his place. — By this time the control of the French revolution had passed from the madness of the many to the selfishness of the few. The executive directory now enjoyed a power of which the military ability of Napoleon had been the first foundation and was still the principal buttress; and under its leadership the French republic was employing for pure self-aggrandizement the exemption from international law which it had at first asserted in the name of liberty. And Napoleon, from the begin-

ning, saw the limit which the British channel would put to the conquest of Europe, and the manner in which alone he could pass it, by giving the English fleets employment elsewhere. In 1797, after the peace of Campo Formis, he wrote: "We must set all our strength upon the sea; we must destroy England; and the continent is at our feet." But the same year had already seen the destruction of the Spanish fleet off St. Vincent, and of the Dutch fleet at Camperdown; and from this time until 1812 Napoleon never ceased the effort, by bluster, by kindness, or by fraud, to make the long and stormy coast of North America his most efficient ally against Great Britain. — A few days before Pinckney's arrival the French minister of foreign relations informed Monroe what formalities were to be observed in taking leave. Dec. 9, 1796, Monroe presented his letter of recall, and Pinckney his letter of credence. Two days after, Monroe received written notice that no American minister would be received until the French grievances should be redressed, and that the French minister to the United States would be recalled; and yet, at the end of the month, he accepted a public reception from the directory, at which the president, Barras, without remonstrance from him, publicly announced that France "would not stoop to calculate the consequences of the condescension of the American government to the wishes of its ancient tyrants." Pinckney was left in Paris, refused recognition by the directory, and even threatened with police surveillance, until the latter part of January, 1797, when he received written notice to quit France, and retired to Holland to await instructions from home. — Adams was intent upon following up the policy of neutrality, but this news left him little option. He called a special session of congress for May 16, 1797, and stated his intention of sending a new mission to France, to conciliate that country, if possible, but at the same time recommended the prompt formation of a navy and a general permission to private vessels to arm in self-defense. For the mission he named Pinckney, John Marshall, and Francis Dana, chief justice of Massachusetts, and these were confirmed by the senate. Dana declining, Elbridge Gerry was substituted, being specially acceptable to his close personal friend, the president, and, as a democrat, to France also. In October, 1797, the three met at Paris, and undertook to open negotiations with the directory. One leading complaint on the part of France evidently awaited them. The treaty of 1778 had established the principle (between France and the United States) that "free ships made free goods," that enemy's property, excepting contraband of war, was not to be captured in a friendly ship. Jay's treaty, on the contrary, allowed the capture of enemy's property in friendly ships; so that France complained that her ships could not lawfully take English property from American vessels, while British ships were not so restrained as to French property. On this head, the commissioners were empowered to grant to France the same privilege which Jay's treaty granted to Great Britain. They were also directed to demand, but not as a *sine qua non*, compensation for past injuries to American commerce; and they were forbidden to consent to any loan, under any guise. — While the commissioners were engaged in Paris during the winter, and while little was known of their proceedings, owing to difficulty of winter communication, politics in the United States came to a complete stand-still. The federalists were thoroughly alarmed by the state of affairs in Europe, and the dubious prospects of a single-handed war with France. The French armies had the continent at their feet, and even Great Britain had become anxious for peace. A conflict with France, that is, with continental Europe, was certainly not at any time to be sought wantonly by a backwoods nation of 3,000,000 souls, inhabiting an enormous territory and politically divided among themselves; but the case was infinitely worse if the British navy was to leave the ocean open to the unopposed transport of French troops. Both political parties were afraid to take a step forward, and their uneasiness was increased by the fact, that, though the federalists controlled the senate, there was no party majority in the house of representatives. That body was controlled by a number of members of doubtful political sympathies, without whose support neither party could do anything. Thus, in spite of the president's recommendations to equip a navy, arm private vessels, and fortify the coast, nothing was done throughout the winter. March 5, 1798, the president notified congress that cipher dispatches, dated from November until January, had arrived from the commissioners; and March 19, having deciphered them, he sent another message, in which, without detailing the contents of the dispatches, he summed them up in the information that the commissioners could gain no terms that were "compatible with the safety, the honor or the essential interests of the nation." This first thunder-clap was so effective that the house promptly passed bills to equip three frigates, and to prohibit the exportation of arms; and the senate passed bills to authorize the lease of cannon foundries and the purchase of sixteen additional vessels of war. In spite of the long series of aggressions upon American commerce by both Great Britain and France, these were the first belligerent preparations made by the United States under the constitution. To check them, it was at first hoped by the democrats that an adjournment of congress might be secured; but this was impossible without the consent of the senate. As a second choice, resolutions were offered, March 27, that it was not expedient, under existing circumstances, "to resort to war" against France, or to arm merchant vessels. One of the leaders, Giles, during the debate, attacked the president for not communicating the dispatches; whereupon the federalists offered a resolution calling on the president for copies of such dispatches as were proper to be communicated. To prevent an invidious selection from the dispatches, the

dispatches; and in this form the resolution was passed, April 2. The copies were sent the next day, the president being willing to gratify democratic curiosity to the fullest extent. One may imagine the absolute stupefaction of the democratic leaders as the *coup de théâtre*, which they themselves had assisted in preparing, fell upon them as the dispatches were read. — In brief, the commissioners had been kept waiting in Paris for six months without official recognition, had been approached by unofficial go-betweens with proposals for bribes to the directory and the French treasury as indispensable prerequisites to peace, and, on their refusal, had been ordered out of France. On reaching Paris, they had found that Talleyrand, lately a royalist exile, was now the minister of foreign affairs. They had applied to him at once for an interview, but had been informed that he could not grant it until he had finished a report to the directory on American affairs. This answer had hardly been given when Talleyrand's unofficial agents appeared on the scene, and opened communications with the commissioners. In the dispatches, as sent to congress, the names of the agents were honorably kept secret, letters of the alphabet being substituted for them. The principal agents were M. Hottinguer (designated as X), M. Bellamy, a Hamburgh merchant (Y), and M. Hauteval, formerly resident in Boston (Z); and from these the whole transaction took its popular name of the "X Y Z mission." Their appearance had been heralded by information, through Talleyrand's secretary, that the directory were greatly exasperated by some passages in the president's message, that persons would be appointed to conduct the negotiations, and that they would report to him (the secretary). Oct. 18, X called on Pinckney with a message from Talleyrand: it would be necessary, in order to calm the exasperation of the directory, that a bribe of 1,200,000 livres (£50,000) should first be given them. Pinckney refused to discuss the matter without his colleagues, and X the next day laid written propositions before the envoys. The bribe to the directory was now supplemented by the demand of a "loan" to the French republic: if both were agreed to, the directory would restore the treaty of 1778, and submit American claims for damages to arbitration, provided also that the American government would "advance" money to pay any damages awarded against France. Within the next few days, Y and Z appeared, and the proposed form of the loan was explained. France had extorted from her "sister republic" of Holland, and still held, shares of stock amounting to 32,000,000 florins (£2,560,000), worth about half their par value. The United States envoys were to offer to buy these at par; and, as Holland was certain to pay them at par after the war, the whole transaction would really be only a loan. But Y put the whole negotiation into a nutshell thus: "I will not disguise from you that, this satisfaction being made, the essential *faut de l'argent, il faut beaucoup d'argent*—you must pay money, you must pay a great deal of money." They informed the envoys that nothing could be done in Paris without money; that one of the directory was in the pay of the privateersmen who had been plundering American commerce; that Hamburg and other European states had been compelled to buy a peace; and that the United States must do the same. The envoys nursed the negotiation very skillfully, proposing to send one of their number home for instructions, to suspend French captures in the meantime, and to do various inadmissible things, until they had accumulated a most unsavory mass of "diplomatic" matter. Oct. 27, X became impatient. "Said he: Gentlemen, you do not speak to the point; it is money: it is expected that you will offer money. We said that we had spoken to that point very explicitly: we had given an answer. No, said he: you have not; what is your answer? We replied. It is no; no; no; not a sixpence." This plain, manly and simple answer is probably the one which was distorted into the more bombastic form, much more popular in America: "Millions for defense, but not a cent for tribute." — The next day Talleyrand himself had an interview with Gerry, Z acting as interpreter. He informed Gerry that unless the envoys "assumed powers, and made a loan" within a week, the directory would issue a decree demanding an explanation of objectionable passages in Adams' message. On Gerry's report, the envoys unitedly sent word to Talleyrand that they would assume no such powers, and that he need not delay the decree on their account. On the following day X became still more urgent. He offered to allow the envoys to remain in Paris and communicate with their government as to the "loan," provided the bribe to the directory was paid; but, in default of this condition, threatened the expulsion of the envoys from France, and a declaration of war against the United States. This the envoys answered by flatly declining any further negotiations with unofficial agents, and here their mission really ended. The remainder of their six months in Paris was spent in preparing memorials to Talleyrand, writing dispatches to their own government, and repulsing the continued efforts of X, Y and Z to renew their negotiations. It was not until April 3, 1798, that Talleyrand dismissed Pinckney and Marshall, and then only by a letter to Gerry stating that he supposed they had "thought it useful and proper," by this time, to quit the territories of the republic. Marshall sailed for home April 16, but Pinckney was detained for several months by the illness of a daughter. — The powers given to the envoys had been joint and several, and Talleyrand, ever since the preceding December, had tried to persuade Gerry to use his own power and make a treaty. Now, on dismissing Pinckney and Marshall, he expressed his desire that Gerry should remain so emphatically that Gerry obeyed, fearing a declara-

tion of war if he should depart unauthorized. At the same time he informed Talleyrand that he would only confer informally and unaccredited. He remained in Paris until early in August, when he at last received a passport, and obeyed the imperative directions of his government to return at once. Before his departure news arrived of the explosion which the dispatches of the envoys had caused in America, whereupon Talleyrand indignantly denied all knowledge of the X Y Z negotiations, and called upon Gerry to give him the names of the "wretched intriguers" who had taken advantage of the envoys. This indignation blinded no one; and Y, who had taken refuge in Hamburgh, made a counter-declaration that he had never taken a step in the negotiations without Talleyrand's knowledge and direction. — The effect of the dispatches upon the democrats in congress was increased by the persistence with which both Talleyrand and his agents had returned to the assertion that their friends in America would believe and trust them rather than the federalist commissioners. They had so far mistaken the party, said Jefferson, "as to suppose their first passion to be attachment to France and hatred of the federal party, and not love of their country." At any rate, the allegation made the democrats (or republicans) for the time a highly unpopular party. A flame of warlike feeling burst out from the country at large, and war meetings, processions and addresses to the president, volunteering, and private subscriptions of money and war vessels for government use, became the order of the day. The black cockade, the revolutionary badge, was generally worn; two new patriotic songs, "Hail Columbia" and "Adams and Liberty," became highly popular; and the president, careering at the head of the storm, felt for once that he liked the people and that the people liked him. In the only doubtful portion of congress, the house of representatives, all the doubtful members, and many of the democrats, fell instantly into line with the federalists. The senate bills for increasing the navy and purchasing foundries were passed at once, and the necessary appropriations were made. The navy, hitherto under control of the secretary of war, was made a separate department (April 30). The president was authorized to enlist 10,000 regular troops, and 10,000 volunteers, if any foreign power should invade or declare war against the United States within three years (May 28). American vessels of war were authorized to capture any "armed vessels, sailing under authority or pretense of authority from the republic of France," which should commit depredations on American commerce (May 28). American merchant vessels were authorized to resist capture by French vessels (June 25); and American war vessels and privateers were finally authorized (July 9) to capture armed French vessels of every description. Commercial intercourse between the United States and France and her dependencies was suspended (June 13); and a brief act of July 9 declared the treaties with France no longer binding upon the United States, since France had repeatedly violated them, refused reparation, and "repelled with indignity" all attempts to negotiate. Acts were also passed for the imposition of a direct tax, for a loan upon the credit of the direct tax, and for a general loan of $5,000,000. — In strong contrast to the vulgar notion of the belligerency of democracies, the American republic has always aimed at peace. Nevertheless, its people have always been proud of its potential weight in war, and have been fond of looking forward to the day when its irresistible growth in power should reduce to an evident littleness the high-sounding international wars of the continent of their forefathers. In any such point of view the little history of the nation's first defiance to an equal member of the family of nations, of the *quasi* war of 1798 against France, and of the scattered sea battles in which the little navy acquitted itself so brilliantly, must always be an interesting point of departure. Had the dominant party stopped with the preparations above detailed, even its opponents must have acknowledged the vigor and success of its administration. But the time was one of political passion more intense than can well be conceived now. Each party had inherited many of the practices, and still more of the apprehensions, arising from previous party conflict in the mother country, where parties had not hesitated to assail one another, if not by force, at least by a forcible wrenching of the laws from their proper purposes. To the democrats, the provisional army, officered almost exclusively by federalists, seemed to be not only a means to provide salaries for their opponents, but a possible weapon of offense in party warfare. The step was defended by the federalists on the ground of the danger of an invasion of the southern states by a force of negro soldiers from the French West India islands, who would excite a slave insurrection. For the more flagrant measures, the alien and sedition laws (see that title), little defense could be offered. They were distinctly partisan. Under the operation of the sedition law, Hamilton published with impunity a pamphlet attack on the president, holding up to view his "disgusting egotism, distempered jealousy, and ungovernable indiscretion," and styling him an "arrogant pretender to superior and exclusive merit"; while democratic politicians were arrested and tried for even circulating petitions against the sedition law, or for expressing a wish that the wadding of a cannon might strike the president in the broadest part of his person. Supposing the next congress should prevent the embarrassing feature of a democratic majority in the house of representatives, was the majority to be removed by a series of arrests under the sedition law, supported by the provisional army? The counter-movement of the democratic leaders is elsewhere given. (See KENTUCKY RESOLUTIONS, NULLIFICATION.) Whatever its objects may have been, it need only be said here that the apprehensions which led to it were unfounded,

ure, Talleyrand had received news of the stir which the dispatches of the envoys had excited in the United States, and the effect was instant. The directory protested their desire for peace, and in August issued several decrees, releasing American prisoners, raising the embargo on American ships, and cautioning French vessels to do no injury to legitimate American vessels. They even drew a veil over the language of President Adams' messages, for which they had formerly demanded satisfaction, but which had now grown into an indictment of the directory's principles, practices and manners, of a warmth unheard of elsewhere at the time; and they semi-officially offered to receive a new American minister. But Adams, in his message of June 21, 1798, announcing Marshall's arrival, had declared that he "would never send another minister to France without assurances that he would be received, respected and honored as the representative of a great, free, powerful and independent nation." And in his annual message of Dec. 8, 1798, his language rose to concert pitch: he declined to send another minister to France without more determinate assurances, left it to France to take the requisite steps to accommodation, and gave that country "deliberate and solemn" warning that, "whether we negotiate with her or not, vigorous preparations for war will be alike indispensable." Meanwhile Talleyrand had been casting about for a channel through which to convey the assurances necessary; and had found it in William Vans Murray, the American minister to Holland. Nor was Adams unwilling to receive the assurances, for he had already found that war with France involved the elevation of Hamilton, whom he cordially detested. Washington had accepted the position of lieutenant general, conferred upon him at the previous session, on condition that he should be allowed to name his subordinates. As the three next in rank to himself he had named Hamilton, C. C. Pinckney and Knox, who were confirmed; but the president insisted on making Knox the senior, on the ground of his superior revolutionary rank, and only yielded before Washington's threat of a resignation of his own commission. Hamilton was thus to be practically commander-in-chief of the provisional army. He had already become commander-in-chief of the president's cabinet, which had been inherited from Washington; its members maintained a close and confidential intercourse with him, in striking contrast to the increasing contempt which their correspondence expressed for their nominal chief. To refuse Talleyrand's overtures in order to put Hamilton at the head of an army for the invasion of Florida and Louisiana, perhaps to make him a conquering hero and a popular candidate for the presidency, was more than could be expected from Adams. He could not trust his cabinet; and, without giving its members any hint of his intention, he nominated Murray as minister to ry to the commission. Henry declined, and Gov. William R. Davis, of North Carolina, was named in his place. The blow confounded the president's party. Every influence was unsuccessfully brought to bear on the president and on the senate to balk the nominations. The cabinet officers lost their heads: instead of either resigning or keeping silence, they protested against the step, and thus finally lost the president's confidence. The federal party, which had begun the year in high and united confidence, was now convulsed by sudden feud, the president stigmatizing his federalist opponents as a British faction; and the latter equally dreading, distrusting and disliking the president. The new mission to France had not only dissolved the provisional army; it had thrown the whole federal policy into the air. It is in itself a condemnation of the party that its policy should have been reduced by this time to a single card—the continuance of the hostile attitude toward France; when this was gone, the fire of the party was out.— At first everything seemed to promise quick success to the new mission. Murray had been informed of his appointment, with the reservation that the other two members would not set sail until full assurances had been received as to their reception. Talleyrand hastened to give such assurances in the amplest terms. Before the instructions for the envoys had been completed, the face of affairs in Europe had been so changed as to give the federalists some fresh courage. Disasters to the French arms had been steadily growing more serious; Napoleon, the directory's genius, was blocked up in Egypt or Syria; and in June, 1799, a new revolution displaced all but one of the directory. The government which had given the assurances of a kindly reception of the envoys was no longer in power; and the federalists urged the president to stop their embarkation until new assurances should be given. It may be that the revived federalist spirit was also due to the ascertained fact that the new house of representatives (1799–1801) would be federalist as well as the senate, a southern reenforcement having established a party majority there. Oct. 16, the president again chilled his party by directing, without consulting his cabinet, the immediate embarkation of Ellsworth and Davis. This step was attributed at the time to the president's frantic jealousy of Hamilton, who had inopportunely made his appearance in Trenton (then the temporary seat of government) at the same time with the cabinet and envoys, as if for consultation with them. It is now well settled that Adams' motive was mainly the pacific policy which has been the almost invariable rule with American presidents (see EXECUTIVE, III.); and that his action in this case differed from Washington's action on Jay's treaty only in the difference of mode due to the different characters of the two men. Nevertheless, this new reason for distrusting the president, together with the impossi-

bility of ignoring in the approaching election the representative of New England, the section from which most of the federalist electoral votes were to come, left the party leaders in a quandary. Their only apparent road of escape was in the effort to make C. C. Pinckney president and Adams vice-president, and this road led straight to the overthrow of the party in 1800–1. (See CAUCUS, CONGRESSIONAL, I.; FEDERAL PARTY, I.) — The envoys found, that, by the new revolution of Nov. 9, 1799, Napoleon, who had suddenly returned from Egypt the preceding month, had become first consul. Three commissioners were appointed to treat with them, and a convention was signed Sept. 30, 1800. It secured safety for American commerce for the future, until England and France in turn began to violate international decency in their attacks on neutral commerce (see EMBARGO); but Napoleon was ingenious enough to obtain a mutual abandonment of claims for damages, by reason of the declaration of congress in 1798, that the treaties with France were no longer in force. In this form it was finally ratified by both parties, and declared in force Dec. 21, 1801. — See 1 Tucker's *United States*, 597 foll.; 2 *ibid.* (table of contents); 5 Hildreth's *United States* (table of contents); 1 von Holst's *United States*, 138 foll.; 1 Schouler's *United States*, 373; 2 Marshall's *Life of Washington*, 424; Monroe's *View of the Conduct of the Executive*, 34; Hamilton's *Public Conduct and Character of John Adams, Esq.*, 12; 2 Benton's *Debates of Congress*, 225 foll. (see index under FRANCE); 2 Wait's *State Papers* (2d edit.), 187–499 (complaints of France and of the United States); 3 *ibid.*, 456–499, and 4 *ibid.*, 1–137 (X Y Z dispatches in full); 1 *Statesman's Manual*, 116, 117 (messages of March 19 and Dec. 8, 1798); 1 *Stat. at Large*, 552 foll. (war acts of 1798); 1 Lyman's *Diplomacy of the United States;* Trescott's *Diplomatic History of the Administrations of Washington and Adams*, 158 foll.; 8 *Stat. at Large*, 178 (convention of 1800.) The democratic version of affairs will be found in 1 Randall's *Life of Jefferson*, 387 foll.; 3 Jefferson's *Works* (edit. 1830), 384–422; the Adams version in 8 John Adams' *Works*, 546–681, 9 *ib.*, 10–307, and the numerous notes and references appended thereto; and the version of the federalists opposed to Adams in 2 Gibbs' *Administrations of Washington and Adams*, 15 foll. See also authorities under the respective parties, and under articles referred to.

ALEXANDER JOHNSTON.

Y

YAZOO FRAUDS (IN U. S. HISTORY), the name commonly given to a land act passed by the Georgia legislature in 1795, and to certain claims arising under it, which were not settled until 1814. — Georgia began her existence as a state with doubtful claims to the territory west of her present area. (See TERRITORIES.) The Indian title had been extinguished in but a part of the state, bounded east by the Savannah river up to a considerable distance above Augusta, and west by the Altamaha and Oconee. The rest of the state belonged to the Indians, principally Cherokees and Creeks, but over all of it the state claimed sovereignty and jurisdiction, and the exclusive right to pre-empt lands from the Indians. (See CHEROKEE CASE.) When, therefore, the state sold lands, the sale was really of the right of pre-emption. In this manner a bargain was made in 1789 to transfer about 15,000,000 acres to three land companies for about $200,000; but the companies insisted on paying for the lands in depreciated Georgia paper, whereupon the legislature declared the bargain at an end. — This abortive sale furnished a precedent for the increasing land speculations which grew to be a mania during the twenty years, 1780–1800. During the first fifteen years of this mania it had almost exhausted the sale of whatever lands the states had not covered by military land warrants. Georgia's vague and doubtful territorial claims seem to have at last attracted attention as a promising field for speculation. Four land companies were formed, the Georgia company, the Georgia Mississippi company, the Upper Mississippi company, and the Tennessee company, commonly called, in general, the Yazoo companies, from the general field of their operations, in the Yazoo district. These joined forces in an attack upon the Georgia legislature, and obtained from it the passage of the act of Jan. 7, 1795, the most extraordinary piece of state legislation in our history. It purported to transfer to the companies named, for a consideration of $500,000, a tract of land then estimated at 20,000,000, but afterward found to contain 35,000,000, acres. The price, about one and two-thirds cents per acre, for the richest farm land in the country, was certainly suspicious, but the act itself kindly furnished to the companies the means of corrupting the legislature: one clause contained a provision allowing the companies to take up, on the same terms, 2,000,000 acres additional, for the benefit of whatever "citizens of Georgia" they should admit as their partners. And so little care was taken by the participants to cover their tracks that the United States commissioners in 1802–3 had only to compare the schedule of partners acknowledged by the companies with the legislature's yea and nay votes to show that every member of both senate and house who voted for the act of 1795 had been bribed by a share of the 2,000,000 acres, with a single exception, Robert Watkins, whose name deserves to be recorded. The bribery was effected in the manner now familiar, by assigning a number of acres to the legislator,

price, and then paying him the difference. — The publication of the act aroused an instant storm of indignation throughout the state. In every county but two the grand juries presented the act as unconstitutional and void; and when the state convention met in May, 1795, it was deluged with petitions, memorials and remonstrances against the land act. These it transferred to the attention of the next winter's legislature, so that the election of that body turned on the Yazoo question. When it met, the members who had voted for the act had disappeared from state politics; Jackson, the United States senator, had resigned his seat and entered the state legislature to lead the anti-Yazoo majority; and an act was passed, Feb. 13, 1796, revoking the sale as a violation of the state constitution, illegal and void, and directing the repayment of purchase money to all purchasers who should apply for it within eight months. The act of 1795 was then publicly burned in front of the state house, the two houses attending in a body: the committee handed the act to the president of the senate, he to the speaker of the house, he to the clerk, and he to the doorkeeper, who threw it into the fire. All evidence of its passage was expunged from the records; and the constitution of 1798, while forever prohibiting sales of lands to individuals or companies before counties were fixed, ordered the land companies' purchase money to be kept in the state treasury at the companies' risk, and subject to their order of withdrawal. — One would imagine that all these proceedings were a sufficient evidence of a cloud upon the companies' title to make intending purchasers exceedingly cautious. They seem to have had no great difficulty, however, in disposing of their lands at a sufficient advance to give them a handsome profit; and, as the third parties continued to sell, an army of claimants was gradually formed, particularly in New England and the middle states. When Georgia, in 1802, ceded her western claims to the United States, clauses in the compact confirmed Georgia's previous grants, and provided that not more than 5,000,000 acres should be appropriated for the satisfaction of "other claims," if congress should act upon them within a year. The commissioners, Madison, Gallatin and Lincoln, who had negotiated the compact with Georgia, reported, Feb. 16, 1803, that the present Yazoo claimants were innocent third parties, holders without notice, and their claims ought to be compromised; that they offered to accept twenty-five cents an acre, or a lump sum of $8,000,000; but that a sum of $2,500,000 with interest, or $5,000,000 without interest, payable out of the proceeds of Mississippi land sales, would be a fair compromise. The Yazoo claims now met the fiercest and most uncompromising opponent in the person of John Randolph. (See his name.) He had been in Georgia on a visit in 1795–6, and now took up the battle against the claimants with a rancorous sense of personal hostileness an act was passed, March 3, 1803, one of whose clauses, after setting aside a part of the 5,000,000 acres for British claimants and squatters without title, appropriated the remainder to the satisfaction of such other claims, arising under "any act or pretended act of the state of Georgia," as should be filed in the office of the secretary of state before Jan. 1, 1804, and subsequently approved by congress. — Among the claimants was the New England Mississippi company, successor by purchase to the Georgia company. Randolph's opposition has usually been attributed to a general hatred of New England, but its real basis seems to have lain in an honest belief that the New England company was an organized attempt to obtain $8,000,000 from congress by the same process of corruption and bribery which had originally been successful with the Georgia company. The company's principal agents were Granger, then postmaster general, and Perez Morton, a leading democratic politician of Massachusetts. Their chances in congress seemed to be fair, when Randolph anticipated them by offering a series of resolutions, Feb. 20, 1804, upholding the Georgia revoking act of 1796, and directing that no part of the 5,000,000 acres be appropriated to any claimants under the act of 1795. The second resolution contains the gist of Georgia's defense of her action, as follows: "That, when the governors of any people shall have betrayed the confidence reposed in them, and shall have exercised that authority, with which they have been clothed for the general welfare, to promote their own private ends under the basest motives and to the public detriment, it is the inalienable right of a people so circumstanced to revoke the authority thus abused, to resume the rights thus attempted to be bartered, and to abrogate the act thus endeavoring to betray them." His resolutions were postponed in March by a general majority of about 53 to 50; but his object had been obtained, for the claims were practically postponed with the resolutions. But Randolph always believed that his own fall from the leadership of his party in congress was directly attributable to the disappointment of members of congress interested in the claims, and backed by a strong and unscrupulous lobby. He was not alone in the belief: the evident conviction that bribery had been at work in congress makes the debates of the time quite unpleasant reading. — In January, 1805, the claims again came up for consideration, and Randolph, freed from any partial checks by his evident banishment from his party, gave loose reins to the powers of vituperation, in which he was unsurpassable. Every one who favored the claims in any way came in for a share, but most particularly the principal agent, Granger. Randolph, in a speech of Jan. 31, 1805, even accused him, without offering any direct evidence, of having prostituted his official power of making postoffice contracts to the purchase of members' votes for his

constituents, the New England company. One sentence will give some idea of Randolph's peculiar style: "You must know, sir, that the person so often alluded to maintains a jackal, fed not upon the offals of contract, but with the fairest pieces in the shambles; and at night, when honest men are in bed, does this obscene animal prowl through the streets of this vast and desolate city, seeking whom he may tamper with." Granger, the next day, wrote a naturally indignant letter to the speaker, demanding an investigation, which was not accorded to him. Randolph's object had been sufficiently attained, and he followed the same tactics for the future, making it so unpleasant for any one who introduced a bill to satisfy the claimants that no act was passed. Even in 1808, when the short-lived democratic legislature of Massachusetts unanimously asked congress to act upon the claims, no attention was paid to the request. — Failing before congress, the claimants arranged a conflict of title between holders of Yazoo lands under their grant and under the United States, and thus got the matter before the supreme court in the case of Fletcher *vs.* Peck. The decision was given in 1810, and fully sustained the claimants. It held that the law of 1795 was a contract between the state and the claimants; that the states were forbidden by the constitution of the United States (art. I., section 10) to pass any law impairing the obligation of contracts; and that the revoking act of 1796 was therefore unconstitutional and void. Still the matter languished until March 31, 1814, when an act was passed appropriating $8,000,000 in scrip, payable out of the proceeds of Mississippi lands, to satisfy the Yazoo claimants. Comparatively little of this, however, went to the claimants. Most of them had become discouraged by the long delay, and had sold their claims to speculators at a heavy discount. Some few subsequent acts were found necessary to complete minor details, but the end of the case was fairly reached in 1814. — It is certainly true that the states were forbidden by the constitution to pass any law impairing the obligation of contracts; but it is equally true and clear that the contracts then intended were mere private contracts between individuals, and not those which are public in their nature and trench on the prerogatives of the state government. It is usually considered that the change of course was first made by the supreme court in the case of Dartmouth College *vs.* Woodward in 1819, though that case was only that of a private eleemosynary corporation, and the rule in its case has since been transferred to the maintenance, as irrepealable contracts, of the charters of corporations essentially public in their nature. A more apt illustration of this subsequent line of decision may be found in this Yazoo case in 1810. The contract was one which deprived the state of its public lands, which was obtained by a wholesale corruption of legislative agents never effectually denied, and which was protested against by one of the principals, the people of the state, the instant their voice could be heard, as not their act and deed, Surely it would seem that here there was no contract at all; or that, if there was a contract, it came with the implied condition of the state's power to revoke or alter it. Whether we take the standpoint of state sovereignty (see that title) or national sovereignty, it is clear in either case that the state legislatures in 1775 were left, either by the will of the people of the state or of the people of the nation, the same supreme power of revocation or alteration of their public charters or public contracts which has always been possessed by the British parliament. He who asserts that they have since lost that power may fairly be asked to put his finger on the place where the decree of the state or of the nation has taken it from them. It is hard to side with John Randolph against John Marshall, but it is infinitely harder to see any such sweeping decree in the contract provision of the constitution. We can only see a series of stepping stones, beginning with the Yazoo decision, and ending with a general judicial decree that the state legislatures have no power to revoke or alter charters. So that, as the law stands, any corporation has only to be unscrupulous enough to purchase our legislature, and to obtain from that body an irrepealable charter granting it any privileges, however enormous or however opposed to the self-government of the people of the state, and it obtains at once a vested right which must be sustained by the judicial power and physical force of the United States. In this aspect, the case has a far more dangerous appearance now than in 1810 or 1819, owing to the rise of a class of corporations whose powers, ambitious and perilous rivalries could hardly have then been imagined. It may be dangerous in some degree to expose our corporations to the meddlesomeness of state legislatures; but it can hardly be denied that it is still more dangerous to hang the safety of popular government by states upon the small chance of the unanimous and perpetual scrupulousness of an infinite number and variety of corporations. When the danger shall appear in practice for the first time it will be too late to avoid it, for the court in the Yazoo case very naturally decided, as it must always decide, that it could not examine or even recognize any allegation of corruption in the supreme legislative authority of a state: it must take the legislature's action as the voice of the state. Judge Jameson, in the pamphlet cited below, speaks as follows: "It may be heresy, but, if so, the heretics are a large and increasing company who maintain that the decision in Dartmouth college *vs.* Woodward has been carried much too far, and been made to sustain grants which neither law nor justice nor sound political principle can sanction. * * But in some of the very cases in which our courts have sustained that species of contracts, upon the supposed controlling authority of the Dartmouth college case, may be found the law which is ultimately to rescue us from the bondage that case has brought upon us. In many of these cases there are dissenting opinions, giving,

in the judgment of many, the better law in regard to the proper application of the principles of the Dartmouth college case. By going back, therefore, to the path which was abandoned when the rule in that case, that of a private eleemosynary corporation, was perverted to the maintenance of corporate institutions invested with great public functions, not only congress but the states will be left free to bring the needful legislation to bear against those monster establishments deeming themselves impregnable behind the barrier of the constitution." — See authorities under GEORGIA; 4–6 Hildreth's *United States* (index); 2 Schouler's *United States*, 74; 2 Tucker's *United States*, 186; 1 Garland's *Life of Randolph*, 66; Adams' *Life of Randolph*, 109; 3 Benton's *Debates of Congress*, 142 (Randolph's resolutions), 333 (Granger's letter and defense); 2 *Stat. at Large*, 235, and 3 : 116 (acts of March 3, 1803, and March 31, 1814); 1 *Stat. at Large*, Bioren & Duane's ed., 460, 512 (evidence collected and published by Georgia); *Fletcher* vs. *Peck*, 6 Cranch's *Reports*, 87, or 2 Peters' *Reports*, 336; Jameson's *Grounds and Limits of Rightful Interference by Law with the accumulation and use of Capital*, and authorities cited. ALEX. JOHNSTON.

YEAS AND NAYS. (See PARLIAMENTARY LAW.)

Z

ZEITGEIST. *Its Nature and Power.* The *Zeitgeist* is a German word, meaning the spirit of the times, or the spirit of the age. In the following article it will be frequently rendered literally by the English compound *Times-Spirit.* — Every one feels the power of the times-spirit, but no one explains to us on what that power depends. All speak of the times-spirit, or of the spirit of the age; most men pay homage to it; yet nobody tells us what the times-spirit which they worship and which they sometimes unwillingly obey, is. The idea of the times-spirit did not originate in our day. It was given expression to, even by the brahmans of ancient India. The old Romans were acquainted with the "spirit of the century" (the *saeculum*). (Tac. *Germ.*, 19.) But our age has grown more attentive than any former one to the drift of the spirit of the times. Hence the question, What is the times-spirit? imperatively demands an answer. — I. Let us first see by what external signs men think they can recognize the times-spirit, and what qualities they ascribe to it. — 1. The times-spirit manifests itself chiefly in the definite character and the special intellectual direction by which the different ages and the different phases of the times are distinguished from one another. The contrast noticeable between the great periods of the world's history, marks also the changes or transformations of the times-spirit, in a general way. Even the spirit of the middle ages was once present in the world as the spirit of the times, as the times-spirit; and in its time it crushed out the spirit of the ancient world, just as it had itself to yield subsequently to the spirit of modern times. Again, in these great periods of the world's history the spirits of the centuries, and even of the half-centuries composing them, are surprisingly different. Only, the century must not be reckoned according to our Christian system of chronology, for the experience of history everywhere shows, that the spirit of the new century becomes observable in all its youthful impetuosity even in the last decade (according to Christian chronology) of the previous century. Christ was not born at the beginning of a century, and hence our Christian chronology does not correspond with the chronology of the periods of the world's history (*weltperioden*, world-periods). — With the ages, new ideas, like stars, rise above, and again sink below, the horizon of humanity. In one century, an idea has a powerful attraction for men; in another, that same idea exercises no influence whatever. In one age, men wax enthusiastic over it, in the next they pass it by coldly and indifferently. In the twelfth century (including the last decade of the eleventh) all Christian Europe was stirred to its very centre by the desire to rescue the sacred sepulchre of Jesus from the infidel. To effect that end, millions of men with fiery ardor rush into the arms of unknown danger, privation and death. But this fanatical impulse loses its power over minds in the thirteenth century, and, later, dies out entirely. The second half of the fifteenth and the first of the sixteenth century, favor the renaissance of ancient ideas, and the reformation of the church, which had previously been attempted, without success, by individuals; while, from 1540 onward, the spirit of reaction and torpidity rose up and was just as victorious. In the seventeenth century, princely absolutism everywhere celebrated its triumph over the estates system; and in the eighteenth, beginning with 1740, the craving for enlightenment and the freedom of the middle class of citizens raged with the violence of revolution. The nineteenth century corresponds with the growth of representative constitutional government and the national (see NATIONALITIES, PRINCIPLE OF) current in politics. In one age, the fundamental feature of the times-spirit is liberal; in another, conservative; while in a third it is either radical or absolutist. — The same changes or transformations of the times-spirit are, besides, visible in miniature, in any one age. Here, too, there is an upward and a downward movement to be distinguished. The spokes of the great wheel of the world's history consist of smaller wheels which have a rotation of their own. The very same men grow enthusiastic, in one

phase of the times, over popular freedom, and in another call for a dictatorial power; but, in both instances, they appeal to the spirit of the age with which the direction they follow is in harmony. When Napoleon I. undertook to re-establish Cæsarian authority, he tried to discover, by means of pamphlets which he caused to be scattered widespread, whether the time for it had come, just as Noah, according to the Jewish record, once tried to find out whether the waters of the deluge had subsided; and Napoleon repeatedly postponed carrying his design into execution, because the time had not yet come for it. At last the signs of the times seemed favorable to him; he then cast aside the veil of the consulate, and founded the new empire. Such an undertaking would have been as impossible later, at the time of the restoration after 1815, as it would have been earlier, in the turbulent time of the revolution.— This changing of the times-spirit seems to protect mankind from the lasting, all-crushing despotism of a single, one-sided tendency or direction, and of one sole power. Time causes one force to set again, which it had previously called on to rise, and summons other sleeping forces into life and operation. With time the wheel of destiny turns round, and now new hopes and cares awaken, and now again old sorrows and old joys approach their end. In the change of human things the change of the times-spirit has a great share. Not our globe alone is round and must turn on its axis; the times-spirit too revolves, and, by its revolution, exercises a changing influence on the opinions and doings of men. — 2. A second noteworthy observation is the propagation of the times-spirit. Were it limited to a single country, or to a definite nation, we would suppose we discovered it in the peculiar spirit of that country or that nation. But it is evidently not confined within the boundaries of a country; it moves, in the same current and direction, over different nations. Like the currents of the wind, in the atmosphere, it now moves from the east to the west, and now from the north to the south, and *vice versa*. The religious, believing, and, in a political sense, feudal, fundamental feature of the mediæval times-spirit, spread not only over Christian Europe, but, simultaneously, over the Mohammedan east. — It is often thought that the changes in the spirit of the times can be explained by certain definite experiences of a people, or by certain measures taken by its government. The explanation is a wrong one; for the spirit of the times changes among other peoples also, with different experiences and different governments. We must not think that the change in the spirit of the times was caused for the reason that this thing or that thing happened, or for the reason that this thing or that was left undone. It may be that such happening or leaving undone of a thing may, as a secondary cause, have helped the efficiency of the change of the times-spirit, or put obstacles in its way. The change itself, however, is not dependent on such happening or leaving undone, and has another and chief cause. The best liberal government can not prevent the return of the time of a conservative tendency. And when, even an absolutistic government makes no gross mistakes, the times-spirit does not always persist in the same direction, but from time to time ventures a leap in the way of radicalism. — But the spirit of the times does not propagate itself in entirely the same measure among different peoples. It changes, too, the principal representatives of its character for the time being. At one time one nation, and at another time another, appears as the especial organ of the times-spirit, according as the peculiar nature of such a nation harmonizes with the most prominent quality of the spirit of the times. The spirit of the times in this way lifts up the nations, and lets them fall again. — The principal seat of the times-spirit in Europe, in antiquity, was first Greece, and, later, Rome. During the middle ages the Germans, although unconscious of the fact, were the representatives of the spirit of the times. In the age of the reformation of the church the German nation was the chief organ of the times-spirit, just as the French nation was in the age of the revolution. In the former instance, the times-spirit swept from Germany over northern and western Europe; in the latter, like a storm, from Paris over the European world. The full power of the moving times-spirit, like the crest of a wave, becomes perceptible only in the land or among the nation which is its principal seat or principal representative; and its force in other lands and among other peoples decreases in intensity, until the wave reaches its trough. — 3. The great power of the times-spirit shows itself mainly in the multitude. It comes over the masses, they know not how themselves, and gives them the direction which they follow. The greater number of them surrender themselves up to its impressions, and allow themselves to be filled by it. As plants, at certain seasons of the year, shoot forth and blossom, then stand still and fade, nations are now stirred to action by the current of the times-spirit, and again are relegated by it to rest. The times-spirit wakes up and slumbers according as these qualities or those appear in it. Its course is mysterious. It forces itself in like the wind; it communicates itself from one man to another just as heat does from one body to another. At times, it spreads like an epidemic, and, in a moment almost, transforms the hopes and moods of men. — But there is a great difference between the times-spirit and the cosmic influences of the seasons and the changes of the wind. There was a time when men sought to explain the strangest effects of the times-spirit by cosmic causes. Astrologers calculated the destiny of men from the constellations of the heavens. They thought that by the position or movement of the planets especially they might discover men's plans and acts, and measure the change of the times-spirit. Fruitless and foolish endeavor! Were the cause of the change of the times-spirit to be found in the external nature of our globe,

the wind, would necessarily exercise an influence on men and on all other creatures, at the same time on plants and on animals. But of this there is no trace. No matter how the times-spirit changes, the growth of plants and the life of animals do not follow the change. They do not feel it.—The power of the times-spirit manifests itself only in the life of man; it is connected with human nature, and is scarcely explainable except by the facts of human nature.—As the times-spirit is confined to the world of men, its power is enhanced by the intercourse of men with one another, and in many ways weakened and checked by the isolation of men from one another. Nowhere is the times-spirit stronger than in great cities, in which men live closely packed together in constant and active intercourse with one another. It rules much less in the country, with its small villages and scattered farm-houses. The seclusion of a monastery can not withdraw itself entirely from it, but it only slightly feels the transforming power of the times-spirit.—4. Its power over men is not an absolute one. Some, especially individuals of energetic character and determined mind, resist its influences, and sometimes endeavor, with success, to swim against its stream. Many combat the times-spirit which they hate. Many more, vexed and defiant, repel its rule. The world's history is determined only in part by the times-spirit. The individual freedom of men, as well as the times-spirit, leaves its impress on the history of the world, and in it another spirit besides that of the times reveals itself to us. The latter we recognize only where the spirit of the masses moves. Hence the times-spirit does not fill the whole of human nature, and is not identical with the mind or spirit of man in general.—5. But neither can the changes of the times-spirit be explained by the play of caprice. That change is not like the varying pictures of a revolving kaleidoscope. Rather is there an intrinsic connection between the character of a preceding and of a succeeding section of time; we may perceive an organic succession of ages, and again an organic succession of phases of the times within the same age, which strongly reminds us of the succession of the age-stages in the life of man. The transformation of the times-spirit, too, begins with childhood, and rises to the height of youthful consciousness, to subsequently, after wise work and careful preservation, sink again into aging routine and prudent calculation, and to prepare for a new revolution. In all this there is regularity and law, not chance and caprice.—A great many modern philosophers have endeavored to discover this law. Hegel's endeavor to find it in the dialectic movement of the faculty of thought necessarily failed, because human faculties are manifold, and because the self-conscious mind of thinkers does not at all always determine the direction of the masses. The presentiments of Fourier and the speculation of Krause the changes of the times-spirit, were happier. But Frederick Rohmer investigated the law of the times-spirit more deeply and more comprehensively than any other writer, and explained it by psychology. His own nature, which was very sensitive to, and had a fine feeling for, all the changes of the times-spirit, constantly spurred him on to observe its course, and follow it, like the minute-hand of a clock, with strained attention. In this way he at last found an accurate measure for the movement of the times-spirit.—This prevalence of law in its movement distinguishes the spirit of the times from the changeable fashion. The times-spirit, indeed, exercises its power on the fashion too. It manifests itself by way of preference in the art style of different ages, from which even the fashion can not free itself, and most clearly in the architectonic style, but in music and in literature also. Thus the fashion only followed the times-spirit, when, in the seventeenth, and to some extent in the eighteenth century, it gave its preference to rococo forms, and delighted in queues and hair-bags. Again, it was led by the spirit of the times when the French revolution revived antique fashions, corresponding to the republican models of Grecian and Roman antiquity, which then had great influence on the renovation of public life; and when it afterward, in the Napoleonic period, turned to the aristocratic and severer forms of Cæsarian Rome. To the extent that the fashion follows the times-spirit, it, too, is determined by law. But side by side with this law, the individual inclinations, whims and moods of persons and social centres, operate very powerfully on the fashion—persons and centres which are looked upon by the rest of society as authorities, and in whose footsteps the rest of society is accustomed to follow. The lions and lionesses of fashion in Paris and London are not always led to their resolutions and choices by the general movement of the times-spirit, but are determined in great part by their own freedom. We know, for instance, what kind of a personal cause it was that brought crinoline into fashion; and, in men's adhesion to the dress coat and silk hat, we perceive not so much the changeableness of the times-spirit as the supremacy of French style.—II. What, then, is the times-spirit, the qualities of which we have been considering? Is it really, as many suppose, the sum of individual human minds existing at a given time? When Goethe once wished to ridicule the false times-spirit, he wrote the well-known lines:

> "Was ihr den Geist der Zeiten nennt,
> Das ist der Herren eigner Geist."

[What the gentlemen call the spirit of the times, is their own spirit.]—And, indeed, men frequently palm off their own spirit for the times-spirit; sometimes they deceive themselves about it, and sometimes they wish to deceive others about it. But the true times-spirit is something different from

the sum of separate spirits. If it were only the sum of separate spirits, the fact that the same individuals follow this current of the times-spirit to-day, and to-morrow perhaps an entirely opposite current, would remain entirely unexplained. Their individual inclinations and opinions remain sometimes the same, notwithstanding they allow themselves to be carried away by the new current. Under the cover of their own roof, they do not hesitate to give expression to their opposition to, and heartfelt dislike of, the course which they publicly pay homage to and obey. With these, therefore, their change of attitude is not arbitrary. It is not these gentlemen's own spirit that calls forth the spirit of the times. — Moreover, if the times-spirit were only the sum of individual spirits, it would not be possible to explain why the spirit of the times is so widely propagated, and yet seems specially powerful now in one country, and now in another. — So, too, would remain unexplained the intrinsic connection of the movements of the times-spirit with one another, and the succession of its changes in great periods of time from age to age, a connection and succession which extend far beyond the brief lives of individual men, and which, therefore, can not be measured by the standard of individual men, nor be dependent on individual men. — Lastly, if the times-spirit were nothing but the sum of individual minds or spirits, the many-sided struggle of the individual with the spirit of the times would be inconceivable; and yet that struggle is fought out frequently by individual men with themselves and within themselves, and not merely with other men. — But if the times-spirit be not the sum of individual minds or spirits; if, rather, there be unity in its nature and development, its cause must be looked for only in humanity as a whole. Only on the supposition that humanity as a unit has a psychic aggregate bent or aggregate disposition of its own, an aggregate destiny of its own, and therefore an aggregate development of its own, can the times-spirit be explained; and then it is explainable as the orderly development of the soul-life of humanity. — And so it is indeed. The world's history is the documentary proof that there is such a thing as a development of humanity, a development which progresses through great life-periods in organic sequences. The world's history and the times-spirit are nearly related and closely connected phenomena. The times-spirit accompanies the world's history in the paths of its development, and exercises its unceasing influence on the shaping of that history. The general character and spirit which, in the different periods and ages of the world's history, assumed a definite form, were once, when events were still, so to speak, in their fluid state, to a great extent, the spirit of the times. The world's history is development behind us, development in the past, succession that is past. The times-spirit is the development of the human mind in the present. But the times-spirit is certainly not the only thing that determines the world's history. If it alone ruled as a power superordinated over individual men and binding individual men, the world's history would be like the growth of a plant; individual freedom would be oppressed by its weight; there would be no deeds, no works of men peculiar, but only joint works of the general human mind. But the times-spirit is only one of the moving forces; in the struggle with that force, the spirit of tradition and of traditional authority asserts itself; side by side with it works the special spirit of the nationality of a definite people, of dynasties and families, but above all, of remarkable individual men. From the reciprocal struggle and strife, action and interaction, of all human forces, proceed all world-historical results. —But the times-spirit is one of the most important and efficient of the forces which determine the world's history. By the psychologic law of ordered change, which is innate, as a common faculty, in the human race, the human race is spurred on to gradual development and perfection, and guided to its destiny. By the times-spirit, to which God has borne testimony, before the mind of man, God, with far-stretching rein, guides the course of the world's history, and carries humanity unceasingly forward. Once the great significance of the times-spirit is recognized, men will revere it as something sublime, as something divinely human, and look upon those who, ever turned toward the eternal and unchangeable, put a low estimate on the changes of the times-spirit, as short-sighted and unwise. The manifoldness of human life in common and the freedom of human development, are instigated and led by the changes of the times-spirit. — III. What, we may now ask, should be the attitude of the statesman toward this great intellectual power? 1. First, he is obliged carefully to notice the signs of the times, and to study the spirit of the times in which he is called to work. The question, What time is it? is always eminently important; for not at every hour you wish, can what you wish be done. Everything has its time, and the man who at the wrong time, whether too early or too late, undertakes great things, will generally succumb under difficulties, and his endeavors will remain without result. — Then, again, the present world must first answer the question, In what world-period do we live? What is the fundamental character of our age? The world of our day is not clear on this point. But this much, I think, can be confidently asserted: The so-called modern world-period, in which a new revolution of the great wheel of the world's history is going on, has still an aspiring youthful character. Humanity has not yet reached the height of its aggregate life. The immeasurable results of the modern sciences and the whole political movement of the time bear testimony to the masculine spirit of modern humanity, with its will to become conscious of itself, and to shape itself in freedom. Ours is a great creative age, more conscious and more free than any former world-period. Hence, in the spirit of this our world-period, a liberal

tory of the world which brought forth the blossoms and splendor of Hellenic and Roman antiquity, and one which presents a surprising contrast to the stormy and oppressive, the intellectually less gladsome and less clear, nature of the middle ages. Even in the new and most glorious world-period on which humanity entered in the year 1740, the first beginnings and first essays of the new spirit were still childishly naïve or boyishly boisterous. In the first age of the *aufklärung* (enlightenment), from 1740 to 1789, a cosmopolitan, philanthropic philosophy prevailed. The educated world, the first moved by the times-spirit, now not only turned away with contempt from the middle ages, but also from the great traditions of the past, and raised its eyes with enthusiasm to the new ideals which philosophy held up to it, and from which it expected a new order of things. Then it undertook in the following and second age of the new world-period, in the age of the revolution, to realize the pictures of its phantasy, and to transform the world in reality. But it was more successful in tearing down and destroying the old order of the world than in establishing the new one. The speculative school in which it was educated could not make up for its lack of experience and of practical understanding. The world indeed moved forward, but not without occasionally falling back again. At last it gave up its naïve confidence in the abstract ideas of equality and liberty; in consequence of the experiments it had made, it learned how to understand history better, and to appreciate the power of tradition. The principle which, in this our third age, since 1840, chiefly moves minds, especially in Europe, the principle of nationalities (see NATIONALITIES, PRINCIPLE OF) is, indeed, narrower than the ideas of the earlier revolutionary age of the universal rights of man, but it has more historical intrinsic value, and more formative power in it. We have not yet reached the height of genuinely liberal development. Even our grandchildren will not attain it. Our entire movement is not yet free from violent radical currents and precipitation; it occasionally turns about in the direction of the contrary extreme of absolutist reaction. But we may assert with joyful certainty that mankind has for a century past been making extraordinary progress, and is still making steady, manly progress toward the great goal: fully developed humanity. — 2. The statesman should never put a low estimate upon or undervalue the times-spirit, not even when the current of the times is unfavorable to him and to his plans, and not even when it brings to the surface, not the highest forces of human nature, but human nature's lower impulses; for the power of the times-spirit is always great, and its movements are necessary to the development of humanity. Remarkable men, indeed, go their own way, and do not, like the multitude, follow every change of the wind. But the statesman who despises the spirit ridicules the night because it invites to repose. The monk or the hermit may shut himself up from the spirit of the times, by withdrawing himself from life in common with other men; but the statesman who cares to work and live among men, can not. As the cautious gardener carefully watches the heat and cold, dryness and moisture, and endeavors to guard his plants from the injurious effects of the extreme forces of nature; and as the sailor takes the winds and the waves into consideration, the statesman must notice the movements and qualities of the times-spirit, and work against its disfavor. But if he will resist the current of the times, he must neither rest from labor nor sleep. Every place he lays open to assault will be overflooded by the hostile current of the times-spirit; every gap that he leaves open will be filled by it. Before he is aware of it, he is closed in, betrayed, overthrown.—3. If the times-spirit is favorable, the statesman whose direction is greatly promoted by the blowing of the times-spirit, may risk much, for he will succeed in much. The time goes forward in the same direction, and the boat, with a favorable wind, moves quickly and happily. If he meets with obstacles which he can not for the moment overcome, he can wait. Time comes to his assistance, removes the obstacles in his course, or wears them out and opens the way for him. Napoleon III., even when he was a prince, understood the great political truth, that the man who moves with the current of his time meets with success, while the statesman who swims against it, perishes. — 4. The ideas of the times and the forms of the times correspond to the spirit of the times. Ideas are never first conceived and expressed by races, but always by single individuals; yet ideas become ideas of the times only when they are taken up and propagated by the receptive masses. Sages and philosophers announce the ideas of the future, in advance. From their intellectual height they discover many ideas which operate only on future generations, earlier than do the multitude who live in the valleys below them. But the practical statesman can try to realize only the ideas which suit the times in which he lives. It is only for these ideas of the times that he will find understanding and support among men. He must guard against defending obsolete ideas of the times after the manner of the romantic school. For even if the spirit of tradition lends him some assistance, he will at most meet with only momentary success. The hostile age marches over him, and tramples his work under foot. His policy becomes ridiculous quixotism. But it is almost more dangerous, if more laudable, for the statesman to undertake to carry out the ideas of the future before the time to carry them out is ripe. He will then make shipwreck on the rocks of stern reality, and be scoffed at as an idealistic visionary. The true task of the statesman is the realization of the actual ideas of the times. On this depends, in large measure, the popularity

of statesmen. When they go with the ideas of the time, they are, for the most part, popular; when they go against the time, they become unpopular. The reason of the frightful unpopularity of the order of Jesuits for a century past, is to be found not solely in the dangerous intrigues of the order, but principally in the fact, that the whole tendency of the order is in deadly enmity with the modern spirit of the times and with the intellectual consciousness and cravings of the humanity of to-day. The great success of Napoleonic, English, Italian and Prussian politics, was certainly determined to a great extent by this: that their main tendency was in harmony with the liberal and national tone of the spirit of the times in the present age. — 5. But every age has also a love for definite forms of its life. It is not sufficient for the statesman to recognize the ideas of the time, and to enter the lists for them; he will do well also to use the forms of the time. A century ago, enlightened absolutism was acceptable to the age. Great things could then be accomplished without great struggles, under that form. In our age, which demands, as its right, the representative form, and especially the assent and co-operation, of popular representation, enlightened absolutism meets with powerful opposition even when it advocates the real ideas of the time. Count Cavour for this very reason received earlier and more easily the recognition and cheerful support of his nation than did Prince Bismarck, because Cavour used the forms of the time for the ideas of the time, while Bismarck seemed at first to despise the forms of the time, and undertook to realize new ideas by the means of an earlier time. Hence the labor of Prince Bismarck was harder and slower; but in proportion as he showed himself more favorable to the forms of modern political life, he won for himself the furthering support of the many. — 6. Yet the greatest statesman can not singly, not even with the forms of the time, realize the ideas of the time. The new ideas, indeed, exercise their influence; but so do the old historical powers of authority and custom. The savant may carry out the thought of the time, in theory, with logical acumen, and a consistency regardless of consequences. Real life does not square with the straight lines and sharp angles of doctrines; it bends them and changes them in the application of them. Practical politics is an art which has a great many complicated problems to solve, an art which has to deal with many joint and personal forces. The result of political struggles necessitates treaties of peace, attempts at settlement or adjustment and compromises. The man who, out of blind zeal for the spirit of the times, scorns all compromise, may, indeed, be an honorable doctrinarian, but he must not expect the success or laurels of the statesman.

J. C. BLUNTSCHLI.

ZOLLVEREIN. The German *zollverein*, or customs-association, was the union effected among a number of the German states, and begun by the junction of some of them with Prussia, for tariff purposes, a union by virtue of which (the Prussian tariff system being taken as a basis within the limits of the territory of the association) all tariff barriers between such states were swept away, while duties were collected at the boundary lines of the association, on their joint account, and divided among the several states, parties to the union, in proportion to their population. — This union came into existence after the dissolution of more than one tariff alliance against Prussia, Jan. 1, 1834, and was at first intended to continue for eight years. At that date the union embraced eighteen German states. In 1835, Hessen-Homburg, Baden and Nassau entered it; in 1836, Frankfurt; in 1838, Waldeck; in 1842, Braunschweig, Lippe and Luxemburg; in 1851 and 1852, Hanover and Oldenburg. From 1854 to 1865, all the German states, with the exception of Austria, the two Mecklenburgs and the Hanseatic cities, belonged to the Zollverein. The last Zollverein treaty is dated May 16, 1865, and was to run from Jan. 1, 1866, to the end of 1877, but was set aside by the events of 1866. The *zollverein*, or customs-association treaty, of July 8, 1867, between the North German confederation considered as a single tariff territory, on the one hand, and Bavaria, Würtemberg, Baden and Hesse on the other, which was to continue in force for twelve years, rested on a different basis entirely. — The Zollverein itself was brought to an end by the establishment of the German empire, inasmuch as the constitution of the empire, of April 16, 1871, art. 33, provides that Germany shall constitute one single country for tariff and commercial purposes, with Bremen and Hamburg as free ports. At present the Zollverein, therefore, has mainly an historical interest. — The economic consequences to Germany of the Zollverein were the consequences which may be expected from every customs-union. 1. It reduced the cost of the collection and administration of the customs duties as a consequence of the removal of the tariff barriers between the associated states; 2, it rapidly developed the industry of those states by the application of the principle of free trade in their commercial intercourse; 3, it increased the customs receipts by increasing consumption, the tariff being a moderate one; 4, it rendered it possible for these states, through the union, to conclude advantageous treaties with foreign countries, which are more disposed to make concessions to a state which offers them a large market than to small, unimportant countries; 5, it increased the commerce of the customs-union with foreign countries; 6, it increased the political importance of Germany, since its political union was destined, sooner or later, as it actually did, to spring from its customs-union.* M.

* Says Henri Richelot, writing in 1862: "Since the year 1832 the Zollverein, although other influences concurred with its influence, has been the principal fact in Germany; and the progress of Germany since then has been, in great part,

complished by successive incorporations which leave nothing in Germany outside of its boundaries save Austria, the Hanseatic cities and Mecklenburg. The increase of population of the Zollverein was a necessary consequence of the increase of its territory; but it has been more rapid; from twenty-three and one-half millions in 1834, the number of inhabitants of the Zollverein has risen to nearly thirty-four millions.—The reports of the commerce of the Zollverein, containing only quantities and no values, do not enable us to give the total annual movement of its trade with non-Zollverein states and countries, and in this matter we have only more or less uncertain approximations. But the approximations warrant us in classing the Zollverein, in international commerce, immediately after England, France and the United States, although it is very far from these countries; and in assigning to it the incontestable rank of the fourth commercial power of the world, of the third in Europe, and of the second on the European continent. The manufacturing character of the Zollverein has become more and more pronounced in international commerce. The increase of its exports is apparent, not in its natural products, linen and hardware. In its imports we notice an increase in exotic articles of consumption, such as tea and coffee, an increase in the consumption of which is usually regarded as a sure index of general prosperity. The same may be said of the importation of articles used in manufacture. But so far as manufactured articles themselves are concerned, the salient point in the importation of the Zollverein is their decrease. In the vitality of the great German fairs which are still held, it is remarkable how German industry, little by little, thrusts aside its rivals in England, France and Switzerland. Lastly, in its expositions, the first of which took place in 1844 in Berlin, and the second in 1854 in Munich; and in the expositions of London and Paris in 1851 and 1855, that industry stood the test. If it had no originality or invention to boast of, all agreed that it possessed solid merit in the medium sphere which belonged to it." Its progress was still more noticeable in 1867 in Paris, and in 1873 in Vienna. The Zollverein thus seems to have advanced Germany much in the same way that the introduction of the policy of free trade promoted the wealth, well-being and industrial progress of England.—Ed.

END OF VOLUME THIRD.

LIBRARY OF THE UNIVERSITY OF CALIFORNIA

CONTENTS OF VOLUME III.

PAGE

Oath 1
Oath of Allegiance, The (in English History) 8
Occupation 10
Oceanica 11
Ochlocracy 16
O'Conor, Charles 19
Office-Holders, Danger of an Aristocracy of 19
Ohio 24
Oligarchy 27
Olmstead Case. (See Pennsylvania.)
Omnibus Bill. (See Parliamentary Law.)
Opinion, Public. (See Public Opinion.)
Opposition 28
Order of the Day. (See Parliamentary Law.)
Orders in Council. (See Embargo, in U. S. History.)
Orders, Religious. (See Congregations.)
Ordinance of 1787 (in U. S. Hist.) 30
Oregon 34
Oriental Question, The 35
Ostend Manifesto (in U. S. Hist.) 36
Outlawry 37
Outlet 38
Over-Production 40

P

Pacific Railroad. (See Internal Improvements, Railroads.)
Papal Infallibility. (See Roman Catholic Church.)
Paper Money 43
Paraguay (Republic of) 48
Parasites, Social 52
Pardon 57
Paris Monetary Conference 58
Parley 68
Parliament, The British 68
Parliamentary Law 71
Participation in Profits 94
Parties, Political 95
Party Government in the United States 112
Party Names in U. S. History. (See American Party, Anti-Federal Party, Anti-Masonic Party, Constitutional Union Party, Democratic-Republican Party, Federal Party, Greenback-Labor Party, Liberal Republican Party, Republican Party, Whig Party.)
Patent Office 122
Patents, and the Patent System 123
Patronage 139
Patrons of Husbandry. (See Grangers.)
Pauperism 145
Peace 153
Peace Congress. (See Conference, Peace.)
Pendleton, George H. 154
Penitentiary Systems. (See Prisons and Prison Discipline.)
Pennsylvania 154
Penny Banks. (See Banks, History and Management of Savings.)
Pensions. (See United States Pension Laws, and the Pension Laws of other Countries.)

PAGE

Persia 159
Personal Liberty Laws (in U. S. History) 162
Personal Union 163
Peru 164
Petition (in U. S. History) 167
Petition, Right of 169
Philosophy of Law 173
Physiocrates 188
Pickering, Timothy 198
Pierce, Franklin 198
Pinckney, Charles Cotesworth 198
Pinckney, Thomas 198
Piracy 199
Plenty and Dearth 201
Poland 203
Police 206
Police Power of a State 212
Political Arithmetic. (See Arithmetic, Political.)
Political Assessments. (See Assessments, Political.)
Political Economy 216
Political Economy, History of 237
Political Science 257
Politics, Nature and Character of 268
Polk, James Knox 278
Poll Tax 279
Popular Sovereignty (in U. S History) 281
Population 284
Portugal 299
Postoffice 306
Postoffice Department 310
Postoffice Savings Banks. (See Banks, History and Management of Savings.)
Powers of Congress. (See Congress, Powers of.)
President. (See Executive.)
President Pro Tem. (See Parliamentary Law.)
Press, The Newspaper and Periodical 311
Previous Question. (See Parliamentary Law.)
Prices 326
Primary Elections 343
Priority of Debts due to the United States and to the States 350
Prisoners of War 351
Prisons and Prison Discipline 352
Private Bills. (See Parliamentary Law.)
Private Calendar. (See Parliamentary Law.)
Privateering 361
Privilege. (See Parliamentary Law.)
Prizes, Maritime 362
Production of Wealth 363
Products on Paper 374
Profits 375
Prohibition (in U. S. History) 378
Promotion 380
Property 383
Property, Landed. (See Rent.)
Property, Literary 392
Proportional Representation 411
Protection 413
Protection in the United States 423
Protestantism. (See Churches, Protestant.)
Prussia 441
Public Debts. (See Debts, National, State and Local.)
Public Lands of the United States. 460

PAGE

Public Lands, Office of 479
Public Opinion 479
Public Policy 480
Public Revenue. (See Revenue, Public.)

Q

Quarantine 482
Quids (in U. S. History) 483

R

Races of Mankind 484
Radicalism 492
Railways 498
Railway Clearing House. (See Clearing, and Clearing Houses.)
Randolph, John 531
Rebellion 532
Rebellion, The (in U. S. History) 532
Reciprocity 537
Recognition 539
Reconstruction (in U. S. History) 540
Refuge, Right of. (See Asylum.)
Refunding of the Public Debt of the United States 556
Reichsrath 564
Reichstag 564
Removal of Deposits. (See Deposits, Removal of.)
Removals from Office 565
Rent 569
Representation 581
Representative Democracy. (See Democracy, Representative.)
Republic 595
Republican Party (in U. S. History) 597
Repudiation 608
Resignation 613
Restrictive System. (See Embargo, in U. S. History.)
Returning Boards (in U. S. History) 615
Revenue, Public 618
Revolution 629
Revolution, The (in U. S. History) 631
Rhode Island 637
Ricardo, David 640
Riders (in U. S. History) 642
Right of Inheritance. (See Inheritance.)
Right of Petition. (See Petition, Right of.)
Riu Kiu 645
River and Harbor Bills. (See Internal Improvements.)
Roads. (See Transportation, Means of.)
Roads and Canals. (See Internal Improvements.)
Rohmer's Doctrine of Parties. (See Parties, Political.)
Roman Catholic Church 646
Rotation in Office. (See Civil Service Reform.)
Rules. (See Parliamentary Law.)
Rush, Richard 656
Russia 657

S

Saint Simonism. (See Socialism.)
Salary Grab (in U. S. History) 673
San Domingo 675

Sanitary System 677
Savings 681
Savings Banks. (See Banks, History and Management of Savings.)
Saxony 682
Schools. (See Education and the State.)
Schurz, Carl 684
Science, Social. (See Social Science.)
Scotland 685
Scott, Winfield 692
Scratching 692
Search, Right of 693
Secession (in U. S. History) 698
Sedition Laws. (See Alien and Sedition laws.)
Seminole War. (See Slavery, II.)
Senate (in U. S. History) 702
Sergeant-at-Arms. (See Parliamentary Law.)
Sergeant, John 704
Servia, Principality of 705
Sessions of Congress. (See Congress, Sessions of.)
Seward, William H. 707
Seymour, Horatio 707
Shay's Rebellion. (See Confederation, Articles of.)
Sherman, John 707
Shimonoseki Indemnity 707
Shintō 708
Siam 710
Silver 712
Silver Bill. (See Hayes, R. B.)
Sinking Fund 718
Sintoism. (See Shintō.)
Slavery 722
Slavery (in U. S. History) 725
Smith, Adam 738
Smuggling 743
Socialism and Socialists 745
Social Contract 753
Social Science 756
Society 757
South Carolina 759
Southern Confederacy. (See Confederate States.)
Sovereignty 768
Sovereignty (in U. S. History). (See Popular Sovereignty.)
Spain 767
Speaker. (See Parliamentary Law.)
Speakers. (See Congress, Sessions of.)
Speculation 779
Spoils System, The 782
Squatter Sovereignty. (See Popular Sovereignty.)
Stamp Act Congress (in U. S. History) 787
Standing Armies. (See Armies.)
Standing Orders. (See Parliamentary Law.)
Stanton, Edwin M. 787
State, Department of 787
State Rights. (See State Sovereignty, II.)
State Sovereignty (in U. S. Hist.) 788
State, The 800
States, Constitutional and Legal Diversities in 800
Statistics 812
Stephens, Alexander H. 815
Stevens, Thaddeus 815
Stock Exchange Clearing House. (See Clearing, and Clearing Houses.)
Story, Joseph 815
Strict Construction. (See Construction.)
Strikes and Lockouts 815
Subsidies 818
Sub-Treasury. (See Independent Treasury.)
Suffrage 822
Sumner, Charles 833
Sumptuary Laws. (See Laws, Sumptuary.)
Supply. (See Parliamentary Law.)
Supreme Court. (See Judiciary.)
Sweden 834
Switzerland 840

T

Table. (See Parliamentary Law.)
Tammany Hall (in U. S. History). 850
Taney, Roger Brooke 856
Tariffs of the United States 856
Tartar, Tartary 867
Ta-Tsing 868
Taoism 869
Taxation, Principles of 870
Taxation, National and Local. (See Revenue, Public; Taxation.)
Taylor, Zachary 890
Telegraph 890
Tellers. (See Parliamentary Law.)
Temperance Movement in the United States. (See Prohibition, Police.)
Ten-Hour Law 891
Tennessee 891
Term and Tenure of Office 895
Territorial Waters 910
Territories (in U. S. History) 914
Texas 921
Third Estate 923
Tie. (See Parliamentary Law.)
Tilden, Samuel Jones 926
Times-Spirit, The. (See Zeitgeist.)
Tompkins, Daniel D. 926
Ton-Kin. (See Tonquin.)
Tonquin 926
Transportation, Means of 928
Treason (in U. S. History) 932
Treasury Department 933
Treaties 935
Treaties, Fishery 941
Treaties of the United States 944
Trent Affair, The (in U. S. History) 949
Tungusic Races. (See Tartar.)
Turkey 950
Tyler, John 959

U

Union, The (in U. S. History) 959
Union Party. (See Republican Party.)
United States Notes 960
United States Notes. Legal-Tender Cases — Decisions of the Supreme Court of the United States 966
United States of America, The 969
United States of Colombia. (See New Grenada.)
United States Pension Laws and the Pension Laws of Other Countries 1090
Universal Suffrage. (See Suffrage.)
Universities 1038
Usury 1042
Utah 1043
Utility 1046
Utopia 1049

V

Value 1053
Van Buren, Martin 1061
Vermont 1061
Veto (in U. S. History) 1064
Vice-President. (See Executive, V.; Electors; Senate; Administrations.)
Virginia 1067
Virginia Resolutions. (See Kentucky and Virginia Resolutions.)

W

Wage Fund, The 1074
Wages 1077
"Waltham System" 1085
Wants 1085
War. (See Declaration of War, Belligerents, Exchange of Prisoners.)
War, The Civil. (See Rebellion, The, in U. S. History.)
War Department 1087
Wars (in U. S. History) 1088
Washington City. (See Capital, National.)
Washington, George 1092
Washington Territory 1098
Ways and Means. (See Parliamentary Law.)
Wealth 1098
Webster, Daniel 1098
Weights and Measures 1098
West Virginia 1099
Wheeler, William A. 1101
Whig Party (in U. S. History) 1101
Whisky Insurrection (in U. S. History) 1108
Whisky Ring 1112
White, Hugh Lawson 1113
White League. (See Ku-Klux Klan.)
Wilmot Proviso (in U. S. History). 1114
Wilson, Henry 1116
Wirt, William 1118
Wisconsin 1118
Woman Suffrage. (See Suffrage.)
Wright, Silas 1120
Wyoming 1120
Wyoming Territory 1122

X

X Y Z Mission (in U. S. History) 1122

Y

Yazoo Frauds (in U. S. History) 1127
Yeas and Nays. (See Parliamentary Law.)

Z

Zeitgeist 1130
Zollverein 1135

The following is a List of the Subjects treated by American Writers:

ATKINSON, EDWARD — Banks, Functions of.

BOLLES, ALBERT S. — Finance, American.

BOWKER, R. R. — Scratching.

BRYCE, T. T. — Products on Paper.

BURCHARD, H. C. — Coinage; Gold; Silver.

CARY, EDWARD — Education and the State; Gambettism.

CLAMPITT, JOHN W. — Bill; Court Martial; Military Commissions; Law, Common; Law, Criminal; Magna Charta; Police Power of the State.

COLBY, JAMES F. — Privateering; Prizes, Maritime; Suffrage; Territorial Waters.

CONWAY, EUSTACE — Treaties; United States Pension Laws.

COOLEY, THOS. M. — Bar; Corporations, Law of.

COWLEY, C. — Knights of the Order of St. Crispin; National Cemeteries; Ten-Hour Law; "Waltham System."

CROSBY, EDWARD H. — Petition, Right of; Priority of Debts Due to the United States and to the States; Public Policy.

DAVIS, J. C. BANCROFT — Geneva Arbitration; Treaties of the United States.

EATON, DORMAN B. — Civil Administration; Civil Service Reform; Confirmation by the Senate; Judiciary, Elective; Patronage; Primary Elections; Promotion; Removals from Office; Spoils System; Term and Tenure of Office.

EBERHARDT, MAX. — Aliens; Bundesrath; German Empire.

FISKE, JOHN — Great Britain; House of Commons; House of Lords.

FORD, WORTHINGTON C. — Extradition; Income Tax; Internal Revenue of the United States; License Tax; Navy; Participation in Profits; Poll Tax; Prices; Public Lands of the United States; Refunding of the Public Debt of the United States; Sinking Fund; Tariffs of the United States.

GEORGE, HENRY — Chinese Immigration.

GILMAN, D. C. — Universities.

GODKIN, E. L. — Office-Holders, Danger of an Aristocracy of.

GOODE, G. BROWN — Fisheries; Treaties, Fishery.

GREEN, GEORGE WALTON — Municipal Bonds; Naturalization; Repudiation.

GRIFFIS, WM. E. — China; Corea; Formosa; Japan; Mongols; Mutsuhito; Riu Kiu; Shimonoséki Indemnity; Shintō; Siam; Tartar, Tartary; Ta-Taing; Taoism; Tonquin.

HADLEY, ARTHUR T. — Over-Production; Postoffice; Profits; Reciprocity; Speculation; Subsidies; Transportation, Means of; Weights and Measures.

HAMILTON, JOHN B. — Quarantine.

HOUGH, FRANKLIN B. — Forestry.

ISHAM, EDWARD S. — Corporations, Economic and Social Relations of.

JAMESON, JOHN A. — Convention, The Constitutional.

JAMES, E. J. — Banks of Issue; Customs Duties; Education, Compulsory; Emigration and Immigration; Excise; Factory Laws; Finance, Science of; Insurance; Labor; Political Economy, History of.

JOHNSTON, ALEXANDER — The Articles on the Political History of the United States in the Cyclopædia.

JOHNSTON, JOHN — Scotland.

KNOX, JOHN JAY — Banking; United States Notes; United States Notes—Legal Tender Cases—Decisions of the Supreme Court of the United States; United States Surplus Money, Distribution of, among the States.

KOERNER, GUSTAVE — Monroe Doctrine; Outlawry.

LLOYD, H. D. — Clearing, and Clearing Houses.

LOWELL, JOHN — Bankruptcy.

MASON, ALFRED B. — Proportional Representation.

MASON, DAVID H. — Protection in the United States.

NORTH, S. N. D. — Press, The Newspaper and Periodical.

PORTER, ROBERT P. — Debts, National, State and Local.

PUTNAM, GEO. HAVEN — Property, Literary.

RAYMOND, R. W. — Mines.

SANBORN, F. B. — Pauperism.

SMITH, EDMUND MUNROE — Nationality, Law of.

SMITH, HAYDN — Exchange, An; Fund, Funding, Refunding.

SPOFFORD, A. R. — Academies; Ballot; Budget; Congress of the United States; Education, Bureau of; Homestead and Exemption Laws; Interior, Department of the; Justice, Department of; Library of Congress; Lobby; Navy, Department of the; Parliament, The British; Parliamentary Law; Patent Office; Postoffice Department; Public Lands, Office of; States, Legal and Constitutional Diversities of; Treasury Department; War Department.

STERNE, SIMON — Cities, Administration of American; Legislation; Monopolies; Railways; Representation.

TOWNSEND, JOHN P. — Banks, History and Management of Savings.

WALKER, FRANCIS A. — Public Revenue; Wage Fund; Wages.

WEEKS, JOS. D. — Conseils Des Prud'hommes; Industrial Arbitration; Strikes and Lockouts.

WELLS, DAVID A. — American Merchant Marine; Distilled Spirits; Extradition; Fair Trade; Free Trade; Navigation Laws of the United States; Taxation; United States Pension Laws and Pension Laws of other Countries.

WHITE, HORACE — Commercial Crises; Money and its Substitutes; Paris Monetary Conference.

WHITRIDGE, FREDERICK W. — Assessments, Political; Caucus System; Instructions; Jury, Trial by; Patents, and the Patent System.

WILLIAMS, TALCOTT — Apportionment; Party Government in the United States; Tammany Hall; Turkey.

WINES, FRED. H. — Prisons and Prison Discipline.

WITTON, H. B. — Dominion of Canada.

WOOLSEY, THEODORE S. — Blockade.

14 DAY USE
RETURN TO DESK FROM WHICH BORROWED
LOAN DEPT.
RENEWALS ONLY—TEL. NO. 642-3405
This book is due on the last date stamped below, or
on the date to which renewed.
Renewed books are subject to immediate recall.

RETURNED TO
MAY 6 1970
LOAN DEPARTMENT
JUN 7 1972 3 1
REC. CIR. JUL 1 '75
REC. CIR. JAN 1 6 1979

LD21A-60m-3,'70
(N5382s10)476-A-32

General Library
University of California
Berkeley

U.C. BERKELEY LIBRARIES
C031944013